

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-23-03025642-0033
Bankruptcy Estate File No. 33-3025642

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF OEM AUTOMOTIVE
SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC.
AND OEM AUTOMOTIVE HOLDINGS INC.

**MOTION RECORD
(RE: DISTRIBUTION ORDER AND ANCILLARY RELIEF)
(RETURNABLE ON MAY 28, 2024 AT 2:00 P.M.)**

VOLUME 1 OF 2

May 23, 2024

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TAB 1

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SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC.
AND OEM AUTOMOTIVE HOLDINGS INC.

NOTICE OF MOTION
(Returnable May 28, 2024)

BDO Canada Limited (“**BDO**”), in its capacity as the proposal trustee (the “**Proposal Trustee**”) of OEM Automotive Solutions Inc. (“**Solutions**”), OEM Automotive Cornwall Inc. (“**Cornwall**”) and OEM Automotive Holdings Inc. (“**Holdings**”, and collectively with Solutions and Cornwall, the “**Companies**”), that have each filed a Notice of Intention to Make a Proposal (an “**NOI**”) under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), will make a motion in these proceedings (the “**NOI Proceedings**”) before Regional Senior Justice MacLeod of the Ontario Superior Court of Justice (in Bankruptcy & Insolvency) (the “**Court**”) on Tuesday, May 28, 2024 at 2:00 p.m., or as soon after that time as the motion can be heard, which motion may be heard by judicial videoconference via Zoom to be set by the Court office. A direct link will be circulated by email to those members of the Service List with known email addresses prior to the hearing.

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

THE MOTION IS FOR:

1. an order (the “**Ancillary Order**”):
 - (a) abridging the time for service and filing of the notice of motion and the motion record or, in the alternative, dispensing with the same;
 - (b) extending the time for the Companies to file proposals under section 50.4(9) of the BIA to and including June 21, 2024;
 - (c) approving the fourth report of the Proposal Trustee dated May 22, 2024 (the “**Fourth Report**”) and approving the actions and activities of the Proposal Trustee described in the Fourth Report;
 - (d) approving the Proposal Trustee's final statement of receipts and disbursements included in the Fourth Report;
 - (e) approving the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fourth Report and the fee affidavits appended to the Fourth Report (the “**Fee Affidavits**”);
 - (f) approving the estimated fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fourth Report, for the completion of the remaining activities in connection with these NOI proceedings (the “**Remaining Matters**”);

- (g) authorizing BDO to act as trustee in bankruptcy or licensed insolvency trustee (the “**Trustee**”) of the Companies if they do not file proposals and upon the deemed bankruptcies of the Companies pursuant to the BIA;
 - (h) authorizing the Trustee to administer the bankruptcy estates of Holdings and Cornwall, upon their deemed bankruptcies, as a single bankruptcy estate; and
2. an order (the “**Interim Distribution Order**”):
- (a) authorizing and directing the Proposal Trustee to make an interim distribution during the NOI Proceedings to: fully pay Bank of Montreal (“**BMO**”), fully pay Glenn Joseph MacDonell (“**MacDonell**”) and partly pay Christina Grant, 1921534 Ontario Ltd., Seaway Toyota (1990) Inc. and/or 11678833 Canada Inc. (collectively, “**GrantCo**”), in the amounts set out in the Fourth Report (the “**Interim Distributions**”), from the net proceeds from the sale of the “**Purchased Assets**” described in the Agreement of Purchase and Sale (the “**Purchased Assets**”) dated March 27, 2024 (the “**Sale Agreement**”) between Mark Motors of Ottawa (1987) Limited (“**Mark Motors**”), Mrak Holdings Inc. (“**Mrak Holdings**”) and the Proposal Trustee, including the real property located at 628 Pitt Street, Cornwall, Ontario (the “**Body Shop Property**”) and 632 Pitt Street, Cornwall, Ontario (the “**Dealership Property**”, together with the Body Shop Property, the “**Real Property**”) and other ancillary asset realizations or recoveries related to the Companies (the “**Sale Proceeds**”), subject to the Holdbacks (defined below);

- (b) authorizing and directing the Proposal Trustee to make such subsequent distributions from the Sale Proceeds (the “**Subsequent Distributions**”) during the NOI Proceedings to BMO, MacDonell and GrantCo (the “**Secured Creditors**”) if the Companies are still legally indebted to the Secured Creditors after the Interim Distributions and as the Proposal Trustee determines appropriate, without further order of this Court, provided that any such Subsequent Distributions to the respective Secured Creditors shall be limited to the outstanding amount of principal, interest and costs under its provable secured claim against the Companies, and shall be subject to and before making any Subsequent Distributions, the Proposal Trustee shall maintain sufficient reserves or holdbacks from the Sale Proceeds (the “**Holdbacks**”) to satisfy the court-ordered Charges, Accrued Obligations and the Remaining Costs set out and defined in the Fourth Report (collectively, the “**Outstanding Disbursements**”);
- (c) authorizing and directing the Proposal Trustee to pay the Outstanding Disbursements from the Holdbacks or to maintain the Holdbacks in the amount of the Outstanding Disbursements before making the Interim Distributions and any Subsequent Distributions;
- (d) authorizing the Companies and/or Proposal Trustee during the NOI Proceedings to pay any outstanding Accrued Obligations and Remaining Costs from the available cash on hand and any subsequent cash receipts regarding the Companies, without further approval of this Court;

- (e) declaring that, notwithstanding any deemed bankruptcies of the Companies, the Interim Distributions, any Subsequent Distributions, Holdbacks and payment of Outstanding Disbursements by the Proposal Trustee shall be binding on any licensed insolvency trustee in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall they constitute nor be deemed to be a fraudulent preference, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation;
 - (f) declaring that, upon the full payment or satisfaction of the outstanding debt, liability or obligations secured by the Charges or if there is no debt, liability or obligations secured by the Charges, the termination, release and discharge of the Charges without any further act or formality; and
3. such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

- (a) The Companies are each incorporated and existing under the federal laws of Canada;
- (b) the Companies are related parties and, together, operated as a Volkswagen dealership from the Real Property in Cornwall, Ontario. Generally, Solutions

operated the Volkswagen dealership, Cornwall owned the Body Shop Property and Holdings owned the Dealership Property;

- (c) on December 22, 2023, the Companies each filed an NOI under the BIA;

Initial Order

- (d) on January 17, 2024, the Companies applied for, and the Court issued, an order (the “**Initial Order**”) granting the following material relief:

- (i) the administrative consolidation of the three NOI proceedings, so that they could be heard together or jointly;
- (ii) the first extension of time to file the proposals pursuant to s 50.4(9) of the BIA, up to and including March 5, 2024;
- (iii) the approval of the First Report of the Proposal Trustee dated January 11, 2024 (the “**First Report**”), and the actions, activities and conduct of the Proposal Trustee described in the First Report;
- (iv) the approval of a Sale and Investment Solicitation Process (the “**SISP**”), to be administered by the Proposal Trustee, with the assistance of Dealer Solutions North America, Inc. (the “**Sales Agent**”) in the implementation of the SISP;
- (v) the enhancement of certain powers of the Proposal Trustee to facilitate the SISP but also to mitigate a dispute among the shareholders of the Companies (the “**Enhanced Powers**”). The Enhanced Powers of the

Proposal Trustee include the power and authorization to exercise any rights of the Companies, and to initiate any and all proceedings with respect to the Companies and their property. Also, under the Initial Order, the Proposal Trustee is not prevented from subsequently acting as trustee in bankruptcy of the Companies or their property;

- (vi) approval of interim or DIP financing in the principal amount of \$500,000, funded by the Companies' senior secured lender, Bank of Montreal ("**BMO**"), along with an interim financing charge (the "**DIP Charge**") to secure the Companies' obligations under the interim financing facility;
- (vii) an administrative charge in the amount of \$400,000 to secure payment of the Proposal Trustee and key insolvency professionals (the "**Admin. Charge**"); and
- (viii) a directors' charge in the amount of \$100,000 to secure the Companies obligation to indemnify the directors and officers for post-NOI liabilities that may arise (the "**D&O Charge**", and together with the DIP Charge and Admin. Charge, the "**Charges**").

Second Extension

- (e) on February 27, 2024, the Companies applied for, and the Court issued, an order (the "**Second Extension Order**"). The following material relief was granted under the Second Extension Order: (i) the second extension of time to file proposals

pursuant to s 50.4(9) of the BIA, up to and including April 14, 2024; (ii) approval of the Second Report of the Proposal Trustee dated February 21, 2024 (the “**Second Report**”), and the actions, activities and conduct of the Proposal Trustee described in the Second Report; and (iii) approval of the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report;

Third Extension and Sale

- (f) on April 3, 2024, the Court issued two orders, an ancillary order (the “**Third Extension Order**”) and an Approval and Vesting Order (the “**AVO**”). The following material relief was granted under the Third Extension Order: (i) a third extension of time to file proposals pursuant to s 50.4(9) of the BIA, up to and including May 29, 2024; (ii) approval of the Third Report of the Proposal Trustee dated March 27, 2024 (the “**Third Report**”), and the actions, activities and conduct of the Proposal Trustee described in the Third Report; (iii) approval of the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report; and (iv) approval of the sealing of certain confidential documents;
- (g) Under the AVO, the Court approved, among other things, the Sale Agreement and the sale of the Purchased Assets (the “**Transaction**”), including the business assets and Real Property respectively to Mark Motors (business assets) and Mrak Holdings (Real Property), as the purchasers (together, the “**Purchaser**”);
- (h) on April 30, 2024, the sale of the Purchased Assets, including the Real Property, to the respective Purchaser pursuant to the Sale Agreement and AVO was completed,

and upon service of the Proposal Trustee's certificate of completion to the Purchaser on that date and its filing with the Court, the Transaction closed on April 30, 2024;

The Fourth Report

- (i) the Fourth Report includes a detailed discussion of these proceedings, the sale of the Purchased Assets and post-closing issues, and the activities of the Proposal Trustee and its counsel since the Third Report;
- (j) the Fourth Report also includes affidavits of each of the Proposal Trustee and its counsel in respect of their fees and disbursements since the Third Extension Order, the taxation and approval of which is sought pursuant to the terms of the Initial Order;
- (k) the Fourth Report also sets out, or proposes the treatment of, the Interim Distributions, any Subsequent Distributions, the Holdbacks and the Outstanding Disbursements;

RELIEF REQUESTED

Approval of the Fourth Report, Receipts and Disbursements and Fees

- (l) the Fourth Report and the fee affidavits appended thereto accurately reflect the activities, fees and disbursements of the Proposal Trustee and its counsel;

- (m) as required by the Initial Order, the BIA and prevailing insolvency practice, the Proposal Trustee must seek approval of its fees and disbursements and those of its counsel;
- (n) the Proposal Trustee is of the view that it and its counsel's fees and disbursements were incurred at their standard rates and charges, and are fair, reasonable and justified in the circumstances. Also, courtesy discounts have been provided in some of their invoices;
- (o) the Proposal Trustee is of the view that it and its counsel's estimated fees and disbursements for the Remaining Matters are fair, reasonable and justified in the circumstances;
- (p) the Statement of Receipts and Disbursements of the Proposal Trustee included in the Fourth Report is a fair and accurate representation of the funds received and disbursed by the Proposal Trustee during the NOI proceedings;

Fourth Extension and Possible Deemed Bankruptcies of the Companies

- (q) the Companies have until May 29, 2024 to file proposals under the BIA or seek an extension (a fourth extension) of time to file proposals under the BIA. The Proposal Trustee, with the support of the Companies, seeks an extension of time to June 21, 2024, which is the six-month deadline or expiry of the NOI period, so that the Companies may retain the option of making viable proposals to their creditors, and the Proposal Trustee can complete post-closing matters related to the Transaction

and pay Interim Distributions, make any Subsequent Distributions and reserve Holdbacks;

- (r) the cash flow forecasts of the Companies provide evidence of sufficient funding to continue operating through the end or near-end of the requested extension period;
- (s) if the requested extension is granted, the Companies can explore options for making viable proposals to their creditors;
- (t) none of the Companies' creditors will be materially prejudiced if the requested extension is granted. The extension is for a short period of approximately three (3) weeks;
- (u) the Companies have acted, and are acting, in good faith and with due diligence;
- (v) however, in the event of deemed bankruptcies of the Companies (i.e., on June 22, 2024 or immediately thereafter, if the fourth extension is granted to June 21, 2024 and the Companies fail to file proposals under the BIA), given BDO's background, knowledge and experience as Proposal Trustee of the Companies, it makes economic sense for BDO to act as the Trustee of the Companies;
- (w) also, in the event of deemed bankruptcies of the Companies (i.e., on June 22, 2024 or immediately thereafter, if the fourth extension is not granted and the Companies fail to file proposals under the BIA), to save costs and for the benefit of the creditors, BDO is also requesting the procedural consolidation of two (2) of the prospective bankrupt estates into a single bankrupt estate. As noted above,

Cornwall owned the Body Shop Property and Holdings owned the Dealership Property. That is, Cornwall and Holdings were generally land holding companies. They have common creditors and were integrated or part of the VW dealership. As noted above, the Real Property was sold to the respective Purchaser pursuant to the Sale Agreement and AVO. The procedural consolidation of the prospective bankrupt estates of Cornwall and Holdings will not prejudice creditors but rather will benefit them as a result of the cost savings of having to deal with a single bankrupt estate instead of two (2) on procedural matters (i.e., one (1) meeting of creditors, one (1) proof of claim, etc.);

Interim Distribution Order

- (x) the distribution of any net proceeds by the Proposal Trustee from the sale of the assets or property of the Companies is one of the Enhanced Powers under the Initial Order;
- (y) the Fourth Report includes, among other things, appended security opinions from Proposal Trustee's counsel in respect of the following: mortgages and other security held by BMO in relation to the Companies including the first-registered mortgages on title to the Real Property; second-registered mortgage or mortgages on title to the Real Property held by MacDonell; and certain security held by GrantCo in relation to the Companies. BMO is the first-ranking secured creditor and also the DIP lender supported by the DIP Charge, as more fully described in the Fourth Report;

- (z) As more particularly described in the Fourth Report, approximately \$8.6 million was paid by the Purchaser to the Proposal Trustee for the Purchased Assets in the Transaction. After taking into account the Holdbacks set out in the Fourth Report, there will be sufficient funds remaining for the Proposal Trustee to make the proposed Interim Distributions to pay out in full the debt owed to BMO, as the first-ranking secured creditor and mortgagee; to pay out in full the debt owed to MacDonell, as the second-ranking mortgagee; and to pay in part the debt or alleged debt to GrantCo;
- (aa) The Fourth Report sets out in detail the proposed Interim Distributions and the treatment of any Subsequent Distributions, Holdbacks and Outstanding Disbursements, and this relief is reflected in the draft Interim Distribution Order;

OTHER GROUNDS FOR THE RELIEF

- (bb) the Companies support the relief being sought by the Proposal Trustee;
- (cc) the senior secured lender and interim or DIP lender, BMO, supports the relief sought herein;
- (dd) the other grounds set out in the Fourth Report;
- (ee) the Initial Order;
- (ff) the inherent and equitable jurisdiction of this Court;
- (gg) rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

(hh) such further and other grounds as counsel may advise and this Court may permit.

4. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

(a) the Fourth Report and the appendices thereto; and

(b) such further and other material as counsel may advise and this Court may permit.

Date: May 23, 2024

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TO: ATTACHED SERVICE LIST

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TAB 2

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AUTOMOTIVE HOLDINGS INC.

FOURTH REPORT OF THE PROPOSAL TRUSTEE
MAY 22, 2024

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Appendix Q	- PPSA Searches
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Appendix S	- Opinion Letter regarding MacDonell
Appendix T	- Opinion Letter regarding GrantCo
Appendix U	- GrantCo Payout Letter
Appendix V	- Fee Affidavit of Clark Lonergan, sworn May 21 2024
Appendix W	- Fee Affidavit of Scott Venton, sworn May 15, 2024

INTRODUCTION

1. This Report is mainly about a proposed distribution of funds, realization on Remaining Assets (herein defined) and transition issues. The distribution of funds arises primarily from a sale transaction of the Companies' (herein defined) dealership and real estate assets. The proposed recipients of the distributions are the Companies' primary Secured Creditors (herein defined). The distribution is intended to occur during proposal proceedings. Before making the proposed distributions, certain actual or anticipated costs and reserves or holdbacks must be taken into account. These amounts include professional costs, operating costs, completion costs, court-ordered priority charges, certain government claims and transition costs. The transition costs arise in this case because there is the possibility of deemed bankruptcies if proposals are not filed by the requested extended time in which to file proposals.
2. By way of background, on December 22, 2023 (the "**Filing Date**"), OEM Automotive Solutions Inc. ("**Solutions**"), OEM Automotive Cornwall Inc. ("**Cornwall**"), and OEM Automotive Holdings Inc. ("**Holdings**", collectively with Solutions and Cornwall, the "**Companies**") each filed a Notice of Intention to Make a Proposal ("**NOI(s)**") pursuant to section 50.4 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"). BDO Canada Limited ("**BDO**"), a Licensed Insolvency Trustee, was named proposal trustee (the "**Proposal Trustee**") in each of the Companies' proposal proceedings (collectively, the "**Proposal Proceedings**").
3. On January 11, 2024, the Proposal Trustee prepared a report (the "**First Report**") to the Ontario Superior Court of Justice (the "**Court**") in advance of the Companies' motion (the "**Motion**") to Justice Kaufman on January 17, 2024. A copy of the First Report without appendices is attached hereto as **Appendix "A"**.
4. On January 17, 2024, the Court issued an order (the "**Initial Order**") to grant the following material relief:
 - (a) the administrative consolidation of the three NOI proceedings;
 - (b) extension of the time to file proposals pursuant to s 50.4(9) of the BIA, up to and including March 5, 2024;
 - (c) approval of the First Report of the Proposal Trustee dated January 11, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the First Report;
 - (d) approval of a Sale and Investment Solicitation Process (the "**SISP**"), to be administered by the Proposal Trustee;

- (e) the enhancement of certain powers of the Proposal Trustee to facilitate the SISP and also to mitigate a dispute among shareholders;
- (f) approval of interim financing in the amount of \$500,000, funded by the Companies' senior secured lender, Bank of Montreal ("**BMO**"), along with an interim financing charge (the "**DIP Charge**") to secure the Companies' obligations under the interim financing facility ("**Interim Financing Loan**");
- (g) approval of the Proposal Trustee's engagement of Dealer Solutions North America Inc. (the "**Sales Agent**") to assist with the implementation of the SISP;
- (h) an administrative charge in the amount of \$400,000 to secure payment of the Proposal Trustee, Sales Agent, and other key insolvency professionals (the "**Admin. Charge**"); and
- (i) a directors' charge in the amount of \$100,000 to secure the Companies obligation to indemnify the directors and officers for post-filing liabilities that may arise (the "**D&O Charge**", and together with the DIP Charge and Admin. Charge, the "**Charges**").

A copy of the Initial Order and its Endorsement is attached hereto as **Appendix "B"** and **Appendix "C"** respectively.

5. On February 21, 2024, the Proposal Trustee prepared a report (the "**Second Report**") to the Court in advance of the Companies' motion (the "**Motion**") to Justice Bell on February 27, 2024. A copy of the Second Report without appendices is attached hereto as **Appendix "D"**.
6. On February 27, 2024, the Court issued an order (the "**Second Order**") to grant the following material relief:
 - (a) extension of the time to file proposals pursuant to s 50.4(9) of the BIA, up to and including April 14, 2024;
 - (b) approval of the Second Report of the Proposal Trustee dated February 21, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the Second Report; and
 - (c) approval of the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report and the fee affidavits appended to the Second Report.

A copy of the Second Order and its Endorsement is attached hereto as **Appendix "E"** and **Appendix "F"** respectively.

7. On March 27, 2024, the Proposal Trustee prepared a report (the “**Third Report**”) and a confidential supplementary report (the “**Confidential Supplementary Report**”) to the Court in advance of the Proposal Trustee’s motion (the “**Sale Motion**”) to Justice Kershman on April 3, 2024. A copy of the Third Report without appendices and Confidential Supplementary Report without appendices is attached hereto as **Appendix “G”** and **Appendix “H”** respectively.
8. On April 3, 2024, the Court issued two (2) orders (the “**Ancillary Order**” and the approval and vesting order (the “**AVO Order**”) to grant the following material relief:

Ancillary Order

- (a) extension of the time to file proposals pursuant to s 50.4(9) of the BIA, up to and including May 29, 2024;
- (b) approval of the Third Report of the Proposal Trustee dated March 27, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the Third Report; and
- (c) approval of the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report and the fee affidavits appended to the Third Report.

AVO Order

- (a) approving the sale transaction (the “**Transaction**”) including the agreement of purchase and sale between the Proposal Trustee, as vendor and Mark Motors of Ottawa (1987) Limited (“**Mark Motors**”) for the business assets (the “**Dealership Purchaser**”) and Mrak Holdings Inc. for the real property (the “**Real Estate Purchaser**”, as purchasers (together the “**Purchaser(s)**”), dated March 27, 2024 (the “**Sale Agreement**”), and authorizing and directing the Proposal Trustee to execute such documents and take such additional steps as are necessary to complete the Transaction;
- (b) upon completion of the Transaction (as evidenced by the Proposal Trustee filing a certificate certifying the same, the “**Proposal Trustee’s Certificate**”), vesting the Purchased Assets (as defined in the Sale Agreement), free and clear of all liens, charges, security interests and other encumbrances (other than such permitted encumbrances as may be described in the order) in the respective Purchasers; and
- (c) sealing the Confidential Supplementary Report.

A copy of the Ancillary Order, AVO Order and the Endorsement is attached hereto as **Appendix “I”**, **Appendix “J”** and **Appendix “K”** respectively.

9. Given the Proposal Trustee’s enhanced powers granted in the Initial Order with regards to the SISP, and the power to “exercise any rights of the Companies”, this motion and the relief being sought is brought forward by the Proposal Trustee and its counsel. As such, this motion will not be relying on an affidavit of the Companies (Ms. Caroline Bourret, “**Ms. Bourret**”) in support of the relief sought in the proposed orders. Notwithstanding, the Proposal Trustee understands that the Companies support the relief herein and that Companies’ counsel will be attending this motion.

PURPOSE

10. The purpose of this fourth report of the Proposal Trustee (the “**Fourth Report**”) is to:
 - (a) provide this Court with certain information pertaining to the Proposal Proceedings, including:
 - (i) an update on the Companies’ operations since the date of the Third Report;
 - (ii) an update on the Proposal Trustee’s activities since the Third Report;
 - (iii) an update on the Transaction, including the Sale Agreement and the Companies’ remaining asset (excluded assets) realization plan;
 - (iv) the Companies’ actual cash flow results for the 8-weeks ended May 17, 2024, versus the same budgeted period as outlined in the Companies’ cash flow forecasts for the period March 25, 2024, to May 26, 2024 (the “**Revised Cash Flow Period**”), separately for each of the Companies (the “**Revised Cash Flow Forecasts**”). Copies of the Revised Cash Flow Forecasts are attached hereto as **Appendix “L”**;
 - (v) an overview of the Companies’ 5-week cash flow forecasts, for the period May 20, 2024 to June 21, 2024, combined for the Companies (the “**Final Cash Flow Forecast**”). Copy of the Final Cash Flow Forecast is attached hereto as **Appendix “M”**;
 - (vi) the Companies’ reported receipts and disbursements from the Filing Date to May 15, 2024 (the “**Final R&D Period**”);
 - (vii) fees and disbursements of the Proposal Trustee and its counsel; and

- (viii) the Proposal Trustee's estimate of accrued and unpaid obligations as of the date of this Fourth Report (together, the **"Accrued Obligations"**), the Charges, the Proposal Trustee's estimate of the operating costs and reserves required to complete these Proposal Proceedings and the funding of the bankruptcy proceedings (the **"Remaining Costs"**).
- (b) The Proposal Trustee is also requesting the following relief from the Court (the **"May 28 Motion"**):
- (i) approving this Fourth Report, including the actions and activities of the Proposal Trustee set out herein;
 - (ii) extending the time in which the Companies may file proposals to June 21, 2024 (since the current expiry date is May 29, 2024);
 - (iii) approving the Proposal Trustee's final statement of receipts and disbursements (the **"Final R&D"**) included in the Fourth Report;
 - (iv) approving the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fourth Report and the fee affidavits appended to the Fourth Report (the **"Fee Affidavits"**);
 - (v) approving the fees and disbursements of the Proposal Trustee and its counsel estimated not to exceed \$158,932 (exclusive of HST) for the completion of the Remaining Matters (herein defined) in connection with these Proposal Proceedings;
 - (vi) authorizing BDO to act as trustee in bankruptcy (the **"Trustee"**), a licensed insolvency trustee, of the Companies upon the deemed bankruptcies of the Companies pursuant to the BIA (the **"Deemed Bankruptcies"**);
 - (vii) authorizing the Trustee, upon or after the Deemed Bankruptcies of the Companies, to administer the bankruptcy estates of Holdings and Cornwall as a single bankruptcy estate;
 - (viii) authorizing and directing the Proposal Trustee during the Proposal Proceedings to make an interim distribution (the **"Interim Distribution(s)"**) to fully pay the Bank of Montreal (**"BMO"**); to fully pay Glenn Joseph MacDonell (**"MacDonell"**); and to partly pay Christina Grant (**"Ms. Grant"**), 1921534 Ontario Ltd. (**"192"**), Seaway Toyota (1990) Inc. (**"Seaway Toyota"**), together with Ms. Grant and 192, the **"192"**

Lenders") and/or 11678833 Canada Inc. ("**116**", collectively with the 192 Lenders, "**GrantCo**"), in the amounts set out in this Fourth Report, from the available or remaining net proceeds from the Transaction and other ancillary asset realizations;

- (ix) authorizing the Proposal Trustee during the Proposal Proceedings to make any subsequent distributions (the "**Subsequent Distributions**") to BMO, MacDonell or GrantCo (the "**Secured Creditors**") if the Companies are still indebted to the Secured Creditors after the Interim Distributions, as the Proposal Trustee determines appropriate, without further order of this Court, provided the Subsequent Distributions to the respective Secured Creditors are limited to the outstanding amount of their respective provable secured claim against the Companies, including all interest and costs, subject to and with the Proposal Trustee maintaining sufficient reserves or holdbacks to satisfy the Accrued Obligations, the Charges and the Remaining Costs (collectively, the "**Outstanding Disbursements**");
- (x) authorizing the Companies and/or Proposal Trustee during the Proposal Proceedings to pay the Outstanding Disbursements from the available cash on hand, and any subsequent cash receipts, without further approval of this Court;
- (xi) Declaring that, in the event of and notwithstanding the deemed bankruptcies of the Companies, the Interim Distributions, any Subsequent Distributions, Holdbacks and payment of Outstanding Disbursements made during the Proposal Proceedings, shall be binding on any licensed insolvency trustee of the Companies; and
- (xii) Declaring that, upon the full payment or satisfaction of the outstanding debt, liability or obligations secured by the Charges or if there is no debt, liability or obligations secured by the Charges, the termination, release and discharge of the Charges without any further act or formality.

11. All materials filed with the Court in these Proposal Proceedings are accessible on the Proposal Trustee's websites at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-solutions-inc> (the "**Proposal Trustee's Websites**").

TERMS OF REFERENCE

12. In preparing this Fourth Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Companies, discussions with management of the Companies (“**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in the First Report and Third Report in respect of the Cash Flow Forecasts and Revised Cash Flow Forecasts, respectively:
 - (a) the Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
 - (b) some of the Information referred to in this Fourth Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
13. Future oriented financial information referred to in this Fourth Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variation could be significant.
14. Unless otherwise indicated, the Proposal Trustee’s understanding of factual matters expressed in this Fourth Report concerning the Companies and their business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
15. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

THE COMPANIES' OPERATIONS

16. Since the Third Report, the Management of the Companies have focused on maintaining operations and assisting the Proposal Trustee with transition items associated with the Transaction. Management, with the assistance of the Proposal Trustee, has engaged in various discussions with stakeholders, suppliers, customers, and employees to minimize disruption to the operations. As of the date of this Fourth Report, the Companies have transitioned their business operations to the Purchaser without significant disruption or issues.

PROPOSAL TRUSTEE'S ACTIVITIES

17. Since the date of the Third Report, the Proposal Trustee has been engaged in the following activities:
 - (a) attended the Proposal Trustee's motion, which occurred on April 3, 2024;
 - (b) uploaded all court materials and certain other relevant documents, including the SISP update, to the Proposal Trustee's Website;
 - (c) engaged with its legal counsel, Fogler, Rubinoff LLP ("**Fogler**"), regarding matters related to these Proposal Proceedings and Transaction;
 - (d) monitored the Companies' receipts and disbursements on a weekly basis;
 - (e) participated in various calls with the Companies' external accounting/finance consultants regarding the status of the Companies' books and records;
 - (f) assisted the Companies in various human resource matters and addressed other employee questions regarding the Proposal Proceedings;
 - (g) continued to monitor the Companies' vehicle sales and repayments to ensure vehicle proceeds were remitted to BMO in accordance with the terms of the Interim Financing Loan;
 - (h) multiple follow-ups with Management regarding an employee vehicle purchase and other vehicle sales where sale proceeds were not collected from the customers;
 - (i) assistance to the Companies with stakeholder communications, including responding to calls, e-mails, and letters received from creditors and other parties in an effort to maintain supplier relationships and minimize service disruptions;
 - (j) participated in and facilitated various discussions with Volkswagen Canada ("**VW**") and its legal counsel;

- (k) participated in and facilitated various discussions with Volkswagen Financial Services (“VWFS”);
- (l) corresponded with shareholders and/or their respective legal counsels;
- (m) reviewed the Companies’ actual cash receipts and disbursements and variances to budget for the same time period as outlined in the Revised Cash Flow Forecasts;
- (n) various correspondence with BMO regarding the reporting as outlined in the Interim Financing Loan term sheet and assisted the Companies with interim funding requests;
- (o) reviewed of the Secured Creditors security documents and security opinions prepared by Fogler;
- (p) assisted in the completion of the Transaction, including:
 - (i) various correspondence with the Purchaser and Sales Agent to plan for transition and action items required leading up to the completion of the Transaction;
 - (ii) assisted the Purchaser with various information requests required for transition purposes;
 - (iii) worked with the Purchaser and Management to maintain key supplier relationships and ensure continued supply post close;
 - (iv) assisted the Purchaser in expediting closing items such as obtaining its business licenses, Ontario Motor Vehicle Industry Council (“OMVIC”) approval, VW approval, etc.;
 - (v) reviewed the Purchaser’s employment contract and assessed it versus the terms of the Sale Agreement;
 - (vi) assisted the Purchaser in organizing employee interviews and finalizing the new employment contract;
 - (vii) worked with the Purchaser and the Companies to ensure there were no payroll interruptions to the employees;
 - (viii) worked closely with Volkswagen Canada to: slow down parts and vehicle shipments, finalize the warranty claims receivables amount, close out pending vehicle receivables, fix billing issues on certain vehicles, etc.;

- (ix) worked with the Companies to ensure vehicle liens outstanding were paid out, system backups were performed, and any ancillary Purchaser's requests were fulfilled;
 - (x) worked with the Purchaser to create a count and valuation mythology for the Companies' parts, and used vehicles inventories;
 - (xi) worked with VWFS on the new vehicle inventory count, conducted analysis of inventory value based on compiled new vehicle invoiced costs, and created working papers for valuation purposes;
 - (xii) worked with the Purchaser and VWFS to allocate vehicle purchase price payable by the respective parties and created reconciliation worksheet for the Purchaser and VWFS to review;
 - (xiii) worked with the Purchaser, the Companies, and VWFS to finalize the final Purchase Price;
 - (xiv) assisted the Purchaser with information technology ("IT") needs to minimize operation disruptions during the transition;
 - (xv) initiated a system back of the Companies' IT environment;
 - (xvi) initiated a new environmental remediation assessment; and
 - (xvii) provided updates to BMO regarding the Transaction.
- (q) assisted the Purchaser and the Companies in transition services needed and determining purchase price adjustments needed due to asset cut-off issues, including:
- (i) drafting the transition services agreement;
 - (ii) worked with VW to determine parts delivered to the Purchaser but billed to the Companies;
 - (iii) assisted the Purchaser in identifying deposits received by the Companies for vehicles not yet sold;
 - (iv) assisted the Purchaser in identifying vehicles purchased but subject to an existing sale agreement with customers where the cash may have already been received by the Companies; and
 - (v) created a purchase price adjustments tracker for the Purchaser and Management.

- (r) assisted the Companies in various matters after the completion of the Transaction and the collection of the remaining assets not purchased in the Transaction, including:
- (i) assisted Management to track down outstanding vendor invoices;
 - (ii) assisted Management in various treasury functions;
 - (iii) engaged in various correspondence with the Purchaser to assist Management in solving IT set-up issues;
 - (iv) assisted the Companies in submitting warranty claims to VW and requested an extension from VW for submitting the respective claims on behalf of the Companies;
 - (v) corresponded with VWFS and assisted the Companies in submitting outstanding paperwork needed by VWFS to finance customer vehicles sales;
 - (vi) corresponded with VW to finalize trade assistance amount given on a vehicle trade-in;
 - (vii) facilitated correspondence on behalf of VWFS with BMO on vehicle chatteling issues;
 - (viii) assisted Management in determining employee receivables outstanding;
 - (ix) worked with Management to produce bill of sales for remaining vehicles sold to Ms. Caroline Bourret;
 - (x) worked with Management to produce collection letters for vehicles sold but sale proceeds not yet collected;
 - (xi) assisted Management in cancelling insurance, utilities, and other services no longer required;
 - (xii) assisted Management in various human resource functions;
 - (xiii) assisted Management in determining harmonized sales tax (“HST”) obligations/refunds;
 - (xiv) paid Sales Agent invoices;
 - (xv) prepared Fourth Report; and

(s) attended to other matters pertaining to the administration of these Proposal Proceedings.

18. The Proposal Trustee is requesting approval of this Fourth Report and the activities of the Proposal Trustee described herein.

THE TRANSACTION & REMAINING ASSETS REALIZATION PLAN

19. On April 30th, 2024, the remaining purchase price amount of approximately \$7.715 million (the total purchase price, including of the deposit previously received, of ~\$8.58 million for the Purchased Assets) was received by the Proposal Trustee, all conditions with regards to the Sale Agreement were satisfied and the Proposal Trustee issued the Proposal Trustee's Certificate to close the Transaction. Significant work was required by the Proposal Trustee, with limited assistance from Management, to close the Transaction and meet the conditions as outlined in the Sale Agreement. A copy of the Sale Agreement is attached hereto as **Appendix "N"**.

20. Capitalized terms used in this section that are not defined shall have the meanings as defined in the Sale Agreement.

21. The remainder of the Companies' assets not included in the Sale Agreement (the **"Remaining Assets"**), included the following:

- (a) warranty claims with VW with a book value of approximately \$157,000;
- (b) vehicles accounts receivables (**"AR"**) with regards to three (3) vehicles sold for ~\$75,000 but the sale proceeds were not collected by Management (the **"Vehicle AR"**);
- (c) vehicles purchased in the amount of approximately \$30,000 by Ms. Bourret;
- (d) the leased tractor to be bought out for approximately \$12,000 by Ms. Bourret to extinguish the reserve provided for DLL's (herein defined) secured claim; and
- (e) Litigation claim cited as *Grant et al v. Seaway Auto Group Inc. et al*, 2023 ONSC 3873 (CanLII) with Cameron Grant (**"Mr. Grant"**), 116 and Christopher Grant as the applicants and Seaway Auto Group Inc. (**"Seaway Auto"**), Solutions and Caroline Bourret as the respondents and the related outstanding judgments against Mr. Grant, 116 and Christopher Grant (collectively the **"Grants"**) in the approximate amounts of \$573,000 in favour of Seaway Auto and Solutions and \$102,000 in favour of Caroline Bourret plus pre-judgment and post-judgment interest, costs, disbursements, fees and expenses (the **"Litigation Claim"**).

Generally, the Litigation Claim stems from certain arbitral awards against the Grants and/or 116 in favour of Solutions and/or Seaway Auto that were upheld or not set aside by the respective court. The arbitrator generally found that the Grants and/or 116 wrongfully interfered with the operations of the Volkswagen dealership by various obstructive acts and thereby failed to act in the best interests of the business; contravened the applicable shareholders agreement; breached their fiduciary duties; and breached their duty of care as directors. A copy of the Writ of Seizure and Sale and the related decision with regards to the Litigation Claim is attached hereto as **Appendix “O”**.

22. The Proposal Trustee has previously outlined that the Companies’ books and records (the “Books”) are significantly out of date (February/March 2023), and despite numerous requests of Management to update them, the Books remain incomplete. The Proposal Trustee is working with Management to submit warranty claims with VW, working with the Companies’ accounting personnel to calculate and file pre-filing excise/harmonized sales tax returns, and updating non-vehicle AR listings (including employee AR).
23. The Proposal Trustee with the assistance of Ms. Bourret will continue to realize on the Remaining Assets for the benefit of the respective estates and Secured Creditors to the extent that they are not repaid. Should Management not take the required actions to monetize these assets, the Proposal Trustee will use its enhanced power as provided for in the Initial Order to collect on the same. Any potential HST refunds (including the post filing amounts), depending on the timing of CRA’s audit and the receipt of any refunds, will either be dealt with in these Proposal Proceedings or in bankruptcy proceedings if the Companies fail to file proposals under the BIA.

REVISED CASH FLOW PROJECTIONS

24. The Proposal Trustee has reviewed the actual cash flow from operations for the eight-week period ending May 17, 2024, through monitoring the banking activities of the Companies.
25. The Companies’ actual cash flow from operations for the eight-week period ending May 17, 2024, exceeded the corresponding Revised Cash Flow Forecasts amounts for that same period by approximately \$377,511.
 - (a) This positive variance is largely due to:
 - (i) ~\$243,096 - decrease in BMO floor plan payment of approximately \$160,589 due to increased vehicle trade-ins being added to the floor plan, and decrease in curtailments of approximately \$82,506;

- (ii) ~\$97,523 - professional fees of approximately \$36,573, and DIP Charge interest and fees of approximately \$25,000, HST remittance of approximately \$23,450, and \$12,500 of contingency, which are timing differences expected to reverse in the coming weeks;
- (iii) ~\$34,200 - insurance instalment not yet paid, as Proposal Trustee is currently working with the insurance broker to adjust the policy for the assets and operations sold as part of the Transaction;
- (iv) ~\$15,010 - HST collected/paid on receipts and disbursements;
- (v) ~\$70,068 - increase in parts and service sales, due to higher collections from warranty submissions to VW; and
- (vi) ~\$43,979 - decrease in parts purchases in anticipation of closing the Transaction.

(b) The positive variance is offset by:

- (i) ~\$94,717 - increase in lien payouts on vehicle trade-ins; and
- (ii) ~\$31,561 - lower than anticipated vehicle sales.

26. A summary of the variance analysis regarding the same are attached hereto as **Appendix “P”**. Consistent with the Revised Cash Flow Forecasts, \$500,000 (the maximum has been advanced) has been advanced to the Companies from the Interim Financing Loan to date.

- (a) The Companies made a total payment of \$6,324.71 payment to Tire Discounter Group, Distribution Stox, Miller Hughes Ford Lincoln, and Seaway Hyundai. These are related to amounts owing prior to the Filing Date. The Proposal Trustee advised Management that due to the stay of proceedings that these payments should not be made.

FINAL CASH FLOW PROJECTIONS

- 27. The Companies, with the assistance of the Proposal Trustee, have prepared the Final Cash Flow Forecast for the purpose of projecting the Companies’ liquidity needs from May 20, 2024 to June 21, 2024.
- 28. The Final Cash Flow Forecast indicate that the Companies will have sufficient liquidity to get to June 21, 2024, given the on-going asset realization efforts and the remaining sale proceeds from the Transaction.

29. Based on the Proposal Trustee's review of the Final Cash Flow Forecast, there were no material assumptions which seem unreasonable in the present circumstances.

COMPANIES' AND PROPOSAL TRUSTEE'S RECEIPTS AND DISBURSEMENTS

30. The Companies' statement of receipts and disbursements for the period from the Filing Date to May 17, 2024 (the "Final R&D") is summarized as follows:

FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR THE COMPANIES FOR THE PERIOD DECEMBER 22, 2023 TO MAY 17, 2024					
	Solutions	Cornwall	Holdings	Estate	Total
Receipts					
Opening Cash Balance	184,654	24,177	34,848	-	243,678
Asset Sale Proceeds	-	-	-	8,578,452	8,578,452
Vehicle Sales	2,820,486	-	-	-	2,820,486
To/(From) Intercompany (Includes Rent)	(25,746)	9,498	16,248	-	-
Parts & Service Sales	876,375	-	-	-	876,375
Other Revenue	74,576	-	-	-	74,576
Interim Financing Charge	500,000	-	-	-	500,000
Interest on Sale Proceeds	-	-	-	21,501	21,501
HST Collected	490,287	3,911	5,752	-	499,950
Total Receipts	4,920,632	37,587	56,848	8,599,953	13,615,019
Disbursements					
Vehicle Purchases and Lien Payouts	(352,888)	-	-	-	(352,888)
Parts Purchases	(360,270)	-	-	-	(360,270)
Payroll (Including Taxes and Benefits)	(524,165)	-	-	-	(524,165)
Sales Agent Fee	(22,500)	-	-	(158,044)	(180,544)
Vendor Payments	(188,948)	-	-	-	(188,948)
Othe Expenses	(24,488)	-	-	-	(24,488)
Utilities Expenses	(8,975)	(289)	(579)	-	(9,843)
Insurance Payments	(42,824)	-	-	-	(42,824)
Proposal Trustee & its Counsel's Fees	(409,364)	-	-	-	(409,364)
Restructuring Costs	(106,296)	-	-	-	(106,296)
BMO Floor Plan Payments, Curtailments, and Interest	(2,433,766)	-	-	-	(2,433,766)
BMO Goodwill Loan (Interest)	(55,640)	-	-	-	(55,640)
BMO Mortgage Principal and Interest Payment	-	(17,101)	(31,758)	-	(48,859)
Property Taxes	-	(7,341)	(13,906)	-	(21,247)
HST Paid	(365,260)	(114)	(75)	(20,546)	(385,995)
Total Disbursements	(4,895,382)	(24,845)	(46,319)	(178,590)	(5,145,136)
Net Cash Flow	25,249	12,742	10,529	8,421,363	8,469,883

(a) as detailed in the table above, the Companies had total receipts of \$13,615,019 between the Filing Date and May 17, 2024, the majority of receipts comes from asset sale proceeds from the Transaction, which was deposited into the Proposal Trustee's trust account (the "Estate"), and vehicle sales, parts/service sales and funding from the Interim Financing Loan which were deposited into the Companies' bank accounts;

- (b) total disbursements over the same period were \$5,145,136, the majority of which relate to BMO floor plan repayments corresponding to vehicle sales, payroll, professional fees, vehicle purchases, lien payouts, and parts purchases; and
- (c) the Proposal Trustee notes an overpayment of ~\$25,425 was paid to Sales Agent in error, which the Sales Agent has agreed to refund to the Proposal Trustee.

CREDITORS

Secured Claims

Bank of Montreal

31. BMO established certain credit facilities in favour of the Companies:

- (a) five (5) facilities in favour of Solutions in a maximum aggregate principal amount of (CAD) \$6,413,640;
- (b) a term loan in favour of Holdings in the amount of (CAD) \$1,040,000;
- (c) a term loan in the amount of (CAD) \$560,000 in favour of Cornwall; and
- (d) corporate MasterCard.

(collectively, the “**BMO Credit Agreements**”).

- 32. BMO holds, among other things, a general security interest against all of the Companies’ assets which has been registered under the *Personal Property Security Act* (Ontario) (the “**PPSA**”).
- 33. In connection with the BMO Credit Agreements, the Companies and others granted various additional security, including collateral mortgages and general assignment of rents against the real property in favour of BMO, and guarantees including a limited guarantee from Seaway Toyota (1990) Inc., a body shop entity owned by the Grant family, and a joint and several limited guarantee from Ms. Bourret and Mr. Grant.
- 34. Attached as **Appendix “Q”** are copies of PPSA searches as of March 24, 2024 (before the completion of the Transaction) in relation to the personal property of Solutions, Holdings and Cornwall, and copies of the parcel or land titles searches as of April 23, 2024 (before the completion of the Transaction) in relation to the real property of Holdings and Cornwall.
- 35. Attached as **Appendix “R”** is a copy of the opinion letter from counsel of the Proposal Trustee regarding BMO’s loan and security documents in this matter before the completion of the Transaction. Subject to the customary qualifications, assumptions and limitations included therein, Fogler is of the opinion that BMO’s security under Ontario Law is valid and enforceable in accordance with their terms.

36. BMO was the first-ranking secured creditor of the Companies before the closing of the Transaction.
37. Proposal Trustee's counsel has been advised by BMO that the outstanding indebtedness is \$6,413,640.

Glenn Joseph MacDonell

38. Pursuant to a vendor takeback with Glenn Joseph MacDonell dated November 12, 2019 (the "VTB"), MacDonell advanced \$1,000,000 to Holdings and Cornwall to purchase the premises on Pitt Street in Cornwall, Ontario. In connection with the VTB, the Companies granted various security documents in favour of MacDonell. Cornwall and Holdings both granted collateral mortgages in the amount of the funds advanced.
39. Attached as **Appendix "S"** is a copy of the opinion letter from counsel of the Proposal Trustee regarding MacDonell's loan and security documents in this matter. Subject to the customary qualifications, assumptions and limitations included therein, Fogler is of the opinion that MacDonell's security under Ontario Law is valid and enforceable in accordance with their terms.
40. The VTB mortgage or mortgages of MacDonell in relation to the real property of Holdings and Cornwall was second-ranking or subordinate to BMO's first-ranking mortgage or mortgages in the real property, before the closing of the Transaction.
41. Proposal Trustee's counsel has been advised by MacDonell that the current balance owing under the VTB is exactly \$1 million.

Various Related Party Loans

42. The Proposal Trustee understands that the 192 Lenders provided a loan to 116 in the principal amount of \$1,800,000 as per a loan agreement dated November 8, 2019 ("**First Loan**"). The amounts owed by 116 to the 192 Lenders were guaranteed by Seaway Auto and the Companies and secured by these companies by general security agreements each dated November 8, 2019. 116 lent the funds to Seaway Auto, as borrower, pursuant to the terms of a loan and option agreement dated November 8, 2019 (the "**Second Loan**") for the initial purchase transaction associated with Cornwall Volkswagen dealership. Seaway Auto obligations to 116 were also guaranteed by unlimited guarantees from the Companies and secured by separate security agreements from each of the Companies.
43. Attached as **Appendix "T"** is a copy of the opinion letter from counsel of the Proposal Trustee regarding 192's and 116's loan and security documents respectively in relation to the First Loan and Second Loan before the closing of the Transaction. Subject to the customary

qualifications, assumptions and limitations included therein, Fogler is of the opinion that 192's and 116's security under Ontario Law is valid and enforceable in accordance with their terms.

44. Attached as **Appendix "U"** is a copy of 192's and 116's payout letter from their lawyer regarding the outstanding indebtedness of the Companies to 192 and 116 respectively under the First Loan and Second Loan. As per the payout letter dated May 16, 2024, the current amount outstanding to discharge the primary obligations of 116 to the 192 Lenders under the First Loan, the primary obligations of Seaway Auto to 116 under the Second Loan, and the guaranteed and secured obligations of the Companies under the First and/or Second Loan, is approximately \$983,247.
45. We understand that the Companies and Ms. Bourret take issue with the amounts alleged to be outstanding to the 192 Lenders, 116, GrantCo, or members of GrantCo, given the outstanding Litigation Claim and related judgments, noted above, against Mr. Grant, 116 and Christopher Grant, in the current approximate amount of \$643,957 (inclusive of costs and interest) that is owed to Solutions and Seaway Auto (this amount excludes amounts owed to Ms. Bourret in excess of \$100,000). Given this potential set-off claim of the Companies, the Proposal Trustee is not currently including this potential set-off amount in its proposed interim distribution to GrantCo. For distribution purposes, the Proposal Trustee has offset this amount for a total outstanding secured claim of approximately \$340,000 owing to GrantCo (the **"Revised GrantCo Amount"**). It is currently not anticipated that the Companies remaining net asset realizations will exceed the Revised GrantCo Amount and as such do not believe it is necessary for the respective parties to dispute these possible set-offs at this time. Should the Companies' final net realizations exceed the Revised GrantCo Amount, then the Proposal Trustee will hold these funds in its accounts in trust and seek further direction of the Court regarding distribution of the same.
46. As set out below, the proposed Interim Distribution to GrantCo at this time is approximately \$98,450.
47. As discussed below, before making any distributions to the Secured Creditors, the Proposal Trustee will maintain sufficient Holdbacks (herein defined) to satisfy the Outstanding Disbursements (i.e., the super-priority Charges; Accrued Obligations and the Remaining Costs).

Equipment Loan

48. De Lage Landen Financial Services Canada Inc. ("DLL") has a registered security interest in the tractor purchased by Solutions. We understand that Ms. Bourret will payout or provide the funds to the Solutions to pay out, the remainder of financing owed to DLL and take ownership of the tractor personally.

Priority Claims

49. The Secured Creditor's security is subject to prior charges and security interests or claims in respect of the Property, which include or may include:

- (a) the Admin. Charge - as at the date of this Fourth Report, the Proposal and its counsel have received payment for certain of their fees and disbursements incurred as part of Proposal Proceedings and paid from the Companies operations/Interim Financing Loan. The remaining accrued and outstanding fees and disbursements of the Proposal Trustee for the period of March 23, 2024, to March 16, 2024, totals \$174,273.53 (inclusive of applicable taxes) and its legal counsel for the period March 26, 2024, to May 15, 2024, total \$66,794.47 (inclusive of applicable taxes). In addition, given the Remaining Matters still to be completed in the Proposal Proceedings, the litigious nature of the Companies' stakeholders and Management's continue challenges in realizing on the Remaining Assets, the Proposal Trustee and its counsel have estimated remaining fees and disbursements for the Remaining Matters (the **"Remaining Fees & Disbursements"**) may exhaust the remainder in the amount of \$158,932 of the Admin. Charge. As such, the Proposed Trustee proposes to reserve for the currently outstanding fees noted above and the Remaining Fees & Disbursements the full amount of the Admin. Charge;
- (b) the DIP Charge - the Companies were authorized to borrow up to \$500,000, as it considered necessary or desirable. As of the date of this Fourth Report, the Companies have made borrowings of the full \$500,000, as evidenced by various funding requests/certificates. The Proposal Trustee intends to fully repay the Interim Financing Loan (to extinguish the DIP Charge) as outlined in the proposed distribution schedule (plus its fee and accrued interest) prior to the May 28 Motion;
- (c) the D&O Charge - the Companies were granted a \$100,000 charge on the Companies' assets to mitigate potential directors and officer exposure after the Filing Date. As of the date of this Fourth Report, is it anticipated that the Companies final payroll(s) may be covered by this charge should there be no remaining funds to pay them and as such the Proposal Trustee proposed to reserve for the full amount of the D&O Charge;
- (d) Deemed trust claims - a) the Companies use an external payroll provider and as such are current with all government remittances for source deductions, save and except for source deductions accrued and accruing in respect of standard payroll

processing, which will continue in the ordinary course. As discussed below, the Proposal Trustee intends to reserve certain amounts in anticipation of the final CRA payroll trust review; b) the Proposal Trustee also understands that a large installment was made to CRA prior to the Filing Date related to a potential HST amounts owed by Solutions. Given the state of the Companies books and records, it is unknown what pre-filing HST, if any, may be owing. Post-filing amounts have been kept current by the Companies and all amounts of HST if owed have been paid.

- (e) Statutory claims pursuant to the BIA (the “**BIA Claims**”) - the Proposal Trustee is not aware of any amounts owing to employees that would have priority over the Secured Lenders, pursuant to section 81.3 and/or 81.5 of the BIA; and
- (f) Outstanding municipal taxes of the municipality - all property tax amounts owed with regards to the real property owned by Holdings and Cornwall were paid and settled in the statement of adjustments with regards to the Transaction.

Unsecured Creditors

50. As previously outlined, the Companies books and records have not been updated since early 2023, including the respective monthly bank reconciliations. As a result, Ms. Bourret resorted to paying vendor accounts, as invoices were presented, via pre-authorized debit or electronic funds transfers (limited, if any outstanding cheques) and utilized the Companies’ bank statements as a ledger to track who has been paid. This is not an appropriate or adequate form of bookkeeping. The Companies, with the assistance of the Proposal Trustee, attempted to reconstruct an accounts payable ledger as at December 22, 2023, with \$250 place holders for unknown vendor balances, to insure the potential creditors, subject to the Proposal Proceedings received notice.

51. It is expected that the Companies’ Secured Creditors will experience a shortfall on their security and as such it is anticipated that no funds will be available to the Companies’ unsecured creditors.

PROPOSED DISTRIBUTIONS TO BMO, MACDONELL, AND GRANTCO

52. Subject to this Court’s approval, the following summarizes how the funds in the Companies/Proposal Trustee’s possession is to be allocated for interim distributions to the Companies’ Secured Creditors:

PROJECTED FUNDS FOR DISTRIBUTION AS AT MAY 17, 2024			
	Solutions	Holdings/Cornwall	Total
Net Cash Balance as per Final R&D	5,337,542	3,132,341	8,469,883
Less: Interim Financing Charge Principal, Fees, and Interest	(374,820)	(160,637)	(535,457)
Plus: Remaining Vehicle Financing from Volkswagen Credit	93,149	-	93,149
Cash Available before Holdbacks/Reserves	5,055,872	2,971,704	8,027,575
Less: Holdbacks			
Reserve for Tractor Payout	(12,000)	-	(12,000)
Reserve for Purchase Price Adjustment	(35,000)	(15,000)	(50,000)
Reserve for Trust Claims	(35,000)	(15,000)	(50,000)
Reserve for Bankruptcy Costs	(35,000)	(15,000)	(50,000)
Professional Fees/Admin. Charge	(280,000)	(120,000)	(400,000)
Priority Claims/D&O Charge	(70,000)	(30,000)	(100,000)
Net Cash Available for Interim Distribution	4,588,872	2,776,704	7,365,575
Interim Distribution to BMO			
Mortgage Facilities	-	(1,381,669)	(1,381,669)
Goodwill Facility	(1,544,910)	-	(1,544,910)
Vehicle Floor Line Facilities	(3,237,828)	-	(3,237,828)
Other Fees & Credit Card Repayment	(71,903)	(30,816)	(102,719)
Total Interim Distributions to BMO	(4,854,640)	(1,412,485)	(6,267,125)
Application of BMO Cross Collateralization Provisions	265,769	(265,769)	-
Anticipated (Shortfall)/Excess Funds Available	-	1,098,450	1,098,450
Interim Distribution to MacDonell	-	(1,000,000)	(1,000,000)
Anticipated (Shortfall)/Excess Funds Available	-	98,450	98,450
Interim Distribution to Grantco	-	(98,450)	(98,450)
Estimated Net Cash after Interim Distributions	-	-	-

- (a) as per the Final F&D, the Companies net cash balance available for distribution is \$8,469,883. As discussed, prior in the report, the Proposal Trustee intends to repay the Interim Financing Loan, including its associated interest and fees. In addition, the Proposal Trustee is expecting funds to be received by the Companies from VWFS which is to be used to repay BMO's associated floor line facility amounts;
- (b) the Proposal Trustee proposes to holdback certain funds (the "Holdbacks") to provide for the following:
- (i) \$12,000 secured claim of DLL associated with the tractor that is to be bought out by Ms. Bourret;
 - (ii) \$50,000 as a reserve for purchase price adjustment to address cut-off issues associated with the Sale Agreement;
 - (iii) \$50,000 as a reserve for any trust claims that may result from CRA's final payroll audit and for any section 81.3 and 81.5 of the BIA amounts that may rank in priority to the Secured Creditors;

- (iv) \$50,000 as a reserve for funding remaining operating costs including the Remaining Matters associated with the Proposal Proceedings or the bankruptcy proceedings to realize on the Remaining Assets and/or complete any statutory requirements. Note: in addition to this reserve, the Companies' will fund a \$50,000 retainer to the Trustee prior to the May 28 Motion to cover their anticipated fees and disbursements associated with the bankruptcy proceedings;
 - (v) \$400,000 in support of the Admin. Charge (approximately \$241,068 of professional fees remain outstanding as of the date of the Fourth Report and will be covered by this amount plus the Remaining Fees & Disbursements associated with the Proposal Proceedings); and
 - (vi) \$100,000 in support of the D&O Charge for any post-filing obligations that may impact the Companies' director (payroll, HST, etc.).
- (c) The cash available less Holdbacks, will be approximately \$7,365,575 and the Proposal Trustee proposes to make the following Interim Distribution to the Secured Creditors if approved by the Court, including:
- (i) BMO and Macdonell to pay off their respective outstanding amount in full; and
 - (ii) ~\$98,450 (plus any remaining amounts out of the Holdbacks if not fully utilized and additional net realizations on the Remaining Asset on any Subsequent Distribution during the Proposal Proceedings) to up to the amount of Revised GrantCo Amount.
- (d) the Proposal Trustee is of the view that, in order to maximize efficiency, it is appropriate, in addition to seeking approval of the Interim Distributions, to seek the Court's approval to make any Subsequent Distributions during the Proposal Proceedings to the Secured Creditors with additional proceeds from realization of Remaining Assets if the Companies are still indebted to the Secured Creditors after the Initial Distributions, as the Proposal Trustee determines appropriate, without further order of this Court, provided the Subsequent Distributions to the respective Secured Creditors are limited to the outstanding amount of their respective provable secured claim against the Companies, including all interest and costs; and

- (e) the Proposal Trustee respectfully requests that the Court authorize the Interim Distributions and any Subsequent Distributions during the Proposal Proceedings to the Secured Creditors as the Proposal Trustee determines appropriate.

REMAINING MATTERS TO BE COMPLETED IN THESE PROCEEDINGS

53. If this Court grants the orders requested herein, the Proposal Trustee will have completed its duties, statutory or otherwise, except for the following (the “**Remaining Matters**”):

- (a) attendance at the May 28 Motion and preparation regarding the same;
- (b) paying the Interim Distributions to the Secured Creditors;
- (c) processing and paying the Outstanding Disbursements;
- (d) working with Management to complete and file HST returns (pre and post filing returns);
- (e) working with Management to realize on Remaining Assets;
- (f) working with the Purchasers to remove the Companies’ Remaining Assets off premises;
- (g) assisting Management in finalizing employee ROEs, T4s and the final payroll;
- (h) completing the purchase price adjustment calculation for the Transaction;
- (i) finalizing and executing the transition services agreement;
- (j) applying for taxation and discharge; and
- (k) transferring assets and duties to the Trustee.

APPROVAL OF THE PROPOSAL TRUSTEE’S FEES AND DISBURSEMENTS

54. The Proposal Trustee and its legal counsel, Fogler, have been paid their fees and disbursements at their standard rates and charges by the Companies from time to time, as part of the costs of the Proposal Proceedings.

55. The Proposal Trustee and Fogler have maintained records of their professional time and costs. The Proposal Trustee now requests approval of its interim fees and disbursements for the period from March 23, 2024 to May 16, 2024, and the interim fees and disbursements for Fogler for the period from March 26, 2024 to May 15, 2024.

56. The total interim fees and disbursements of the Proposal Trustee for the period of March 23, 2024 to March 16, 2024 total \$174,273.53, including fees in the amount of \$151,853, disbursements in the amount of \$2,371.36, and HST in the amount of \$20,049.17, as more

particularly described in the affidavit of Clark Lonergan sworn May 21, 2024 (the “**Lonergan Fee Affidavit**”), a copy of which is attached hereto as **Appendix “V”**.

57. The total interim fees and disbursements of Fogler principally from, March 26, 2024 to May 15, 2024, total \$66,794.47, including fees in the amount of \$58,052.60, disbursements in the amount of \$1,063.30, and HST in the amount of \$7,678.57, as more particularly described in the affidavit of Scott Venton sworn May 15, 2024 (the “**Venton Fee Affidavit**”), a copy of which is attached hereto as **Appendix “W”**.
58. The Proposal Trustee also requests the approval of the Remaining Fees & Disbursements of the Proposal Trustee and its counsel estimated not to exceed \$158,932 (exclusive of HST) for the Remaining Matters;
59. The Proposal Trustee respectfully submits that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fee Affidavits and for the Remaining Matters, are reasonable in the circumstances and have been validly incurred in accordance with Proposal Proceedings or estimated for the Remaining Matters. Accordingly, the Proposal Trustee respectfully requests the approval of the fees and disbursements of the Proposal Trustee and that of its counsel, as set out in this Fourth Report.

BANKRUPTCY PROCEEDINGS

BDO as Trustee in the Event of Deemed Bankruptcies

60. Under the Initial Order, the Proposal Trustee is not prevented from subsequently acting as trustee in bankruptcy of the Companies or their property.
61. Given BDO's background, knowledge and experience as Proposal Trustee of the Companies, it makes economic sense for BDO to act as the Trustee of the Companies if they are deemed bankrupt.

Procedural Consolidation of Cornwall and Holdings

62. Cornwall and Holdings are part of a single business enterprise and BDO seeks an order, upon their deemed bankruptcies, consolidating their bankruptcy estates on a procedural basis.
63. Cornwall and Holdings are related and are part of or were part of the same united business enterprise of the Companies. There are common or identical directors, management, books and records and senior lenders (BMO & MacDonnell). Cornwall owned the Body Shop Property and Holdings owned the Dealership Property. They are generally land holding companies. They have common creditors and were integrated or part of the same VW dealership. They were part of the same Transaction, with their Real Property being sold to the respective

Purchaser pursuant to the Sale Agreement and AVO. The Real Estate Purchaser provided one purchase price for both parcels.

64. The procedural consolidation of the possible bankrupt estates of Cornwall and Holdings will not prejudice creditors but rather will benefit them as a result of the cost savings of having to deal with a single bankrupt estate instead of two (2) on procedural matters (i.e., one meeting of creditors, one proof of claim, etc.). Avoiding the duplication of procedural steps will save costs.
65. The proposed consolidation of the possible, deemed bankruptcy estates of Cornwall and Holdings is purely administrative in nature. It is not proposed that the creditor pools for each of Cornwall and Holdings be mixed or substantively consolidated - all such parties shall continue to hold distinct claims and rights against the individual estates of Cornwall and Holdings (and each of the Companies, for that matter), which will be addressed in accordance with the law.

Deemed Bankruptcies of the Companies

66. Given the possible deemed bankruptcies of the Companies and for greater certainty, the Proposal Trustee is requesting that the Court declare or order that the Interim Distributions, any Subsequent Distributions, Holdbacks and payment of Outstanding Disbursements shall be binding on any licensed insolvency trustee/Trustee in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall they constitute nor be deemed to be a fraudulent preference, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation
67. Under the Initial Order, the Charges and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not be limited or impaired in any way by the deemed bankruptcies of the Companies. However, upon the full payment of the Chargees or if there is no debt owing the respective Chargees in relation to the Charges, the Proposal Trustee is requesting that the Court declare or order the termination, release and discharge of the Charges without any further act or formality.

PROPOSED STAY EXTENSION

68. The current stay of proceedings will expire on May 29, 2024 (the "**Stay Period**").
69. The Proposal Trustee, with the support of the Companies, seeks an extension of time for the Companies to have the option to file proposals to and including June 21, 2024 (the "**Proposed**

Stay Extension"). The Proposed Stay Extension will provide the Companies with the option to file proposals by that date and will allow the Proposal Trustee to pay or reserve the Interim Distributions, any Subsequent Distributions, the Outstanding Disbursements and the Holdbacks.

70. It is the Proposal Trustee's view, based on the Final Cash Flow Forecast, that the Companies will have sufficient liquidity to satisfy post filing obligations as they come due during the Proposed Stay Extension.
71. Based on the information presently available, the Proposal Trustee believes that the Companies' creditors will not be materially prejudiced by the Proposed Stay Extension. The proposed extension is only for a short period, namely about three (3) weeks. Furthermore, the Proposal Trustee is not aware of any creditor who opposes the requested extension of the Stay Period.

CONCLUSION AND RECOMMENDATIONS

72. The Proposal Trustee confirms that the Companies have acted and continue to act in good faith and with due diligence.
73. For the reasons stated in this Fourth Report, the Proposal Trustee supports the relief sought in connection with the May 28, 2024, motion. The Proposal Trustee respectfully submits to the Court this, its Fourth Report.
74. We understand that the Companies are in support of the relief sought in connection with the May 28, 2024, motion as well.

All of which is respectfully submitted this 22nd day of May, 2024.

BDO CANADA LIMITED, in its capacity
as Proposal Trustee of OEM Automotive
Solutions Inc., OEM Automotive Cornwall Inc.,
and OEM Automotive Holdings Inc., and not in
its corporate or personal capacity.



Clark Lonergan, CA, CPA, CIRP, LIT
Partner/Senior Vice President

Fourth Report of the Proposal Trustee
Appendix “A”

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Estate No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS
AMENDED
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

FIRST REPORT OF THE PROPOSAL TRUSTEE
January 11, 2024

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- Appendix A - Certificates of Filing of a Notice of Intention to Make a Proposal
- Appendix B - Affidavits of Mailings and Creditor's Package
- Appendix C - Companies' Initial Cash Flow projections for the period ended March 31, 2024
- Appendix D - Trustee's Report on Cash Flow Statements
- Appendix E - Initial Cash Flow Variance Analysis for the 2-week period ending January, 7, 2024
- Appendix F - Cash Flow Forecasts for the period December 22, 2023 to April 14, 2024
- Appendix G - Sales and Investment Solicitation Process
- Appendix H - Sales Agent Agreement dated January 9, 2024

INTRODUCTION

1. On December 22, 2023 (the **“Filing Date”**), OEM Automotive Solutions Inc. (**“Solutions”**), OEM Automotive Cornwall Inc. (**“Cornwall”**), and OEM Automotive Holdings Inc. (**“Holdings”**), collectively with Solutions and Cornwall, the **“Companies”**) each filed a Notice of Intention to Make a Proposal (**“NOI(s)”**) pursuant to section 50.4 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (the **“BIA”**). BDO Canada Limited (**“BDO”**), a Licensed Insolvency Trustee, was named proposal trustee (the **“Proposal Trustee”**) in each of the Companies’ proposal proceedings (collectively, the **“Proposal Proceedings”**). Copies of the respective certificates of filing of a Notice of Intention to Make a Proposal (the **“Certificates of Filing”**) issued by the Office to the Superintendent of Bankruptcy (the **“OSB”**) are attached hereto as **Appendix “A”**.

PURPOSE

2. The purpose of this first report of the Proposal Trustee (the **“First Report”**) is to advise the Court with respect to:
 - (a) an overview of the Companies;
 - (b) background on the circumstances leading to the Companies’ decision to commence the Proposal Proceedings;
 - (c) the Companies’ creditors;
 - (d) the Companies’ operations and communications with stakeholders since the commencement of these Proposal Proceedings;
 - (e) the Proposal Trustee’s activities since its appointment;
 - (f) an overview of the Companies’ 16-week cash flow forecasts, inclusive of the Initial Cash Flows (herein defined), for the period December 22, 2023 to April 14, 2024 (the **“Cash Flow Period”**), separately for each of the Companies (the **“Cash Flow Forecasts”**) projections and the Proposal Trustee’s comments regarding the reasonableness thereof;
 - (g) the Companies’ motion to seek an order (the **“Proposed Order”**) to:
 - (i) administratively consolidating the estates or Proposal Proceedings of the Companies;
 - (ii) extending the time for the Companies to file proposals under section 50.4(9) of the BIA by 45 days to and including March 5, 2024;

- (iii) approving the First Report, and approving the activities of the Proposal Trustee described in the First Report;
 - (iv) approving the sale and investment solicitation process (the “SISP”), and authorizing the Proposal Trustee to conduct the SISP;
 - (v) authorizing and approving the engagement of Dealer Solutions North America Inc. (“DSMA” or the “Sales Agent”) to assist with the implementation of the SISP;
 - (vi) enhancing certain powers of the Proposal Trustee;
 - (vii) authorizing the Companies to enter into an interim financing term sheet with the Bank of Montreal (“BMO”) dated on or about January 8, 2024, as interim lender (the “Interim Financing Term Sheet”); and
 - (viii) granting the super-priority Administration Charge, Directors’ Charge and Interim Financing Charge (each herein defined).
- (h) the Proposal Trustee’s recommendations on the relief being sought by the Companies.
3. The Proposal Trustee understands that the Companies will be relying on the affidavit of Ms. Caroline Bourret (“Ms. Bourret”) sworn January 9, 2024 (the “Bourret Affidavit”) in support of the relief sought in the Proposed Order.
 4. The Bourret Affidavit, and all other materials filed with the Court in these Proposal Proceedings are accessible on the Proposal Trustee’s websites at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-solutions-inc>; www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-cornwall-inc; www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-holdings-inc (the “Proposal Trustee’s Websites”).

TERMS OF REFERENCE

5. In preparing this First Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Companies, discussions with management of the Companies

(“**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in this First Report in respect of the Cash Flow Forecasts:

- (a) The Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
 - (b) Some of the information referred to in this First Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
6. Future oriented financial information referred to in this First Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variation could be significant.
 7. Unless otherwise indicated, the Proposal Trustee’s understanding of factual matters expressed in this First Report concerning the Companies and their business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
 8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

OVERVIEW OF THE COMPANIES

9. This First Report should be read in conjunction with the Bourret Affidavit for additional background and financial information with respect to the Companies. Any terms not expressly defined herein are otherwise defined in the Bourret Affidavit.
10. OEM Automotive Solutions Inc. is a privately held corporation, federally incorporated company, pursuant to the *Canada Business Corporations Act*, R.S.C, 1985 c. (the “**CBCA**”) on February 1, 2014. Solutions operates as a Volkswagen dealership in Cornwall, Ontario, servicing the City of Cornwall and South-Eastern Ontario, providing sales, leasing and repair services in respect of new and used Volkswagen vehicles, as well as other used original

equipment manufacturers (“**OEM(s)**”) trade-in used vehicles. Solutions employees twenty-five (25) non-unionized employees.

11. OEM Automotive Cornwall Inc. is a privately held corporation, federally incorporated company pursuant to the CBCA on August 21, 2019. Cornwall operates as a real estate holding company which owns the real property, located at 628 Pitt Street, Cornwall, Ontario (the “**Body Shop Property**”) which Solutions operates as an automotive body shop from.
12. OEM Automotive Holdings Inc. is a privately held corporation, federally incorporated company, pursuant to the CBCA on June 5, 2019. Holdings operates as a real estate holding company which owns the real property, located at 632 Pitt Street, Cornwall, Ontario (the “**Dealership Property**”, together with the Body Shop Property, the “**Real Property**”) which Solutions operates the Cornwall Volkswagen dealership from.
13. The Companies are related, share management, back-office and accounting functions, and have the same directors. All business activities are managed through Solutions.
14. The Companies purchased the pre-existing retail Volkswagen dealership located in Cornwall, Ontario in or around November 2019. In need of a potential investor for the acquisition, Ms. Bourret partnered with Mr. Cameron Grant (“**Mr. Grant**”), whose family operated a body shop which had a pre-existing relationship Cornwall Volkswagen, for the purchase.
15. The Companies are each wholly owned subsidiaries of Seaway Auto Group Inc. (“**Seaway**”). Seaway shareholders include Ms. Bourret (51%) and 11678833 Canada Inc. (“**116 Canada**”) (49%), which is beneficially owned by Mr. Grant and his family.

CIRCUMSTANCES LEADING UP TO THE PROPOSAL PROCEEDINGS

16. According to the Bourret Affidavit, the business relationship between Mr. Grant, Grant’s family and herself was strained from the beginning, with disputes among the shareholders culminating in certain claims and counterclaims made in proceedings filed in the Ontario Superior Court of Justice, which ultimately resulted in judgement and costs rendered against Mr. Grant, his brother and 116 Canada (the “**Shareholder Dispute**”). These awarded judgments have not been satisfied to date.
17. The Shareholder Dispute, coupled with the lingering effects of the COVID-19 pandemic (OEM parts and vehicles supply shortages), the loss of key management resources and the current higher interest rate market conditions significantly impacted Ms. Bourret’s ability to adequately manage and operate the Volkswagen dealership. As a result of these factors, the Companies faced a critical cash shortage in late 2023, resulting in limited liquidity, if any and greater than \$600,000 in sold in violation (“**SIV(s)**”) vehicles owing to the Company’s senior

secured creditor, BMO, who is owed more than \$5 million currently. Generally, a SIV amount arises when a dealership sells a vehicle, which is financed, and uses the sales proceeds to fund business operations versus paying back the vehicle floor line financing facility as required.

18. Additionally, given the loss of the Companies' finance and service department personnel, its books and records remain significantly out of date, with 2022 year-end financials not closed and the 2023 monthly financials and bank reconciliations not updated since early 2023.
19. BMO requested that Ms. Bourret and/or Mr. Grant inject funds immediately to cure the significant SIV balance and to provide sufficient capital for the Companies to continue to operate as a going concern. Ms. Bourret and Mr. Grant indicated that they did not possess the necessary liquid funds and/or even if they did, that they would not inject funds into the Companies given their current financial position.
20. As a result of the financial and operational challenges faced by the Companies, further negatively impacted by the on-going Shareholder Dispute, BMO made formal demand for repayment and notice of intention to enforce security on December 13, 2023. The Companies were unable to issue full repayment in response to BMO's demand and as a result are insolvent.
21. Following discussions with BMO, the Proposal Trustee and counsel, the shareholders agreed that these Proposal Proceedings, funded by BMO as interim lender, would be a preferred means by which to pursue a sale and/or restructuring under the BIA to preserve and realize value for all stakeholders.
22. On December 22, 2023, the Companies commenced the Proposal Proceedings under the BIA for the purpose of, among other things, creating stability for the Companies to regularize business and to permit the Proposal Trustee to conduct a SISP for the marketing and sale of the Companies' business as a going-concern in whole or in part, or to seek an investment in the Companies' business.

CREDITORS

Secured Claims

Bank of Montreal

23. BMO established certain credit facilities in favour of the Companies:
 - (a) five (5) facilities in favour of Solutions in a maximum aggregate principal amount of (CAD) \$6,413,640;

- (b) a term loan in favour of Holdings in the amount of (CAD) \$1,040,000;
- (c) a term loan in the amount of (CAD) \$560,000 in favour of Cornwall; and
- (d) corporate MasterCard.

(collectively, the “**BMO Credit Agreements**”).

24. BMO holds, among other things, a general security interest against all of the Companies’ assets which has been registered under the *Personal Property Security Act* (Ontario) (the “**PPSA**”). As of the date of this First Report, the Companies are indebted to BMO in the approximate amount of \$5.1 million.
25. In connection with the BMO Credit Agreements, the Companies and others granted various additional security, including collateral mortgages and general assignment of rents against the Real Property in favour of BMO, and guarantees including a limited guarantee from Seaway Toyota (1990) Inc. (the “**Grants Seaway**”), a body shop entity owned by the Grant family, and a joint and several limited guarantee from Ms. Bourret and Mr. Grant.

Glenn Joseph MacDonell

26. Pursuant to a vendor takeback with Glenn Joseph MacDonell (“**MacDonell**”) dated November 12, 2019 (the “**VTB**”), MacDonell advanced \$1,000,000 to Holdings and Cornwall to purchase the premises on Pitt Street in Cornwall. In connection with the VTB, the Companies granted various security documents in favour of MacDonnell. Cornwall and Holdings both granted collateral mortgages in the amount of the funds advanced. The Proposal Trustee understands that the VTB is subordinate to BMO.
27. The parcel search, appended to the Bourret Affidavit, for the real property owned by Holdings and the real property owned by Cornwall reflect that BMO holds the first-ranking mortgage security against both of the properties.

Various Related Party Loans

28. The Proposal Trustee understands that various loans related to Ms. Christina Grant, 1921534 Ontario Ltd., and Grant Seaways were provided to 116 Canada in the amount of \$1,800,000 and in turn, 116 Canada lent the funds to Seaway for the initial purchase transaction associated with the purchase of the Cornwall VW. Various guarantee, indemnity, assign and postponement agreements by certain or all of the parties, were executed regarding the same. Further details regarding these amounts can be found in the Bourret Affidavit.
29. In addition to the foregoing, such parties as disclosed in the searches appended to the Bourret Affidavit have registered security interests against one or more of the Companies. The

Proposal Trustee understands that the security held by BMO, ranks first in priority over all of the Companies' personal property, other than in respect to any priority claims that may exist in law.

Equipment Loan

30. De Lage Landen Financial Services Canada Inc. has a registered security interest in the tractor purchased by Solutions.
31. The Proposal Trustee has not obtained an independent, written opinion from its legal counsel, Fogler, Rubino LLP ("Fogler"), with respect to the validity and enforceability of the BMO Credit Agreements and/or the other secured debts and their related security documents noted above, as there is no pressing need to do so at this time and incur the associated costs.

Government Remittances and Municipal Property Taxes

32. The Companies use an external payroll provider and as such are current with all government remittances for source deductions, save and except for source deductions accrued and accruing in respect of standard payroll processing, which will continue in the ordinary course.
33. The Proposal Trustee understands that a large installment was made to the Canada Revenue Agency (the "CRA") related to a potential harmonized sales tax (the "HST") amounts owed. Given the state of the Companies books and records, it is unknown what pre-filing HST, if any, may be owing.
34. The Proposal Trustee understands that Holdings and Cornwall are current with their respective property tax instalments.

Unsecured Creditors

35. As previously outlined, the Companies books and records have not been updated since early 2023, including the respective monthly bank reconciliations. As a result, Ms. Bourret resorted to paying vendor accounts, as invoices were presented, via pre-authorized debit or electronic funds transfers (limited, if any outstanding cheques) and utilized the Companies' bank statements as a ledger to track who has been paid. This is not an appropriate or adequate form of bookkeeping. The Companies, with the assistance of the Proposal Trustee, attempted to reconstruct an accounts payable ledger as at December 22, 2023, with \$250 place holders for unknown vendor balances, to insure the potential creditors, subject to the Proposal Proceedings received notice. Each affidavit of mailing and the associated creditor package for each of the Companies is attached hereto as **Appendix "B"**.

UPDATE ON THE COMPANIES' ACTIVITIES

36. Since the Filing Date, the Companies have been taking steps and focusing on stabilizing operations. Management, with the assistance of the Proposal Trustee, has engaged in various discussions with stakeholders, suppliers, customers, and employees. As of the date of this First Report, the Companies have maintained their business operations without significant disruption or issues.

PROPOSAL TRUSTEE'S ACTIVITIES TO DATE

37. The Proposal Trustee established the Proposal Trustee's Websites for these Proposal Proceedings. All court documents and certain other relevant documents have and will continue to be posted as they are made available.
38. In accordance with its obligations under the BIA, the Proposal Trustee prepared and sent a notice on December 27, 2023, which includes information about the Proposal Proceedings, to all known creditors, based on the contact information of such known creditors who have a claim against the Companies of more than \$250, by prepaid ordinary mail and email where unknown.
39. In accordance with subsection 50.4(2)(c) of the BIA, the Proposal Trustee assisted the Companies in the preparation of their respective cash-flow projections and related assumptions for the 14-week period ending March 31, 2024, together with management's report on the cash-flow projection (the "Initial Cash Flows"). Copies of the Initial Cash Flows are attached hereto as **Appendix "C"**.
40. In accordance with subsection 50.4(2)(b) of the BIA, the Proposal Trustee reviewed the Initial Cash Flows, and assessed their reasonableness.
41. The Proposal Trustee also completed statutory forms and e-filed such reports with the OSB.
42. Furthermore, since the issuance of the Certificates of Filing, the Proposal Trustee, among other things, has:
- (a) participated in various calls with the Companies' external accounting/finance consultants to gain a better understanding of the Companies' books and records, 2022 financial statement audit, current treasury functions, payroll, etc.;
 - (b) participated in various meetings with the Companies' sales manager and Ms. Bourret to understand vehicles sales, dealer trades, used vehicle purchases, used vehicle auction sales, etc.;
 - (c) created and updated the Companies' outstanding SIV balance;

- (d) assisted the Companies with stakeholder communications;
 - (e) responded to calls, e-mails and letters received from creditors and other parties with respect to the Proposal Proceedings;
 - (f) participated in various discussions with Volkswagen Canada (“VW”) and its legal counsel;
 - (g) created the SISP procedures and timelines;
 - (h) responded to multiple calls and emails from Mr. Grant’s representatives and/or his counsel;
 - (i) participated in various discussions with the Companies and certain stakeholders in connection with the engagement of the Sales Agent, marketing plan and timelines associated with the SISP;
 - (j) created a weekly monitoring protocol with the Companies in order for the Proposal Trustee to be able to review and report on the Companies’ weekly cash receipts and disbursements; and
 - (k) reviewed the Companies’ actual receipts and disbursement.
43. Prepared this First Report, including reviewing the Companies’ assets and operations in, reviewing various financial reports, appraisals and valuations and other related analysis.

CASH FLOW PROJECTIONS

44. Based on the Proposal Trustee’s review of the Initial Cash Flows, there were no material assumptions which seem unreasonable in the present circumstances. The Proposal Trustee’s reports on the Initial Cash Flows (the “**Trustee’s Report on Cash-Flow Statement(s)**”) are attached hereto as **Appendix “D”**.
45. The Initial Cash Flows indicated that the Companies had sufficient liquidity to get to March 31, 2024, if BMO did not require the immediate payment of the outstanding SIV vehicle balance from current funds on hand, froze certain principal payments on its facilities and allowed the Companies to utilize its undrawn \$300,000 line of credit. Given the support of BMO, it was anticipated that the Companies could stay current with post-filing obligations up to March 31, 2024.
46. The Companies actual cash flow from operations for the two-week period ending January 7, 2024, exceeded the corresponding Initial Cash Flow amounts for that same period by approximately \$362,528. This positive variance is largely due to higher collections from vehicle sales and other revenue streams, coupled with delays in the disbursement of

professional fees, which is expected to reverse in the coming weeks. This variance is partially offset by earlier curtailment payment and parts purchases. Approximately \$155,000 of this positive timing variance relates to unanticipated SIV vehicle sale proceeds that were received after the Filing Date which will be used to paydown the corresponding floor line facility. A summary of the variance analysis regarding the same are attached hereto as **Appendix “E”**.

47. The Initial Cash Flows indicated that the Companies’ liquidity would be exhausted by the end of March 2024, which poses a problem given the Companies’ refined assumptions and an outside closing date included in the SISP which is April 30, 2024.
48. Given the Companies’ refinement of assumptions and SISP timelines, the Companies, with the assistance of the Proposal Trustee, have prepared the Cash Flow Forecasts for the purpose of projecting the Companies’ estimated liquidity needs during the Cash Flow Period which should be sufficient to substantially complete, if not compete the SISP. A copy of the Cash Flow Forecasts is attached hereto as **Appendix “F”**.
49. The Proposal Trustee has reviewed the Cash Flow Forecasts, including its assumptions, through inquiries, analytical procedures and discussions and review of documents related to the Information supplied by Ms. Bourret and employees of the Companies. Based on the Proposal Trustee’s review, nothing has come to its attention that causes it to believe, as at the date of the First Report, the Assumptions are not suitably supported and consistent with the plans of the Companies or do not provide a reasonable basis for the Cash Flow Forecasts.
50. The Cash Flow Forecasts show that during the Cash Flow Period, the Companies will experience a net cash outflow of approximately \$680,000. The Cash Flow Forecasts project that during the Cash Flow Period, the Companies should have sufficient liquidity, given the actual cash on hand as at the Filing Date, the positive timing variances experience to date, and via funding from the new Interim Financing Loan which is, subject to Court approval.

THE RELIEF AND ORDER BEING SOUGHT BY THE COMPANIES

Proposed Consolidation of the Estates

51. The Proposed Order seeks an administrative consolidation of the multiple estates included in the Proposal Proceedings. The Companies are related parties with a single business enterprise and a common senior, secured creditor. Additionally, the SISP contemplates the solicitation of offers to purchase the Companies’ assets, undertakings, and properties, in whole or in part, and/or invest in the Companies’ business, and that such process be administered in a unified manner. The relief is sought by the Companies to avoid a duplicity of proceedings and unnecessary costs.

52. In the view of the Proposal Trustee, the Companies' creditors will not be prejudiced by the proposed administrative consolidation of the Proposal Proceedings. Additionally, it is the most efficient, cost effective and practical approach to manage the Proposal Proceedings.

Proposed Stay Extension

53. Under the BIA, the initial stay of proceedings will expire on January 20, 2024 (the "**Stay Period**").
54. The Companies seek an extension of time to file a proposal for an additional approximate 45 days to and including March 5, 2024 ("**Proposed Stay Extension**"). The Proposed Stay Extension should permit the Proposal Trustee and its Sales Agent to commence and advance the SISP. Without the Proposed Stay Extension, the Companies will not be in a position to carry out the SISP or, if deemed advantageous, make a viable proposal to their creditors and will become bankrupt to the detriment of their stakeholders.
55. It is the Proposal Trustee's view, based on the Cash Flow Forecasts, that the Companies will have sufficient liquidity to commence and advance the SISP and to satisfy post filing obligations as they come due during the Proposed Stay Extension.
56. Based on the information presently available, the Proposal Trustee believes that the Companies' creditors will not be materially prejudiced by the Proposed Stay Extension. Furthermore, the Proposal Trustee is not aware of any creditor who opposes the requested extension of the Stay Period.

Proposed Priority Charges

57. The Proposed Order provides for three (3) priority charges (collectively, the "**Charges**") on all of the current and future assets, undertakings, and properties of the Companies, wherever located, including all proceeds thereof that rank in the following order:
- (a) first, the Administration Charge (defined below);
 - (b) second, the Interim Financing Charge (defined below); and
 - (c) third, the Director's Charge (defined below).
58. The Proposal Trustee understands that the Companies have provided their secured creditors with notice, with such secured creditors having been included on the service list in connection with these Proposal Proceedings, prior to the relief being sought in the Proposed Order.

ADMINISTRATION CHARGE

59. The Proposed Order provides for a charge up to a maximum amount of \$400,000 (the “**Administration Charge**”) in favour of counsel to the Companies, the Proposal Trustee and its independent counsel and any fees related to the Sales Agent engaged by the Proposal Trustee, as security for the professional fees and disbursements incurred prior to and after the commencement of the Proposal Proceedings. Professional fee obligations secured by the Administration Charge will be paid in the ordinary course from funding provided by the Interim Financing Loan.
60. The Proposal Trustee is of the view that given the current liquidity constraints of the Companies, the proposed Administration Charge is required and reasonable in the circumstances. The Proposal Trustee is of the view that the Administration Charge is necessary for the effective participation of the professionals in the Proposal Proceedings and believes the quantum of the Administration Charge is reasonable in the circumstances based upon a review and assessment of the anticipated professional costs to be incurred during this matter.
61. The Proposal Trustee revisits the Administration Charge below in this First Report.

INTERIM FINANCING CHARGE

62. The Companies are seeking approval of the Interim Financing Term Sheet pursuant to which BMO, in its capacity as the proposed lender under the Interim Financing Term Sheet (the “**Interim Financing Lender**”), has offered to make available to the Companies a debtor-in possession (“**DIP**”) loan in the maximum amount of \$500,000 (the “**Interim Financing Loan**”) in order provide sufficient liquidity for the Companies, and for the Proposal Trustee and its Sales Agent to complete the Court approved SISF.
63. In addition to the approval of the Interim Financing Term Sheet, the Proposed Order also provides for the creation of a related charge of up to \$500,000 (the “**Interim Financing Charge**”) to match the maximum allowed borrowings pursuant to the Interim Financing Term Sheet.
64. The material items, terms and conditions of the Interim Financing Term Sheet include the following:
 - (a) principal amount: up to a maximum amount of \$500,000 (the “**Maximum Amount**”);
 - (b) purpose of the loan: to fund (i) working capital needs of the Companies; (ii) the Interim Financing Lender’s fees and expenses; (iii) professional fees and expenses

incurred by the Companies and the Proposal Trustee and its legal counsel in respect to the Proposal Proceedings; (iv) the costs associated with the SISP and (v) such other costs and expenses of the Companies as maybe agreed upon, in writing;

- (c) interest rate: prime rate plus 200 basis points (approximately 9.2% currently), payable on the Maturity Date (defined herein);
- (d) commitment fee: equal to 5% of the Maximum Amount payable on the Maturity Date;
- (e) Interim Lenders Charge and Court Approval: the Interim Financing Loan is to be secured by a Court-ordered priority charge over all of the Companies' present and after-acquired property, assets and undertakings subject only to the Administration Charge. The Interim Financing Loan will be available to the Companies subject to certain conditions including the issuance of the Proposed Order by no later than 5:00 pm on January 19, 2024, approving the Interim Financing Term Sheet, the Interim Financing Loan and the Interim Financing Charge; and
- (f) repayment: the Interim Financing Loan is to repaid on the maturity date, which is defined as the earlier of:
 - (i) the occurrence of an event of default;
 - (ii) the day on which the stay of proceedings under the Proposal Proceedings is lifted without the consent of Interim Financing Lender or the date on which the Proposal Proceedings are terminated;
 - (iii) the date upon which a transaction for the sale of substantially all of the business and assets of the Companies are complete; and
 - (iv) April 30, 2024 (or such other date as the Interim Financing Lender in its sole discretion may agree to in writing with the Companies.

(the "**Maturity Date**").

- 65. A copy of the Interim Financing Term Sheet is attached as Exhibit V in the Bourret Affidavit.
- 66. The Proposal Trustee believes the terms offered by the Interim Financing Lender are reasonable and competitive in the circumstances.
- 67. The Proposal Trustee is of the view that the Companies' request for approval of the Interim Financing Term Sheet and the Interim Financing Charge is required and reasonable in order to provide the Companies necessary financing to maintain ongoing operations and conduct

the SISP. Absent approval of this financing, the Companies will be forced to shut down operations and commence a liquidation of its assets, resulting in lost jobs for the Companies' employees and lost value for the Companies' creditors and stakeholders.

DIRECTORS CHARGE

68. As part of these Proposal Proceedings, the Companies are seeking a charge up to a maximum amount of \$100,000 for the Companies' directors (the "**Director's Charge**"), ranking in priority to all other claims and encumbrances, with the exception of the Administration Charge and the Interim Financing Charge, as security for the Companies' indemnification for possible liabilities that may be incurred by the directors and officers after the Filing Date, including HST arrears, wages, vacation pay, and source deductions.
69. The Proposal Trustee believes that the directors are crucial to maintaining the Companies' operations and assisting the Proposal Trustee with the SISP. As such, the quantum of the Director's Charge is reasonable in the circumstance as, among other things, there is also no existing coverage for directors and officers under the Companies' existing insurance policies.
70. The Proposal Trustee revisits the Director's Charge below in this First Report.

PROPOSED SALES INVESTMENT AND SOLICITATION PROCESS

71. Any terms not expressly defined in this section are otherwise defined in the SISP.
72. The Proposal Trustee, in consultation with the Companies and Interim Financing Lender, developed the SISP, intended to solicit interest in and opportunities for an investment in or sale of all or substantially all of the Property or business of the Companies. A copy of the SISP's detailed process and procedure is attached hereto as **Appendix "G"**.
73. The Proposal Trustee, in consultation with the Companies and Interim Financing Lender, entered into an advisory agreement with the Sales Agent, pending Court approval, to administer the SISP (the "**Sales Agent Agreement**"). A copy of the Sales Agent Agreement is attached hereto as **Appendix "H"**.
 - (a) The Proposal Trustee approached two (2) qualified national firms with a request for proposal ("**RFP**") to be its sales agent to assist in conducting the SISP. Two (2) proposals regarding the sales agent role were received and DSMA was chosen given their previous familiarity with the Companies, Eastern Ontario regional deal team, industry expertise and pricing that was consistent with the other sales agent's proposal. Ms. Bourret additionally had a strong preference for DSMA.

- (b) As outlined in the Sales Agent Agreement, DSMA’s fees will be based on an hourly rate per person for hours worked on the mandate, with a \$150,000 minimum fee requirement.

74. The Proposal Trustee and Sales Agent are qualified to administer the SISP for the following reasons:

- (a) they have considerable experience conducting similar sales processes;
- (b) they have extensive industry and institutional contacts who they ensure will be made aware of this opportunity;
- (c) they are independent of the Companies; and
- (d) they will ensure that the SISP is thorough, transparent, and an efficient process for the benefit of the Companies’ stakeholders.

Sales Process Summary & Proposed Timeline

75. The SISP shall commence immediately following the issuance of the Proposed Order. The table below sets out subsequent key deadlines in the SISP that interested parties should note (terms within the table are defined in subsequent paragraphs):

<u>Milestone</u>	<u>Deadline</u>
Go to market	Monday, January 29, 2024
Expression of Interest Date (EOI Deadline)	Thursday, February 29, 2024 (5:00 PM Eastern Time)
EOI Offer Selection Date	Tuesday, March 5, 2024
Binding Letter of Intent Date (LOI Deadline)	Friday, March 15, 2024 (5:00 PM Eastern Time)
Offer Selection Date	Tuesday, March 19, 2024
Definitive Transaction Agreement	Wednesday, April 3, 2024
Hearing of the Sale Approval Motion / Transaction Execution Date	Subject to availability of the Court
Closing the Transaction (outside date)	No later than Tuesday, April 30, 2024

76. The SISP serves to solicit and identify parties that wish to make a formal offer to purchase or make an investment in the Companies or their Property or business (the “**Opportunity**”).

77. The Opportunity may include one or more of a restructuring, recapitalization or other form of reorganization of the business and affairs of the Companies, as a going concern or a sale of all, or substantially all of the Property.
78. The Sales Agent, in conjunction with the Proposal Trustee, will develop a list of potential bidders (the “**Known Potential Bidders**”). This list will be comprised of those that have previously shown interest in transacting with the Companies, and other potential strategic and financial parties who the Companies and the Sales Agent believe may be interested in the Opportunity.
79. The Sales Agent will also prepare a process summary describing the Opportunity (the “**Teaser Letter**”) and a non-disclosure agreement (the “**NDA**”).
80. The Sales Agent will send the Teaser Letter and NDA to all Known Potential Bidders, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Companies or the Sales Agent as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.
81. Any party who wishes to participate in the SISP (“**Potential Bidder(s)**”) must provide to the Sales Agent an executed NDA and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
82. The Sales Agent, with the approval of the Proposal Trustee, shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Potential Bidder who has signed and delivered the NDA to the Sales Agent and provided information as to their financial wherewithal to close a Transaction, such access to due diligence material and information relating to the Property as the Sales Agent and the Proposal Trustee deem appropriate.
83. To be considered for inclusion in the next round of the process, Expressions of Interest (“**EOI**”) must be received by the Proposal Trustee and Sales Agent no later than 5:00 PM (Eastern Time) on February 29, 2024, or as may be modified in the bid process letter that may be circulated by the Sales Agent to Potential Bidders, with the approval of the Proposal Trustee. The EOI should describe in sufficient detail all material matters relating to the proposed Transaction. While EOI’s may be non-binding, at a minimum an EOI should include clear statements with respect to the following information:
 - (a) identity of the entity or entities acquiring the Companies, or each of Solutions, Cornwall or Holdings, (i.e., if acquiring the Companies indirectly, through a

subsidiary, a limited partnership or other entity), including the identity of any entity that controls such acquiring entity. Additionally, given the nature of Solutions business, the EOI must state the individual/party that will be the dealer principal with Volkswagen Canada;

- (b) cash purchase price (in Canadian dollars) that is to be paid in connection with the Transaction, including an explanation of the methods and key assumptions used to determine the purchase price (the “**Purchase Price**”);
- (c) indication of deal structure, including but not limited to: an investment in Cornwall VW (shares, preferred shares, debt purchase, etc., an “**Investment Proposal**”) or an acquisition of all, substantially all or a portion of the Property (outright purchase of the shares of Cornwall VW, “**Share Purchase Agreement**” or purchase of select, or all or substantially all of the assets of Cornwall VW, “**Asset Purchase Agreement**”, together a “**Sale Proposal**”);
- (d) proposed financing for the Transaction and, if other than internal funds, the expected sources of such financing, the expected timing for commitment of funds and the steps required to secure such commitment;
- (e) nature of additional diligence required before entering into a binding LOI with Cornwall VW;
- (f) assumptions and intentions with respect to retention of management and employees;
- (g) outline any regulatory, shareholder, lender or other third-party approvals that would be required or potentially required and the estimated timetable required to conclude a Transaction and whether the EOI is conditional on any other items;
- (h) any conditions to closing or any other terms and conditions that would be required in order to complete the Transaction;
- (i) contact Information for those persons who should be contacted with respect to the EOI; and
- (j) disclosure of any other matters that may be helpful in the evaluation of the EOI and complete the Transaction on a timely basis.

84. An EOI will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Potential Bidder to successfully complete such transactions, (iii) the proposed

transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Sales Agent, the Proposal Trustee and the Interim Financing Lender.

85. The Sales Agent shall notify each Potential Bidder who submitted an EOI in writing as to whether its EOI was selected to continue in the SISP (the “**Selected EOIs**”) by no later than Tuesday March 5, 2024, or at such later time as the Sales Agent and Proposal Trustee deems appropriate, with the approval of the Interim Financing Lender.
86. Potential Bidders with Selected EOIs that wish to make a formal offer to purchase or make an investment in the Companies or their Property (a “**Bidder**”) shall submit a binding Letter of Intent (a “**LOI**”) that complies with all of the following requirements of the Proposal Trustee and the Sales Agent and received by the Proposal Trustee and Sales Agent no later than 5:00 PM (Eastern Time) on Friday March 15, 2024 or as may be modified in the bid process letter that may be circulated by the Sales Agent to Potential Bidders, with the approval of the Proposal Trustee and its stakeholders (the “**LOI Deadline**”):
 - (a) the LOI must be either a binding offer to make:
 - (i) a Sale Proposal to acquire all, substantially all or a portion of the Property (outright purchase of the shares of Cornwall VW, or purchase of select, or all or substantially all of the Property of Cornwall VW); and/or
 - (ii) an Investment Proposal for an investment in, restructure, recapitalization or reorganize of the Company (shares, preferred shares, debt purchase, etc.).
 - (b) the LOI (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Companies or its Property and is consistent with any necessary terms and conditions established by the Sales Agent and the Trustee and communicated to Bidders;
 - (c) the LOI includes a letter stating that the Bidder’s offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
 - (d) the LOI includes draft mark-ups of the transaction agreements included in the VDR, including the purchase price (by major asset type/legal entity), investment

amount and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto;

- (e) the LOI includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Trustee and the Sales Agent to make a determination as to the Bidder's financial and other capabilities to consummate the proposed transaction;
- (f) the LOI is not conditional on (i) the outcome of unperformed due diligence by the Bidder, or (ii) obtaining financing, or (iii) the Company receiving the required approvals or amendments relating to the supply management, distribution and licence agreements required to operate the dealership (other than the dealer principal individual/party approval by VW);
- (g) the LOI fully discloses the identity of each entity that will be entering into the Transaction or the financing, or that is otherwise participating or benefiting from such bid (including the dealer principal individual/party with VW);
- (h) for a Sale Proposal, the LOI includes:
 - (i) the Purchase Price in Canadian dollars (by major asset type/legal entity) and a description of any non-cash consideration, including details of any liabilities to be assumed by the Bidder and key assumptions supporting the valuation;
 - (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (iii) a specific indication of the financial capability of the Bidder and the expected structure and financing of the transaction;
 - (iv) a description of the conditions and approvals required to complete the closing of the transaction;
 - (v) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - (vi) any other terms or conditions of the Sale Proposal that the Bidder believes are material to the transaction; and

- (vii) a commitment by the Bidder to provide a non-refundable deposit, the greater of: an amount of not less than 10% of the Purchase Price offered or \$250,000, upon the Bidder being selected as the Successful Bidder.
- (i) for an Investment Proposal, the LOI includes:
 - (i) a description of how the Bidder proposes to structure the proposed investment, restructuring, recapitalization, or reorganization, and a description of any non-cash consideration;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the business or the Company in Canadian dollars;
 - (iii) the underlying assumptions regarding the pro forma capital structure;
 - (iv) a specific indication of the sources of capital for the Bidder and the structure and financing of the transaction;
 - (v) a description of the conditions and approvals required to complete the closing of the transaction;
 - (vi) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and those liabilities and obligations it does not intend to assume;
 - (vii) any other terms or conditions of the Investment Proposal; and
 - (viii) a commitment by the Bidder to provide a non-refundable deposit, the greater of: an amount of not less than 10% of the total new investment contemplated or \$250,000, upon the Bidder being selected as the Successful Bidder.
- (j) the LOI includes acknowledgements and representations of the Bidder that the Bidder:
 - (i) has had an opportunity to conduct any and all due diligence regarding the Property, and the Companies prior to making its offer;
 - (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and
 - (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether expressed, implied, statutory, or otherwise, regarding the Company, or the Property, or the

completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Company;

(k) the LOI is received by the LOI Deadline; and

(l) the LOI contemplates closing the transaction set out therein no later than Tuesday, April 30, 2024, subject to obtaining Court approval and VW's approval of the dealer principal.

87. Following the LOI Deadline, the Sales Agent, the Proposal Trustee and the Interim Financing Lender will assess the LOIs received. The Sales Agent, with the approval of the Proposal Trustee, will designate the most competitive LOIs that comply with the foregoing requirements to be "**Qualified Bids**". Only Bidders whose bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).
88. The Sales Agent shall notify each Bidder in writing as to whether its LOI constitutes a Qualified Bid by no later than Tuesday March 19, 2024, or at such later time as the Proposal Trustee deems appropriate.
89. The Proposal Trustee, in consultation with the Sales Agent and the Interim Financing Lender, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant LOIs to be a Qualified Bid.
90. In the event that the Proposal Trustee, in consultation with the Sales Agent, is not satisfied with the number or terms of the Qualified Bids, the Proposal Trustee may, in consultation with the Sales Agent and Interim Finance Lender, extend the Bid Deadline, or may seek Court approval for amendments to the SISP.
91. The Proposal Trustee may, in consultation with the Sales Agent, aggregate separate Bids from unaffiliated Bidders to create one Qualified Bid.
92. A Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Bidder to successfully complete such transactions, (iii) the proposed transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Sales Agent, the Proposal Trustee and the Interim Finance Lender.
93. The Proposal Trustee, in consultation with the Sales Agent and the Interim Finance Lender, will:

(a) review each Qualified Bid with consideration of the following:

- (i) the amount of consideration being offered, and, if applicable, the proposed form, composition, and allocation of same;
- (ii) the value of any assumption of liabilities or waiver of liabilities;
- (iii) the likelihood of VW accepting the purchaser and identified individual/party as the dealer principal;
- (iv) the likelihood of the Bidder's ability to close a transaction by April 30, 2024 (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments and required governmental or other approvals); the likelihood of the Court's approval of the Successful Bid, if required; the net benefit to the Company; and
- (v) any other factors the Company may, consistent with its fiduciary duties, reasonably deem relevant.

(b) identify and select the highest or otherwise best bid received (the "**Successful Bid**", and the Bidder making such bid, the "**Successful Party**"), and notify or inform the Successful Party that its bid or Qualified Bid is the Successful Bid.

94. The Successful Party shall complete and execute all agreements, contracts, instruments or other documents including the Definitive Transaction Agreement evidencing and containing the terms and conditions upon which the Successful Bid was made by Wednesday April 3, 2024, unless extended by the Proposal Trustee, in consultation with and approval from the Interim Finance Lender, subject to the milestones or deadlines set forth in paragraph 12 of the SISF.
95. A Court date will be scheduled to hear a motion to approve any Transaction with the Successful Party (the "**Sale Approval Motion**"). At the Sale Approval Motion, the Proposal Trustee or the Companies shall seek, among other things, approval from the Court to consummate the Successful Bid. All Qualified Bids other than the Successful Bid, if any, shall be deemed to be rejected by the Proposal Trustee and/or Sales Agent on and as of the date of approval of the Successful Bid by the Court.

ADMINISTRATION CHARGE REVISITED

96. As noted above, the Companies are seeking an Administration Charge up to a maximum amount of \$400,000 in favour of counsel to the Company, the Proposal Trustee, the Proposal Trustee's independent counsel and the Sales Agent (the "**Professional Group**") as security for the professional fees and disbursements incurred during the Proposal Proceedings.
97. As set out in the Bourret Affidavit, the Companies believe the Administration Charge is essential to a successful restructuring.
98. In terms of the provision of professional services, it is envisioned that the Proposal Trustee, with the assistance of the Sales Agent, will oversee and implement the Proposal Proceedings and Sales Process and will call upon counsel as appropriate to carry out its obligations relating thereto. A summary of essential services to be provided include:
 - (a) administration and monitoring of the Proposal Proceedings, including preparing reports to creditors, the Official Receiver, and this Court as may be required by the BIA, and reviewing the Companies' cash-flows and related financial disclosure;
 - (b) implementation of the Sales Process over a 9-week period, including drafting the solicitation package (including various documents), preparation of the Data Room, assisting Potential Bidders with the due diligence process, reviewing bids and negotiating and drafting Agreement(s);
 - (c) preparing, drafting and filing all court materials, including the motion to approve any proposed sale of the Companies assets;
 - (d) providing general corporate and specialized restructuring advice to the Companies; and
 - (e) Assisting the Companies in the preparation of its financial reporting as may be required under the BIA.
99. Because of their institutional knowledge of the Companies' business and their specialized experience in proposal proceedings generally, the services to be provided by the Professional Group are critical to the success of the Companies' restructuring. Further, the Professional Group has and will work cooperatively to ensure there is no unwarranted duplication of work completed.
100. Fees and disbursements of the Proposal Trustee and its counsel, Fogler, payable pursuant to the Administration Charge will be subject to taxation or court approval pursuant to the Proposed Order.

101. The fees and disbursements secured by the Administration Charge will be paid in the normal course as outlined in the Cash Flow Forecast.
102. As noted above, the Proposal Trustee is of the view that the Administration Charge is appropriate in these circumstances.

DIRECTORS CHARGE REVISITED

103. As noted above, to address the legitimate concerns expressed by the Companies' directors and officers with respect to their potential exposure if they continue to act (rather than resign before a significant portion of the liability can be triggered), the directors and officers have requested reasonable protection against personal liability if they are to remain and assist in these Proposal Proceedings.
104. Having the directors and officers remain and assist in the restructuring will greatly increase the prospects of a successful restructuring, which in turn will maximize value for all stakeholders.
105. In this regard, as noted above, the Companies seek the Director's Charge ranking in priority to all security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, other than the Administration Charge and the Interim Finance Charge to protect the directors and officers from all claims and liabilities that may arise after the filing date as a result of their association with the Companies.
106. As described in the Bourret Affidavit, the Companies have no unpaid and unremitted or outstanding amounts of sales taxes, deductions at source or any other amounts for which the directors and officers of the Companies might be liable. However, the proposed charge provides a contingency in the event that certain obligations arise during the restructuring proceedings or insufficient funds are advanced under the Interim Financing facilities. The Director's Charge would be only available to the Companies directors and officers in the event that any existing insurance policy does not provide coverage.
107. As noted above, the Proposal Trustee is of the view that the Director's Charge is reasonable in the circumstances.

ENHANCED POWERS OF THE PROPOSAL TRUSTEE

108. The Companies are also seeking in the Proposed Order to enhance the Proposal Trustee's powers. Specifically, the proposed enhanced powers authorize and empowers, but does not require, the Proposal Trustee to, among other things:

- (a) exercise any powers which may be properly exercised by a board of directors or any officers of the Companies to cause the Companies, through the Companies' employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") (then engaged, if any), to, without limitation:
 - (i) take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, the Companies in order to facilitate the performance of any of the Companies' powers or obligations (collectively, the "**Companies' Powers & Obligations**");
 - (ii) engage, retain, or terminate the services of any officer, employee, consultant, agent, representative, advisor, or other persons or entities, as the Proposal Trustee deems necessary or appropriate to assist with the exercise of the Proposal Trustee's powers and duties and/or the Companies' Powers & Obligations. For greater certainty, any such officer, employee, consultant, agent, representative, advisor, or other persons or entities engaged or retained pursuant to this paragraph shall thereafter be deemed to be Assistants under the Proposed Order;
 - (iii) perform such other functions or duties, and enter into any agreements or incur any obligations, as the Proposal Trustee considers necessary or desirable in order to facilitate or assist the winding-down or liquidation of the Companies, the realization and/or sale of all of the Companies' current and future assets, undertakings and properties of every nature and kind whatsoever and wherever situate, including all proceeds thereof (the "**Property**") or the opportunity to invest by way of equity or debt in the Companies' business (the "**Business**"), the distribution of any net proceeds of the Property (the "**Proceeds**"), or any other related activities, including, without limitation, in connection with terminating this Proposal Proceedings;
 - (iv) exercise any rights of the Companies;
 - (v) grant the Proposal Trustee access to all books and records that are the property of the Companies or that are in the Companies' possession or control (the "**Books and Records**");
 - (vi) initiate, prosecute, and/or continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Companies, the Property, or the Proceeds,

and, subject to further order of this Court, to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (vii) deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Companies that any taxing or regulatory authority may require, in order to confirm the appointment of an authorized representative of the Companies (which may be a representative of the Proposal Trustee) for such purposes;
 - (viii) engage, deal, communicate, negotiate and, with further order of this Court, settle with any creditor or other stakeholder of the Companies (including any governmental authority);
 - (ix) claim any and all insurance refunds or tax refunds to which the Companies are entitled on behalf of the Companies; and
 - (x) file, or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Companies, (i) any tax returns, and (ii) the Companies' employee-related remittances, T4 statements and records of employments for the Companies' former employees, in either case, based solely upon the information in the Books and Records and on the basis that the Proposal Trustee shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents.
- (b) monitor the Companies' receipts and disbursements;
 - (c) subject to certain protections in favour of the Proposal Trustee as set out in the Proposed Order, review, and approve (if the Proposal Trustee deems the disbursement necessary or appropriate to maintain or facilitate the Business) all disbursements of the Companies' of \$5,000 or greater;
 - (d) report to this Court at such times and intervals as the Proposal Trustee 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) assist the Companies, to the extent required by the Companies, in their dissemination to BMO and its counsel on a bi-weekly basis of financial and other information as agreed to between the Companies and BMO, which may be used in

these proceedings including reporting on a basis to be agreed with BMO, including but not limited to as the foregoing may be required under the Interim Financing Term Sheet;

- (f) advise the Companies in its preparation of the Companies' cash flow statements and reporting reasonably required by BMO, which information shall be reviewed with the Proposal Trustee and delivered to BMO and its counsel on a periodic basis, but not less than bi-weekly, or as otherwise agreed to by BMO, including but not limited to as the foregoing may be required under the Interim Financing Term Sheet;
- (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 Companies, to the extent that is necessary to adequately assess the Companies' business and financial affairs or to perform its duties arising under the Proposed Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Proposal Trustee deems necessary or advisable respecting the exercise of its powers and performance of its obligations under the Proposed Order;
- (i) perform such other duties as are required by the Proposed Order or by this Court from time to time; and
- (j) take any steps reasonably incidental to the exercise by the Proposal Trustee of the powers listed above or the performance of any statutory obligations.

109. The Proposal Trustee is of the view that the proposed enhanced powers in favour of the Proposal Trustee are appropriate given operational challenges still impacting the Companies, the lack of full-time senior finance function, the Companies' incomplete and out-of-date financial records, the lack of process and controls surrounding the Companies' treasury functions and the significant workload and demands that are currently placed on Ms. Bourret to both assist the Proposal Trustee with the administration of the Proposal Proceedings and her operating the Companies' business.

CONCLUSIONS AND RECOMMENDATIONS

110. For the reasons previously stated in this First Report, the Proposal Trustee supports the relief being sought by the Companies and the Proposed Order.

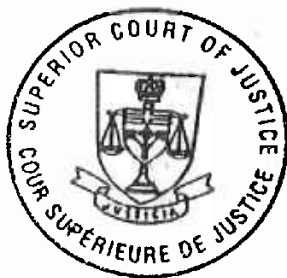
All of which is respectfully submitted this 11th day of January, 2024.

BDO CANADA LIMITED, in its capacity
as Proposal Trustee of OEM Automotive
Solutions Inc., OEM Automotive Cornwall Inc.,
and OEM Automotive Holdings Inc., and not in
its corporate or personal capacity.

A handwritten signature in black ink, appearing to read "Clark Lonergan". The signature is fluid and cursive, with the first name "Clark" and last name "Lonergan" clearly distinguishable.

Clark Lonergan, CA, CPA, CIRP, LIT
Partner/Senior Vice President

Fourth Report of the Proposal Trustee
Appendix “B”



District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

THE HONOURABLE
JUSTICE A. KAUFMAN

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)
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WEDNESDAY, THE 17TH DAY
OF JANUARY, 2024

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE
CORNWALL INC. AND OEM AUTOMOTIVE HOLDINGS
INC.

ORDER
(Procedural Consolidation, Stay Extension, SISP, Engagement of Sales Agent
Enhanced Trustee Powers & Court-Ordered Charges)

THIS MOTION, made by OEM Automotive Solutions Inc. ("**Solutions**"), OEM Automotive Cornwall Inc. ("**Cornwall**") and OEM Automotive Holdings Inc. ("**Holdings**", and collectively with Solutions and Cornwall, the "**Companies**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the "**BIA**"), for an order (this "**Order**"), among other things:

- (a) if necessary, abridging the time for service and filing of the notice of motion and the motion record or, in the alternative, dispensing with the same;
- (b) administratively consolidating the estates of the Companies;

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- (c) extending the time for the Companies to file proposals under section 50.4(9) of the BIA by 45 days to and including March 5, 2024;
- (d) approving the first report of BDO Canada Limited, in its capacity as proposal trustee (in such capacity, the “Trustee”) in the Companies’ BIA proposal proceedings (collectively, the “Proposal Proceedings”), dated January 11, 2024 (the “First Report”), and approving the activities of the Trustee described in the First Report;
- (e) approving the sale and investment solicitation process (the “SISP”) attached as Schedule “B” hereto;
- (f) authorizing and approving the Trustee’s engagement of Dealer Solutions North America, Inc. (the “Sales Agent”) to assist with the implementation of the SISP;
- (g) enhancing certain powers of the Trustee;
- (h) authorizing the Companies to enter into an interim financing term sheet (the “Interim Financing Term Sheet”) with the Bank of Montreal (“BMO”), as interim lender, attached as Exhibit “V” to the Affidavit of Caroline Bourret sworn January 9, 2024 (the “Bourret Affidavit”); and
- (i) granting the super-priority Administration Charge, Directors’ Charge and Interim Financing Charge (*each as defined in this Order*),

was heard by this Honourable Court (the “Court”) on this day by way of judicial video conference in Ottawa, Ontario.

ON READING the Motion Record of the Companies, including the Bourret Affidavit and the exhibits thereto, the First Report and the appendices thereto, and on hearing the submissions of counsel for the Companies, counsel for the Trustee, counsel for BMO, and the other parties listed on the participant information form and no one else appearing although properly served as appears from the affidavit of Amanda Adamo, sworn January 10, 2024 and January 12, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing 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.

ADMINISTRATIVE CONSOLIDATION

2. **THIS COURT ORDERS** that the Proposal Proceedings of Solutions (Estate Number 33-3025642), Cornwall (Estate Number 33-3025639) and Holdings (Estate Number 33-3025645) are hereby administratively consolidated, and the Proposal Proceedings are hereby authorized and directed to continue, under the following title of proceedings, *nunc pro tunc*:

**Court File No: BK-33-03025642
Estate File No. 33-3025642**

**IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM
AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.**

3. **THIS COURT ORDERS** that the Companies shall file a copy of this Order in the Court file for each of the Proposal Proceedings but that all other or further materials in the Proposal Proceedings shall be filed with the Court only in the Solutions Estate and Court File, being Court File Number BK-33-03025642 / Estate No. 33-3025642.

4. **THIS COURT ORDERS** that the Trustee is authorized and directed to administer the Proposal Proceedings, on a consolidated basis, for all purposes in carrying out its duties and responsibilities as trustee under the BIA, including, without limitation:

- (a) sending notices to creditors of the Companies pursuant to one consolidated notice;
- (b) calling and conducting any meetings of creditors of the Companies pursuant to one combined advertisement;

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- (c) issuing consolidated reports in respect of each of the estates of the Companies;
- (d) preparing, filing, advertising and distributing any and all filings or notices relating to the administration of the estates of the Companies;
- (e) taxing its fees, and those of its counsel; and
- (f) bringing motions to this Court.

5. **THIS COURT ORDERS** that the administrative consolidation of the Proposal Proceedings shall not:

- (a) affect the separate legal status and corporate structures of any of the Companies;
- (b) cause any of the Companies to be liable to any claim for which it is otherwise not liable; or
- (c) affect the Trustee's or any creditor's right to seek to disallow any claim, including on the basis that such claim is duplicative.

EXTENSION OF TIME

6. **THIS COURT ORDERS** that the time for the filing of a proposal by the Companies is hereby extended in accordance with section 50.4(9) of the BIA up to and including March 5, 2024.

APPROVAL OF FIRST REPORT

7. **THIS COURT ORDERS** that the First Report and the actions, activities and conduct of the Trustee described therein be and are hereby approved; provided, however, that only the Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

ENHANCEMENT OF TRUSTEE'S POWERS

8. **THIS COURT ORDERS** that, without in any way limiting the powers and duties of the Trustee under the BIA, the Trustee is empowered and authorized, but not obligated, to do any of the following in the name of and on behalf of the Companies, where the Trustee considers it necessary or desirable:

(a) exercise any powers which may be properly exercised by a board of directors or any officers of the Companies to cause the Companies, through the Companies' employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, **"Assistants"**) (then engaged, if any), to, without limitation:

(i) take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, the Companies in order to facilitate the performance of any of the Companies' powers or obligations (collectively, the **"Companies' Powers & Obligations"**):

(ii) engage, retain, or terminate the services of any officer, employee, consultant, agent, representative, advisor, or other persons or entities, as the Trustee deems necessary or appropriate to assist with the exercise of the Trustee's powers and duties and/or the Companies' Powers & Obligations. For greater certainty, any such officer, employee, consultant, agent, representative, advisor, or other persons or entities engaged or retained pursuant to this paragraph shall thereafter be deemed to be Assistants under this Order;

(iii) perform such other functions or duties, and enter into any agreements or incur any obligations, as the Trustee considers necessary or desirable in order to facilitate or assist the winding-down or liquidation of the Companies, the realization and/or sale of all of the Companies' current and future assets, undertakings and properties of every nature and kind whatsoever and wherever situate, including all proceeds thereof (the **"Property"**) or the opportunity to invest by way of equity or debt in the Companies' business (the **"Business"**), the distribution of any net proceeds of the Property (the **"Proceeds"**), or any other related activities, including, without limitation, in connection with terminating this Proposal Proceedings;

(iv) exercise any rights of the Companies;

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- (v) grant the Trustee access to all books and records that are the property of the Companies or that are in the Companies' possession or control (the "**Books and Records**");
 - (vi) initiate, prosecute, and/or continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Companies, the Property, or the Proceeds, and, subject to further Order of this Court, to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
 - (vii) deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Companies that any taxing or regulatory authority may require, in order to confirm the appointment of an authorized representative of the Companies (which may be a representative of the Trustee) for such purposes;
 - (viii) engage, deal, communicate, negotiate and, with further Order of this Court, settle with any creditor or other stakeholder of the Companies (including any governmental authority);
 - (ix) claim any and all insurance refunds or tax refunds to which the Companies are entitled on behalf of the Companies; and
 - (x) file, or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Companies, (i) any tax returns, and (ii) the Companies' employee-related remittances, T4 statements and records of employments for the Companies' former employees, in either case, based solely upon the information in the Books and Records and on the basis that the Trustee shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents;
- (b) monitor the Companies' receipts and disbursements;

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- (c) subject to the protections in favour of the Trustee set out in paragraphs 19, 20 and 21 of this Order, review, and approve (if the Trustee deems the disbursement necessary or appropriate to maintain or facilitate the Business) all disbursements of the Companies of \$5,000 or greater;
- (d) report to this Court at such times and intervals as the Trustee 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) assist the Companies, to the extent required by the Companies, in their dissemination to BMO and its counsel on a bi-weekly basis of financial and other information as agreed to between the Companies and BMO, which may be used in these proceedings including reporting on a basis to be agreed with BMO, including but not limited to as the foregoing may be required under the Interim Financing Term Sheet;
- (f) advise the Companies in its preparation of the Companies' cash flow statements and reporting reasonably required by BMO, which information shall be reviewed with the Trustee and delivered to BMO and its counsel on a periodic basis, but not less than bi-weekly, or as otherwise agreed to by BMO, including but not limited to as the foregoing may be required under the Interim Financing Term Sheet;
- (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 Companies, to the extent that is necessary to adequately assess the Companies' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Trustee deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) perform such other duties as are required by this Order or by this Court from time to time; and

(j) take any steps reasonably incidental to the exercise by the Trustee of the powers listed above or the performance of any statutory obligations.

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

10. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee 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 *Environmental Protection Act* (Canada), the *Environmental Protection Act* (Ontario), the *Water Resources Act* (Ontario), or the *Occupational Health and Safety Act* (Ontario) and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee’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.

11. **THIS COURT ORDERS** that the Trustee shall provide any creditor of the Companies with the information provided by the Companies in response to reasonable requests for information made in writing by such creditor addressed to the Trustee. The Trustee 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 Trustee has been advised by the Companies is

confidential, or that the Trustee has determined must be kept confidential so as to facilitate the SISP, the Trustee shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Trustee and the Companies may agree.

APPROVAL OF SISP

Sale Procedure

12. **THIS COURT ORDERS** that the SISP, attached as Schedule "B" hereto, is approved.

13. **THIS COURT ORDERS** that the Companies and the Trustee are authorized and directed to perform their obligations under, and take such steps as they consider necessary or desirable in carrying out, the SISP; and, that any step taken by the Companies or the Trustee in connection with the SISP prior to the date of this Order is approved and ratified.

14. **THIS COURT ORDERS** that the Companies and the Trustee are authorized and directed to engage the Sales Agent on the terms of, or substantially on the terms of, the Sales Agent's consulting agreement, attached as Appendix "H" to the First Report (the "**Sales Agent Agreement**").

15. **THIS COURT ORDERS** that in conducting the SISP, the Trustee shall maintain such degree of confidentiality over the process, including but not limited to any negotiation, undertaking or offer as it deems necessary and appropriate in the circumstances.

16. **THIS COURT ORDERS** that the Trustee and the Sales Agent shall have no personal or corporate liability in connection with the SISP, including, without limitation:

(a) by advertising the SISP, including, without limitation, the opportunity to acquire all or a portion of the Property or the opportunity to invest by way of equity or debt in the Business. For greater certainty, in this Order, Property includes, without limitation, the real property legally described in Schedule "A" hereto and all proceeds thereof;

(b) by exposing the Property to any and all parties, including, but not limited to, those parties who have made their interests known to the Trustee and/or the Sales Agent;

- (c) by responding to any and all requests or inquiries regarding due diligence conducted in respect of the Companies, the Property or the Business;
- (d) through the disclosure of any and all information regarding the Companies, the Property or the Business arising from, incidental to or in connection with the SISP;
- (e) pursuant to any and all offers received by the Trustee and/or the Sales Agent in accordance with the SISP; and
- (f) pursuant to any agreements entered into by any of the Trustee acting for the Companies in respect of the sale of any of the Property or the investment in or financing of the Business.

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Companies and the Trustee are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers of the Property, investors in or financiers of the Business and their respective advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “Sale”) or investments in or financings of the Business or (each, an “Investment”). Each prospective purchaser, investor or financier to whom such information is provided shall limit the use of such information to its evaluation of the Sale or Investment, and if it does not complete a Sale or Investment, it shall return all such information to the Companies or the Trustee, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Companies or the Trustee, or ensure that all other personal information is destroyed.

Duty to Cooperate with the Trustee

18. **THIS COURT ORDERS** that the Companies and all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf shall fully cooperate with the Trustee in the exercise of its powers under the BIA, this Order or any other Order of the Court, including by:

- (a) advising the Trustee of the existence of any Property of which such party has knowledge of;
- (b) providing the Trustee with immediate and continued access to any Property in such party's possession or control;
- (c) advising the Trustee of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Companies, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information ("**Records**") of which such party has knowledge of; and
- (d) providing access to and use of the Records, including any accounting, computer, software and physical facilities relating thereto, and including providing the Trustee with instructions on the use of any computer or other system as requested by the Trustee and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the Records, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

Limitation on the Trustee's Liability

19. **THIS COURT ORDERS** that the Trustee is not and shall not, for any purposes, be deemed to be a director, officer, employee, receiver, receiver-manager, or liquidator of the Companies.

20. **THIS COURT ORDERS** that the Trustee is not and shall not for the purposes of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) be deemed to be a legal representative or person to whom s. 150(3) of that Act applies.

21. **THIS COURT ORDERS** that the rights, protections, indemnities, charges, priorities, and other provisions in favour of the Trustee set out in the BIA, any other applicable legislation, this Order and any other Order granted in these proceedings, all shall apply and extend to the Trustee

in connection with the Trustee carrying out the provisions of this Order, amended as necessary to give effect to the terms of this Order.

INTERIM FINANCING

22. **THIS COURT ORDERS** that the Companies are authorized and empowered to enter into the Interim Financing Term Sheet and to borrow funds from BMO, on the terms and subject to the conditions thereof, in order to finance the Companies' working capital requirements and other general corporate purposes and capital expenditures during these proceedings, provided that borrowings under such credit facility shall not exceed \$500,000, unless permitted by further Order of this Court (collectively, the **"Interim Financing Facility"**).

23. **THIS COURT ORDERS** that the Companies 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 Interim Financing Term Sheet or as may be reasonably required by BMO pursuant to the terms thereof, and the Companies are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to BMO under and pursuant to the Interim Financing Term Sheet and the Definitive Documents (collectively, the **"Interim Obligations"**) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

24. **THIS COURT ORDERS** that BMO, as interim financing lender, shall be entitled to the benefit of and is hereby granted a charge (the **"Interim Financing Charge"**) over and against the Property, as security as security for the Interim Obligations, which Interim Financing Charge shall be in the aggregate amount of the Interim Obligations outstanding at any given time under the Definitive Documents. The Interim Financing Charge shall not secure an obligation that exists before this Order is made. The Interim Financing Charge shall have the priority set out in paragraph 34 of this Order.

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

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- (a) BMO, as interim financing lender, may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Financing Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Interim Financing Term Sheet, the Definitive Documents or the Interim Financing Charge, BMO, upon five (5) days' notice to the Companies and the Trustee, may exercise any and all of its rights and remedies against the Companies or the Property under or pursuant to the Interim Financing Term Sheet, the Definitive Documents and the Interim Financing Charge, including, without limitation, to cease making advances to the Companies and set off and/or consolidate any amounts owing by BMO to the Companies against the obligations of the Companies to BMO under the Interim Financing Term Sheet, the Definitive Documents or the Interim Financing 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 Companies or any of them and for the appointment of a trustee in bankruptcy of the Companies or any of them; and
- (c) the foregoing rights and remedies of BMO, as the interim financing lender, shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Companies or the Property.

26. **THIS COURT ORDERS** that BMO, as interim lender, shall be treated as unaffected in any proposal filed by the Companies under the BIA with respect to any advances made under the Interim Financing Term Sheet or the Definitive Documents and in furtherance thereof, BMO, in its capacity as interim lender under the Interim Financing Term Sheet and the Definitive Documents, shall be unaffected by the stay of proceedings but subject to paragraph 25 of this Order.

ADMINISTRATIVE CHARGE

27. **THIS COURT ORDERS** that the Trustee, counsel to the Trustee and counsel to the Companies shall be paid their reasonable fees and disbursements (the "**Professional Fees**"), in each case at their standard rates and charges, by the Companies as part of the costs of these proceedings. The Companies are authorized and directed to pay the accounts of the Trustee,

counsel for the Trustee and counsel for the Companies on a monthly basis and, in addition, the Companies are authorized to pay to the Trustee, counsel to the Trustee, and counsel to the Companies, such retainers are agreed to among such parties to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

29. **THIS COURT ORDERS** that the Sales Agent shall be paid such fees and commissions, and in such manner, as prescribed in the Sales Agent Agreement, subject to any further order of the Court (the “Sales Agent Fees”).

30. **THIS COURT ORDERS** that the Trustee, counsel to the Trustee, the Sales Agent and the Companies’ counsel shall be entitled to the benefit of and are granted a charge (the “Administration Charge”) over and against the Property, which charge shall not exceed an aggregate amount of \$400,000, as security for, as applicable, the Professional Fees, both before and after the making of this Order in respect of these proceedings and the Sales Agent Fees. The Administration Charge shall have the priority set out in paragraph 34 of this Order.

DIRECTORS’ CHARGE

31. **THIS COURT ORDERS** that the Companies shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Companies after the commencement of the NOI 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.

32. **THIS COURT ORDERS** that the directors and officers of the Companies shall be entitled to the benefit of and are granted a charge (the “Directors’ Charge”) over and against the Property, which charge shall not exceed an aggregate amount of \$100,000.00, as security for the indemnity provided in paragraph 31 of this Order. The Directors’ Charge shall have the priority set out in paragraph 34 of this Order.

33. **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 Companies' 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 31 of this Order.

PRIORITY OF CHARGES

34. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors' Charge and the Interim Financing Charge as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$400,000);

Second – Interim Financing Charge (to the maximum amount of the Interim Obligations at the relevant time); and

Third – Directors' Charge (to the maximum amount of \$100,000); and

35. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the Directors' Charge or the Interim Financing 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.

36. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person.

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

38. **THIS COURT ORDERS** that the Charges, the Interim Financing Term Sheet and the Definitive Documents 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 BMO as Interim Lender, shall not otherwise be limited or impaired in any way by:

- (a) the pendency of these proposal proceedings and the declarations of insolvency made herein;
- (b) any application(s) for bankruptcy, interim receivership or receivership order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications;
- (c) the filing of any assignments or deemed assignments for the general benefit of creditors made pursuant to the BIA;
- (d) any application made pursuant to the *Companies Creditors' Arrangement Act* or any order made pursuant to such application;
- (e) the provisions of any federal or provincial statutes; or
- (f) 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 Companies and notwithstanding any provision to the contrary in any Agreement

39. 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 Interim Financing Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Companies 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 Companies entering into the Interim Financing Term Sheet or Definitive Documents, the creation of the Charges; or

the execution, delivery or performance of the Interim Financing Term Sheet or Definitive Documents;

(c) the payments made by the Companies pursuant to this Order, the Interim Financing Term Sheet, and 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, including but not limited to the BIA.

40. **THIS COURT ORDERS** that any Charge created by this Order over one or more leases of real property in Canada shall only be a Charge in the Companies' interest in such real property leases.

SERVICE & NOTICE

41. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide 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 14 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website (defined in the Guide) shall be established in accordance with the Guide with the following URL: www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-solutions-inc.

42. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Companies and the Trustee 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 ordinary prepaid mail, courier, personal delivery or facsimile transmission to the Companies' creditors or other interested parties at their respective addresses as last shown on the records of the Companies 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.

43. **THIS COURT ORDERS** that the Companies, the Trustee 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 Companies' 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

44. **THIS COURT ORDERS** that the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties under this Order.

45. **THIS COURT ORDERS** that nothing in this Order shall prevent the Trustee from subsequently expressly acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Companies, the Business or the Property.

46. **THIS COURT 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 Companies, the Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Companies and the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Trustee in any foreign proceeding or to assist the Companies, the Trustee and their respective agents in carrying out the terms of this Order.

47. **THIS COURT ORDERS** that each of the Companies and the Trustee is at liberty and is 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 Trustee is authorized and empowered to act as a representative in respect

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of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

48. **THIS COURT ORDERS** that any interested party (including the Companies and the Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraph 34 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

49. **THIS COURT ORDERS** that any interested party (including the Companies and the Trustee) may apply to this Court to vary or amend this Order on not less than seven 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.

50. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.



**HONORABLE JUSTICE
ALEXANDRE KAUFMAN**

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SCHEDULE "A"

LEGAL DESCRIPTION OF LANDS

1. Owned by OEM Automotive Cornwall Inc.

PIN 60180-0067 (LT)

PT LT 16 S/S SEVENTH ST PL CORNWALL PT 2 52R2252; CORNWALL

2. Owned by OEM Automotive Holdings Inc.

PIN 60180-0282 (LT)

PART LOT 16 SOUTH SIDE SEVENTH STREET PLAN CORNWALL, PARTS 1
AND 2, 52R4375; CITY OF CORNWALL

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SCHEDULE "B"

SALE AND INVESTMENT SOLICITATION PROCESS

[see attached]

SALE AND INVESTMENT SOLICITATION PROCESS

INTRODUCTION

1. On December 22, 2023, OEM Automotive Solutions Inc. (o/a Cornwall Volkswagen), OEM Automotive Holdings Inc. and OEM Automotive Cornwall Inc. (collectively, "**Cornwall VW**" or the "**Company**") each filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**", and the proceedings, the "**NOI Proceedings**"). BDO Canada Limited, a licensed insolvency trustee, was appointed as proposal trustee (the "**Trustee**") under the NOI Proceedings.
2. To further the Company's restructuring efforts, on or about January 17, 2024, the Ontario Superior Court of Justice (the "**Court**") granted an order (the "**Sale Process Approval Order**") which approved, amongst other things:
 - (a) the Sale and Investment Solicitation Process ("**SISP**") for the marketing of the Company's business and assets, including its dealership assets (the "**Dealership Assets**") and its owned real estate assets (together, the "**Real Property**", and collectively with the Dealership Assets, the "**Property**") for the purposes of soliciting (i) offers to acquire the business and assets of the Company and (ii) offers of investment in the business of the Company;
 - (b) the engagement of Dealer Solutions North America Inc. as sales agent (the "**Sales Agent**") to assist the Trustee with carrying out the SISP; and
 - (c) the Trustee, with the assistance of the Sales Agent, to undertake the SISP.
3. The SISP herein sets out the manner in which: (a) binding offers for executable transactions involving the business and/or Property of the Company and/or the equity or all or substantially all of the Property of the Company, will be solicited from interested parties; (b) any such offers received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought.
4. The SISP will be conducted by the Sales Agent and the Trustee in the manner set forth herein and in accordance with the Sale Process Approval Order. In the event that there is a disagreement as to the interpretation or application of the SISP, the Court will have exclusive jurisdiction to hear and resolve such dispute.
5. The Trustee will post on the Trustee's websites, any such modification, amendment, variation or supplement to the SISP and inform the bidders impacted by the modification.

OPPORTUNITY

6. The SISP is intended to solicit interest in, and opportunities for, a sale of, or investment in, all or part of the Company's Property (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form of reorganization of the business and affairs of the Company as a going concern or a sale of all, substantially all or one or more components of the Company's Property as a going concern or otherwise.

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7. The SISP describes the manner in which individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures, government organizations or other entities (each “**Person**”) may gain access to or continue to have access to due diligence materials concerning the Property, and how the offers involving the Property will be submitted to and dealt with by the Trustee and the Sales Agent, and how Court approval will be obtained in respect of any Transaction (as defined below).
8. The Sales Agent, with the oversight of the Trustee, intends to provide all qualified interested parties with an opportunity to participate in the SISP.
9. As described below, the various deadlines herein may be extended by and at the discretion of the Trustee, with the approval of the consulting parties (namely, the debtor-in-possession (“**DIP**”) lender, the Bank of Montreal (the “**DIP Lender**”)), in the event that it is determined that such extension will generally benefit the Company’s creditors and other stakeholders.
10. The Company’s management and/or any of the Company’s equity holders shall not be privy to any of the bid information outlined herein including the evaluation and selection of offers. The Trustee may request, at any time, written confirmation from the Company’s management and any of the Company’s equity holders as to (a) whether or not they intend to participate in the SISP and (b) disclosure of any interest or involvement any such party may have in or with any other party participating in the SISP.

“AS IS, WHERE IS BASIS”

11. Any transaction involving all or any portion of the Property (each a “**Transaction**”) will be completed with Court approval on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by the Company, Sales Agent, the Trustee, or any of their respective agents, estates, advisors, professionals or otherwise, except to the extent expressly set forth in the relevant Definitive Transaction Agreement (as defined herein).

TIMELINE

12. The SISP shall commence immediately following the issuance of the Sale Process Approval Order. The table below sets out subsequent key deadlines in the SISP that interested parties should note (terms within the table are defined in subsequent paragraphs):

<u>Milestone</u>	<u>Deadline</u>
Go to market	Monday, January 29, 2024

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Expression of Interest Date (EOI Deadline)	Thursday, February 29, 2024 (5:00 PM Eastern Time)
EOI Offer Selection Date	Tuesday, March 5, 2024
Binding Letter of Intent Date (LOI Deadline)	Friday, March 15, 2024 (5:00 PM Eastern Time)
Offer Selection Date	Tuesday, March 19, 2024
Definitive Transaction Agreement	Wednesday, April 3, 2024
Hearing of the Sale Approval Motion / Transaction Execution Date	Subject to availability of the Court
Closing the Transaction (outside date)	No later than Tuesday, April 30, 2024

Solicitation of Interest: Notice of the SISP

13. As soon as reasonably practicable, but in any event by no later than Monday, January 29, 2024:
 - (a) The Sales Agent, with approval of the Trustee, will prepare a list of potentially interested parties, including (i) parties that have approached the Company, Trustee or the Sales Agent indicating an interest in the Opportunity, and (ii) local and international strategic and financial parties who the Sales Agent with the approval of the Trustee, believe may be interested in purchasing all or part of the Property or investing in the Company pursuant to the SISP (the “Known Potential Bidders”); and
 - (b) the Sales Agent, with the approval of the Trustee, will prepare:
 - (i) a process summary (the “Teaser Letter”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and
 - (ii) a non-disclosure agreement in form and substance satisfactory to the Trustee, and the Company (the “NDA”).
14. The Sales Agent will send the Teaser Letter and NDA to all Known Potential Bidders, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Company or the Sales Agent as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Potential Bidders and Due Diligence Materials

15. Any party who wishes to participate in the SISP (a “Potential Bidder(s)”) must provide to the Sales Agent an executed NDA, and which shall inure to the benefit of any purchaser of the business or Property of the Company, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, the contact information for such

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Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.

16. The Sales Agent, with the approval of the Trustee, shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Potential Bidder who has signed and delivered the NDA to the Sales Agent and provided information as to their financial wherewithal to close a transaction, such access to due diligence material and information relating to the Property as the Sales Agent and the Trustee deem appropriate.
17. Due diligence shall include access to a virtual data room ("VDR") containing information about the Company, including its Property, and may also include management presentations, on-site inspections, and other matters which a Potential Bidder may reasonably request and as to which the Company, in their reasonable business judgment and after consulting with the Sales Agent and Trustee, may agree. The Sales Agent will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders and the manner in which such requests must be communicated.
 - (a) A statement of qualification ("SoQ") which addresses the financial capabilities, operational capabilities and ownership details of a Potential Bidder may be required to gain access to the VDR. This will be determined by the Sales Agent with the approval of the Trustee.
18. Neither the Sales Agent nor the Company will be obligated to furnish any information relating to the Property to any person other than to Potential Bidders. Furthermore, and for the avoidance of doubt, select due diligence materials may be withheld from certain Potential Bidders if the Sales Agent, with the approval of the Trustee, determines such information to represent proprietary or sensitive competitive information. Neither the Sales Agent, the Trustee or the Company is responsible for, and will bear no liability with respect to, any information provided and obtained by any party in connection with the sale of the Property.
19. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property in connection with their participation in the SISP and any transaction they enter into with the Company.

Non-Binding Expressions of Interest

20. To be considered for inclusion in the next round of the process, Expressions of Interest ("EOI") should describe in sufficient detail all material matters relating to the proposed Transaction. EOI's must be received by the Trustee and Sales Agent at the address specified in Schedule "1" hereto (including by e-mail) not later than **5:00 PM (Eastern Time) on February 29, 2024**, or as may be modified in the bid process letter that may be circulated by the Sales Agent to Potential Bidders, with the approval of the Trustee. While EOI's may be non-binding, at a minimum an EOI should include clear statements with respect to the following information:
 - (a) Identity of the entity or entities acquiring the Company (i.e., if acquiring the Company indirectly, through a subsidiary, a limited partnership or other entity), including the identity of any entity that controls such acquiring entity. Additionally, given the nature of this Company's business, the EOI must state the

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- individual/party that will be the dealer principal with Volkswagen Canada (“VW”);
- (b) Cash purchase price (in Canadian dollars) that is to be paid in connection with the Transaction, including an explanation of the methods and key assumptions used to determine the purchase price (the “**Purchase Price**”);
 - (c) Indication of deal structure, including but not limited to: an investment in Cornwall VW (shares, preferred shares, debt purchase, etc., an “**Investment Proposal**”) or an acquisition of all, substantially all or a portion of the Property (outright purchase of the shares of Cornwall VW, “**Share Purchase Agreement**” or purchase of select, or all or substantially all of the assets of Cornwall VW, “**Asset Purchase Agreement**”, together a “**Sale Proposal**”);
 - (d) Proposed financing for the Transaction and, if other than internal funds, the expected sources of such financing, the expected timing for commitment of funds and the steps required to secure such commitment;
 - (e) Nature of additional diligence required before entering into a binding LOI with Cornwall VW;
 - (f) Assumptions and intentions with respect to retention of management and employees;
 - (g) Outline any regulatory, shareholder, lender or other third-party approvals that would be required or potentially required and the estimated timetable required to conclude a Transaction and whether the EOI is conditional on any other items;
 - (h) Any conditions to closing or any other terms and conditions that would be required in order to complete the Transaction;
 - (i) Contact Information for those persons who should be contacted with respect to the EOI; and
 - (j) Disclosure of any other matters that may be helpful in the evaluation of the EOI and complete the Transaction on a timely basis.

Evaluation and Selection of EOIs

21. An EOI will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Potential Bidder to successfully complete such transactions, (iii) the proposed transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Sales Agent, the Trustee and the DIP Lender.
22. The Sales Agent shall notify each Potential Bidder who submitted an EOI in writing as to whether its EOI was selected to continue in the SISP (the “**Selected EOIs**”) by no later than **Tuesday March 5, 2024**, or at such later time as the Sales Agent and Trustee deems appropriate, with the approval of the DIP Lender.

Binding Letters of Intent

23. Potential Bidders with Selected EOs that wish to make a formal offer to purchase or make an investment in the Company or its Property (a “**Bidder**”) shall submit a binding Letter of Intent (a “**LOI**”) that complies with all of the following requirements of the Trustee and the Sales Agent at the Trustee’s and Sales Agent’s address specified in Schedule “1” hereto (including by e-mail), so as to be received by the Trustee and Sales Agent not later than **5:00 PM (Eastern Time) on Friday March 15, 2024** or as may be modified in the bid process letter that may be circulated by the Sales Agent to Potential Bidders, with the approval of the Trustee and its stakeholders (the “**LOI Deadline**”):
- (a) the LOI must be either a binding offer to make:
 - (i) a Sale Proposal to acquire all, substantially all or a portion of the Property (outright purchase of the shares of Cornwall VW, or purchase of select, or all or substantially all of the Property of Cornwall VW); and/or
 - (ii) an Investment Proposal for an investment in, restructure, recapitalization or reorganize of the Company (shares, preferred shares, debt purchase, etc.).
 - (b) the LOI (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Company or its Property and is consistent with any necessary terms and conditions established by the Sales Agent and the Trustee and communicated to Bidders;
 - (c) the LOI includes a letter stating that the Bidder’s offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
 - (d) the LOI includes draft mark-ups of the transaction agreements included in the VDR, including the purchase price (by major asset type/legal entity), investment amount and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto;
 - (e) the LOI includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Trustee and the Sales Agent to make a determination as to the Bidder’s financial and other capabilities to consummate the proposed transaction;
 - (f) the LOI is not conditional on (i) the outcome of unperformed due diligence by the Bidder, or (ii) obtaining financing, or (iii) the Company receiving the required approvals or amendments relating to the supply management, distribution and licence agreements required to operate the dealership (other than the dealer principal individual/party approval by VW);
 - (g) the LOI fully discloses the identity of each entity that will be entering into the Transaction or the financing, or that is otherwise participating or benefiting from such bid (including the dealer principal individual/party with VW);
 - (h) for a Sale Proposal, the LOI includes:
 - (i) the Purchase Price in Canadian dollars (by major asset type/legal entity) and a description of any non-cash consideration, including details of any

- liabilities to be assumed by the Bidder and key assumptions supporting the valuation;
- (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
- (iii) a specific indication of the financial capability of the Bidder and the expected structure and financing of the transaction;
- (iv) a description of the conditions and approvals required to complete the closing of the transaction;
- (v) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
- (vi) any other terms or conditions of the Sale Proposal that the Bidder believes are material to the transaction; and
- (vii) a commitment by the Bidder to provide a non-refundable deposit, the greater of: an amount of not less than 10% of the Purchase Price offered or \$250,000, upon the Bidder being selected as the Successful Bidder.
- (i) for an Investment Proposal, the LOI includes:
 - (i) a description of how the Bidder proposes to structure the proposed investment, restructuring, recapitalization, or reorganization, and a description of any non-cash consideration;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the business or the Company in Canadian dollars;
 - (iii) the underlying assumptions regarding the pro forma capital structure;
 - (iv) a specific indication of the sources of capital for the Bidder and the structure and financing of the transaction;
 - (v) a description of the conditions and approvals required to complete the closing of the transaction;
 - (vi) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and those liabilities and obligations it does not intend to assume;
 - (vii) any other terms or conditions of the Investment Proposal; and
 - (viii) a commitment by the Bidder to provide a non-refundable deposit, the greater of: an amount of not less than 10% of the total new investment contemplated or \$250,000, upon the Bidder being selected as the Successful Bidder.
- (j) the LOI includes acknowledgements and representations of the Bidder that the Bidder:
 - (i) has had an opportunity to conduct any and all due diligence regarding the Property, and the Company prior to making its offer;
 - (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and

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- (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether expressed, implied, statutory, or otherwise, regarding the Company, or the Property, or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Company;
 - (k) the LOI is received by the LOI Deadline; and
 - (l) the LOI contemplates closing the transaction set out therein no later than **Tuesday, April 30, 2024**, subject to obtaining Court approval and VW's approval of the dealer principal.
- 24. Following the LOI Deadline, the Sales Agent, the Trustee and the DIP Lender will assess the LOIs received. The Sales Agent, with the approval of the Trustee, will designate the most competitive LOIs that comply with the foregoing requirements to be "**Qualified Bids**". Only Bidders whose bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).
- 25. The Sales Agent shall notify each Bidder in writing as to whether its LOI constitutes a Qualified Bid by no later than **Tuesday March 19, 2024**, or at such later time as the Trustee deems appropriate.
- 26. The Trustee, in consultation with the Sales Agent and the DIP Lender, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant LOIs to be a Qualified Bid.
- 27. In the event that the Trustee, in consultation with the Sales Agent, is not satisfied with the number or terms of the Qualified Bids, the Trustee may, in consultation with the Sales Agent and DIP lender, extend the Bid Deadline, or may seek Court approval for amendments to the SISF.
- 28. The Trustee may, in consultation with the Sales Agent, aggregate separate Bids from unaffiliated Bidders to create one Qualified Bid.

Evaluation of Competing Bids

- 29. A Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Bidder to successfully complete such transactions, (iii) the proposed transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Sales Agent, the Trustee and the DIP Lender.

Selection of Successful Bid

- 30. The Trustee, in consultation with the Sales Agent and the DIP Lender, will:
 - (a) review each Qualified Bid with consideration of the following:

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- (i) the amount of consideration being offered, and, if applicable, the proposed form, composition, and allocation of same;
 - (ii) the value of any assumption of liabilities or waiver of liabilities;
 - (iii) the likelihood of VW accepting the purchaser and identified individual/party as the dealer principal;
 - (iv) the likelihood of the Bidder's ability to close a transaction by **April 30, 2024** (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments and required governmental or other approvals); the likelihood of the Court's approval of the Successful Bid, if required; the net benefit to the Company; and
 - (v) any other factors the Company may, consistent with its fiduciary duties, reasonably deem relevant.
- (b) identify and select the highest or otherwise best bid received (the "**Successful Bid**", and the Bidder making such bid, the "**Successful Party**"), and notify or inform the Successful Party that its bid or Qualified Bid is the Successful Bid.
31. The Successful Party shall complete and execute all agreements, contracts, instruments or other documents including the Definitive Transaction Agreement evidencing and containing the terms and conditions upon which the Successful Bid was made by **Wednesday April 3, 2024**, unless extended by the Trustee, in consultation with and approval from the DIP lender, subject to the milestones or deadlines set forth in paragraph 12.

Sale Approval Motion Hearing

32. A Court date will be scheduled to hear a motion to approve any Transaction with the Successful Party (the "**Sale Approval Motion**"). At the Sale Approval Motion, the Trustee or the Company shall seek, among other things, approval from the Court to consummate the Successful Bid. All Qualified Bids other than the Successful Bid, if any, shall be deemed to be rejected by the Trustee and/or Sales Agent on and as of the date of approval of the Successful Bid by the Court.

Confidentiality and Access to Information

33. All discussions regarding a Sale Proposal, Investment Proposal, or bid in the SISP should be directed through the Sales Agent. Under no circumstances should the Management of the Company be contacted directly without the prior consent of the Sales Agent. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP.
34. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Company, the Sales Agent and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Trustee, with the approval of the Sales Agent and

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consent of the applicable participants, are seeking to combine separate bids from Potential Bidders or Bidders.

35. Following the LOI Deadline, copies of all LOIs shall be shared by the Sales Agent and the Trustee with the DIP Lender for its exclusive review.

Supervision of the SISP

36. The Sales Agent shall conduct the SISP, with the oversight of the Trustee in the manner set out in this SISP procedure and is entitled to receive all information in relation to the SISP.
37. This SISP does not and will not be interpreted to create any contractual or other legal relationship between the Company or the Sales Agent or the Trustee and any Potential Bidder, any Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Company and/or Trustee.
38. Without limiting the preceding paragraph, the Sales Agent and Trustee shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Bidder, the Successful Bidder, the Company, or any other creditor or other stakeholder of the Company, for any act or omission related to the process contemplated by this SISP, except to the extent such act or omission is the result of gross negligence or wilful misconduct of the Sales Agent or Trustee. By submitting a bid, each Bidder shall be deemed to have agreed that it has no claim against the Sales Agent and Trustee for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Sales Agent or Trustee.
39. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
40. Notwithstanding the process and deadlines outlined above with respect to the SISP, with the prior consent of the DIP Lender, the Sales Agent and the Trustee may at any time: (i) pause, terminate, amend or modify the SISP; (ii) remove any portion of the business and the Property from the SISP; (iii) bring a motion to the Court to seek approval of a sale of, or investment in, all or part of the Property or the business whether or not such sale or investment is in accordance with the terms or timelines set out in the SISP; and (iv) establish further or other procedures for the SISP, provided that the service list in the NOI Proceedings shall be advised of any substantive modification to the procedures set forth herein.

Schedule "1"

Address of the Trustee and Sales Agent

To the Trustee:

BDO Canada Limited
20 Wellington East
Suite 500
Toronto, Ontario
M5E 1C5

Attention: Clark Lonergan or Peter Naumis

Email: clonergan@bdo.ca

Email: pnaumis@bdo.ca

To the Sales Agent:

Dealer Solutions North America Inc.
305 Renfrew Drive, #202
Markham, Ontario
L3R 9S7

Attention: John Raymond or Etienne Demeules

Email: john.raymond@dsma.com

Email: etienne.demeules@dsma.com

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF OEM AUTOMOTIVE CORNWALL INC.

Court File No. BK-23-03025639-0033

Bankruptcy Estate File No. 33-3025639

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)**

**ORDER
(INITIAL NOI RELIEF)**

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

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*Lawyers for OEM AUTOMOTIVE CORNWALL INC.,
OEM AUTOMOTIVE HOLDINGS INC. AND OEM
AUTOMOTIVE SOLUTIONS INC.*

Fourth Report of the Proposal Trustee
Appendix “C”

THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS
AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

Court File No. BK-33-03025642
Bankruptcy Estate File No. 33-3025642

January 17, 2024

ENDORSEMENT

On December 22, 2023, OEM Automotive Solutions Inc., OEM Automotive Cornwall Inc., and OEM Automotive Holdings Inc. (collectively “the Companies”) initiated proceedings by filing a notice of intention (NOI) to file a proposal under section 50.4 of the *Bankruptcy and Insolvency Act*. Operating a Volkswagen dealership in Cornwall, ON, the Companies faced financial strain in late 2023 due to a shareholder dispute, resulting in liquidity constraints. BMO, the primary creditor, formally demanded repayment on December 13, 2023. Unable to settle their debts, the Companies deemed these proceedings as the optimal means to preserve and realize value for all stakeholders. BMO proposed to act as the interim lender, offering additional funds to sustain the Companies' operations during the restructuring.

The Companies seek relief under six different headings, each warranting individual consideration. Submissions were made by BMO, the proposal trustee, and the companies' supportive shareholders, without opposition from any creditors.

1. Administrative consolidation of the Companies' NOI proceedings under a single title of proceeding.

The court acknowledges the high integration of the companies' operations and concurs that consolidating the proceedings secures the most expeditious and cost-effective determination of the matter on its merits.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)**

Proceedings commenced at Ottawa

**MOTION RECORD OF
OEM AUTOMOTIVE CORNWALL INC.,
OEM AUTOMOTIVE SOLUTIONS INC.,
AND OEM AUTOMOTIVE HOLDINGS INC.
(returnable January 17, 2024 @ 2:00pm)**

LOOPSTRA NIXON LLP
130 Adelaide Street West – Suite 2800
Toronto, ON M5H 3P5

R. Graham Phoenix / Shahrzad Hamraz
Tel: (416) 748 4776 / (416) 748 5116
Fax: (416) 746 8319
Email: gphoenix@LN.law / shamraz@LN.law

*Lawyers for OEM Automotive Cornwall Inc. OEM
Automotive Solutions Inc., and OEM Automotive
Holdings Inc.*

ENDORSEMENT (continued) page 2/3

2. Approval of the sale and investment solicitation process (SISP).

A SISP, developed with the assistance of the proposal trustee, BDO Canada, and with input from the shareholders and BMO, envisages engaging a sales agent for identification and solicitation of potential buyers. The Companies also seek approval to enhance the authority of the proposal trustee, arguing that such powers are necessary given potential bids from both shareholders. Granting enhanced powers, they contend, ensures impartial administration of the SISP and aims to maximize value for all stakeholders. The court deems the SISP necessary to evaluate the advantages of selling the business as a going concern compared to other options and hereby approves it.

3. Approval of interim financing term sheet and granting of interim financing charge.

BMO has offered a debtor-in-possession loan of \$500,000 to the Companies, and they seek approval of the interim financing term sheet. In addition, an interim financing charge is requested, ranking ahead of all other claims except the administration charge, pursuant to section 50.6 of the BIA. The court, considering section 50.6(5) factors, deems the charge necessary for financing the SISP and sustaining business operations during restructuring.

4. Administrative charge.

A \$400,000 administrative charge is sought to secure professionals' fees and disbursements engaged by the proposal trustee during proceedings. Section 64.2 of the BIA provides jurisdiction for such a charge. The court agrees that these professionals are essential to successful restructuring, and the charge ensures their participation.

5. Directors' charge.

A \$100,000 director's charge is sought to secure indemnification for possible liabilities incurred by directors and officers under section 64.1 of the BIA. The court agrees that directors' involvement is critical, and the charge is deemed fair and reasonable.

6. Extension of time for the companies to file a proposal.

The Companies request an extension until March 5, 2024, to file a proposal, with the current stay of proceedings expiring on January 20, 2024.

ENDORSEMENT (continued) page 3/3

Section 50.4(9) of the BIA allows the court to extend this time. The court deems the extension necessary for the Companies to execute the SISP and make a viable proposal, and considers that the extension would not cause material prejudice to any creditors.

Based on the foregoing reasons, the Companies' motion is granted.



Justice A. Kaufman

Fourth Report of the Proposal Trustee
Appendix “D”

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Estate No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS
AMENDED
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

SECOND REPORT OF THE PROPOSAL TRUSTEE
February 21, 2024

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LIST OF APPENDICES

- Appendix A - First Report of the Proposal Trustee dated January 11, 2024 (without appendices)
- Appendix B - Initial Court Order dated January 17, 2024
- Appendix C - Endorsement of Justice Kaufman dated January 17, 2024
- Appendix D - Cash Flow Forecasts for the period December 22, 2023 to April 14, 2024
- Appendix E - Cash Flow Variance Analysis for the 7-week period ending February 11, 2024
- Appendix F - Fee Affidavit of Clark Lonergan, sworn February 21, 2024
- Appendix G - Fee Affidavit of Scott Venton, sworn February 21, 2024

INTRODUCTION

1. On December 22, 2023 (the “**Filing Date**”), OEM Automotive Solutions Inc. (“**Solutions**”), OEM Automotive Cornwall Inc. (“**Cornwall**”), and OEM Automotive Holdings Inc. (“**Holdings**”, collectively with Solutions and Cornwall, the “**Companies**”) each filed a Notice of Intention to Make a Proposal (“**NOI(s)**”) pursuant to section 50.4 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”). BDO Canada Limited (“**BDO**”), a Licensed Insolvency Trustee, was named proposal trustee (the “**Proposal Trustee**”) in each of the Companies’ proposal proceedings (collectively, the “**Proposal Proceedings**”).
2. On January 11, 2024, the Proposal Trustee prepared a report (the “**First Report**”) to the Ontario Superior Court of Justice (the “**Court**”) in advance of the Companies’ motion (the “**Motion**”) to a judge on January 17, 2024. A copy of the First Report without appendices is attached hereto as **Appendix “A”**.
3. On January 17, 2024, the Court issued an order (the “**Initial Order**”) to grant the following material relief:
 - (a) the administrative consolidation of the three NOI proceedings;
 - (b) extension of the time to file a proposal pursuant to s 50.4(9) of the BIA, up to and including March 5, 2024;
 - (c) approval of the First Report of the Proposal Trustee dated January 11, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the First Report;
 - (d) approval of a Sale and Investment Solicitation Process (the “**SISP**”), to be administered by the Proposal Trustee;
 - (e) the enhancement of certain powers of the Proposal Trustee to facilitate the SISP and also to mitigate a dispute among shareholders;
 - (f) approval of interim financing, funded by the Companies’ senior secured lender, Bank of Montreal (“**BMO**”), along with an interim financing charge to secure the Companies’ obligations under the interim financing facility (“**Interim Financing Loan**”);
 - (g) approval of the Proposal Trustee’s engagement of Dealer Solutions North America Inc. (the “**Sales Agent**”) to assist with the implementation of the SISP;
 - (h) an administrative charge to secure payment of the Proposal Trustee, Sales Agent, and other key insolvency professionals; and

- (i) a directors' charge to secure the Companies obligation to indemnify the directors and officers for post-filing liabilities that may arise.

A copy of the Initial Order and Endorsement is attached hereto as **Appendix "B"** and **Appendix "C"** respectively.

PURPOSE

4. The purpose of this second report of the Proposal Trustee (the **"Second Report"**) is to advise the Court with respect to:
 - (a) the Companies' operations since the date of the First Report;
 - (b) the Proposal Trustee's activities since the First Report;
 - (c) an update on the SISP;
 - (d) the Companies' actual cash flow results for the 7-weeks ended February 11, 2024 versus the same budgeted period as outlined in the Companies' cash flow forecasts for the period December 22, 2023 to April 14, 2024 (the **"Cash Flow Period"**), separately for each of the Companies (the **"Cash Flow Forecasts"**) projections and the Proposal Trustee's comments regarding the variances. Copies of the Cash Flow Forecasts are attached hereto as **Appendix "D"**;
 - (e) fees and disbursements of the Proposal Trustee and its counsel;
 - (f) the Companies' motion to seek an order (the **"Proposed Order"**) to:
 - (i) extend the time for the Companies to file proposals under section 50.4(9) of the BIA by 45 days to and including April 14, 2024;
 - (ii) approve the Second Report, and the actions, activities and conduct of the Proposal Trustee as described in the Second Report; and
 - (iii) approve the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report and the fee affidavits appended to the Second Report (the **"Fee Affidavits"**); and
 - (g) the Proposal Trustee's recommendations on the relief being sought by the Companies.
5. The Proposal Trustee understands that the Companies will be relying on the affidavit of Ms. Caroline Bourret (**"Ms. Bourret"**) sworn February 21, 2024 (the **"Second Bourret Affidavit"**) in support of the relief sought in the Proposed Order.

6. The Second Bourret Affidavit, and all other materials filed with the Court in these Proposal Proceedings are accessible on the Proposal Trustee's websites at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-solutions-inc> (the "Proposal Trustee's Websites").
7. This Second Report should be read in conjunction with the Second Bourret Affidavit. Additional background and financial information with respect to the Companies was provided in the First Report and the first Bourret Affidavit sworn January 9, 2024.

TERMS OF REFERENCE

8. In preparing this Second Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Companies, discussions with management of the Companies ("Management"), and information from other third-party sources (collectively, the "Information"). Except as described in the First Report in respect of the Cash Flow Forecasts:
 - (a) the Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("GAAS") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
 - (b) some of the Information referred to in this Second Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
9. Future oriented financial information referred to in this Second Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variation could be significant.

10. Unless otherwise indicated, the Proposal Trustee's understanding of factual matters expressed in this Second Report concerning the Companies and their business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

THE COMPANIES' OPERATIONS

12. Since the First Report, the Companies Management have been taking steps and focusing on stabilizing the operations. Management, with the assistance of the Proposal Trustee, has engaged in various discussions with stakeholders, suppliers, customers, and employees. As of the date of this Second Report, the Companies have maintained their business operations without significant disruption or issues.
13. Further details concerning the Companies' activities are set forth in the Second Bourret Affidavit.

PROPOSAL TRUSTEE'S ACTIVITIES

14. Since the date of the First Report, the Proposal Trustee has undertaken the following activities:
 - (a) attended the Companies' first motion, which occurred on January 17, 2024;
 - (b) uploaded all court materials and certain other relevant documents, including the SISP update, to the Proposal Trustee's Website;
 - (c) engaged with its legal counsel, Fogler, Rubinoff LLP ("**Fogler**"), regarding matters related to these Proposal Proceedings;
 - (d) monitored the Companies' receipts and disbursements on a weekly basis;
 - (e) participated in various calls with the Companies' external accounting/finance consultants regarding the status of the Companies' books and records;
 - (f) continued to monitor the Companies' vehicle sales and repayments to ensure no additional financed vehicles are sold in violation ("**SIV**"), in which sale proceeds are used to fund business operations instead of paying down the financing facility as required;
 - (g) continued to assist the Companies with stakeholder communications;
 - (h) continued to respond to calls, e-mails and letters received from creditors and other parties;

- (i) assisted the Companies in maintaining supplier/services from certain suppliers;
- (j) assisted the Companies' in setting up the count procedures for the parts inventory count;
- (k) reviewed the Companies' registrant information number ("**RIN**") vehicle listing;
- (l) participated in and facilitated various discussions with Volkswagen Canada ("**VW**") and its legal counsel;
- (m) corresponded with shareholders and/or their respective legal counsel;
- (n) reviewed the Companies' actual cash receipts and disbursements and variances to budget for the same time period as outlined in the Cash Flow Forecasts;
- (o) various correspondence with BMO regarding the bi-weekly reporting as outlined in the Interim Financing Loan term sheet;
- (p) assisted the Companies with interim funding requests;
- (q) review of BMO's security position and discussion with respective counsel regarding the same;
- (r) assisted with the preparation of the SISP and related materials, including:
 - (i) supervised and assisted with activities related to the SISP;
 - (ii) reviewed and refined the perspective purchaser list;
 - (iii) reviewed and assisted in drafting the teaser document, confidential information memorandum (the "**CIM**"), and non-disclosure agreement (the "**NDA**");
 - (iv) set up a virtual data room ("**VDR**"), compiled financial and operational information to aid potential purchasers in their due diligence process;
 - (v) drafted SISP process letter;
 - (vi) drafted expression of interest ("**EOI**") bid sheet to help potential purchasers submit EOI;
 - (vii) worked with Fogler to draft the asset purchase agreement ("**APA**");
 - (viii) initiated new real estate appraisals and environmental assessments;
 - (ix) various correspondence with the Sales Agent to address any due diligence questions and SISP inquiries Potential Purchasers had; and

- (x) provided updates to BMO regarding the SISP.
 - (s) prepared this Second Report; and
 - (t) attended to other matters pertaining to the administration of these Proposal Proceedings.
15. The Proposal Trustee is requesting approval of this Second Report and the activities of the Proposal Trustee described herein.

SALES PROCESS UPDATE

16. Immediately following the issuance of the Initial Order on January 17, 2024, which included the Court's approval of the SISP, the Sales Agent, among other things, has:
- (a) canvased the market and prepared a list of potentially interested parties, including:
 - (i) posted the opportunity for a sale of, or investment in, all or part of the Companies' property (the "**Opportunity**") on its own website and LinkedIn account;
 - (ii) emailed the Opportunity to over 4000+ dealers from its own database; and
 - (iii) included parties that had approached the Companies, Proposal Trustee, VW or the Sales Agent indicating an interest in the Opportunity.
 - (b) prepared a process summary (the "**Teaser Letter**") describing the Opportunity;
 - (c) prepared a CIM detailing the financial and operational information of the Companies;
 - (d) worked with the Proposal Trustee and Management to populate the VDR with financial and operational documents that may be required for the due diligence process; and
 - (e) sent the Teaser Letter and NDA to interested parties;
17. 63 parties were identified through the above marketing process (the "**Known Potential Bidders**") and out of these Known Potential Bidders, 37 parties are interested, 32 parties have signed NDAs and have showed an active interest in participating in the SISP.
18. As of the date of this Second Report, the Proposal Trustee has already received a nonbinding EOI from one (1) of the Known Potential Bidders in advance of the February 29, 2024 EOI bid date ("**EOI Bid Date**").

19. Given the level of interest and feedback to date, the Sales Agent expects to receive multiple EOIs by the EOI Bid Date. These EOIs will then be assessed by the Proposal Trustee and Sales Agent and shortly thereafter, the respective parties will be notified if they have selected to participate in the next phase of the SISP.

CASH FLOW PROJECTIONS

20. The Proposal Trustee has reviewed the actual cash flow from operations for the seven-week period ending February 11, 2024, through monitoring the banking activities of the Companies.
21. The Companies' actual cash flow from operations for the seven-week period ending February 11, 2024, exceeded the corresponding Cash Flow Forecasts amounts for that same period by approximately \$475,382. This positive variance is largely due to approximately \$350,000 in collection from higher vehicle sales (of this amount, approximately \$248,000 was from the sale of seven (7) vehicles, in which sale proceeds were used to repay the corresponding floor line financing facilities during the week of February 18, 2024) and approximately \$125,000 was in delayed payment to professionals, both of which are primarily timing differences expected to reverse in the coming weeks. A summary of the variance analysis regarding the same are attached hereto as **Appendix "E"**.
22. The Cash Flow Forecasts project that during the Cash Flow Period, the Companies should have sufficient financing to operate and for the Proposal Trustee to implement the SISP, given the positive timing variances experienced to date and via funding from the Interim Financing Loan. Consistent with the Cash Flow Forecasts, \$225,000 has been advanced to the Companies from the Interim Financing Loan to date.

APPROVAL OF THE PROPOSAL TRUSTEE'S FEES AND DISBURSEMENTS

23. The Proposal Trustee and its legal counsel, Fogler, have been paid their fees and disbursements at their standard rates and charges by the Companies from time to time, as part of the costs of the Proposal Proceedings.
24. The Proposal Trustee and Folger have maintained records of their professional time and costs. The Proposal Trustee now requests approval of its interim fees and disbursements for the period from December 22, 2023 to January 19, 2024, and the interim fees and disbursements for Folger for the period from December 28, 2023 to January 26, 2024.
25. The total interim fees and disbursements of the Proposal Trustee for the period of December 22, 2023 to January 19, 2024 total \$146,601.65, including fees in the amount of \$124,373.00, disbursements in the amount of \$5,362.97, and HST in the amount of \$16,865.68, as more

particularly described in the affidavit of Clark Lonergan sworn February 21, 2024 (the “**Lonergan Fee Affidavit**”), a copy of which is attached hereto as **Appendix “F”**.

26. The total interim fees and disbursements of Fogler principally from, December 28, 2023 to January 26, 2024 total \$53,145.12, including fees in the amount of \$46,575.00, disbursements in the amount of \$464.13, and HST in the amount of \$6,105.99, as more particularly described in the affidavit of Scott Venton sworn February 21, 2024 (the “**Venton Fee Affidavit**”), a copy of which is attached hereto as **Appendix “G”**. In its invoice to the Proposal Trustee dated January 30, 2024, a copy of which is attached as an exhibit to the Venton Fee Affidavit, Fogler's has provided a courtesy discount in the amount of approximately \$5,339 and has discounted its hourly rates.
27. The Proposal Trustee respectfully submits that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with Proposal Proceedings. Accordingly, the Proposal Trustee respectfully requests the approval of the fees and disbursements of the Proposal Trustee and that of its counsel, as set out in this Second Report.

THE RELIEF AND ORDER BEING SOUGHT BY THE COMPANIES

Proposed Stay Extension

28. Under the BIA, the current stay of proceedings will expire on March 5, 2024 (the “**Stay Period**”).
29. The Companies seek an extension of time to file a proposal for an additional approximate 45 days to and including April 14, 2024 (“**Proposed Stay Extension**”). The Proposed Stay Extension should continue to permit the Proposal Trustee and its Sales Agent to advance the SISP. Without the Proposed Stay Extension, the Companies will not be in a position to carry out the SISP or, if deemed advantageous, make a viable proposal to their creditors and will become bankrupt to the detriment of their stakeholders.
30. It is the Proposal Trustee’s view, based on the Cash Flow Forecasts, that the Companies will have sufficient liquidity to continue the SISP and to satisfy post filing obligations as they come due during the Proposed Stay Extension.
31. Based on the information presently available, the Proposal Trustee believes that the Companies’ creditors will not be materially prejudiced by the Proposed Stay Extension. Furthermore, the Proposal Trustee is not aware of any creditor who opposes the requested extension of the Stay Period.

CONCLUSION AND RECOMMENDATIONS

32. The Proposal Trustee confirms that the Companies have acted and continue to act in good faith and with due diligence.
33. For the reasons stated in this Second Report, the Proposal Trustee supports the relief sought by the Companies in connection with the February 27, 2024 Motion. The Proposal Trustee respectfully submits to the Court this, its Second Report.

All of which is respectfully submitted this 21st day of February, 2024.

**BDO CANADA LIMITED, in its capacity
as Proposal Trustee of OEM Automotive
Solutions Inc., OEM Automotive Cornwall Inc.,
and OEM Automotive Holdings Inc., and not in
its corporate or personal capacity.**

A handwritten signature in black ink, appearing to read "Clark Lonergan", written in a cursive style.

**Clark Lonergan, CA, CPA, CIRP, LIT
Partner/Senior Vice President**

Fourth Report of the Proposal Trustee

Appendix “E”



Issued in Ottawa on February 27, 2024

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-23-03025642-0033
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

THE HONOURABLE
JUSTICE RYAN BELL

)
)
)

TUESDAY, THE 27TH DAY
OF FEBRUARY, 2024

IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF OEM AUTOMOTIVE
SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC.
AND OEM AUTOMOTIVE HOLDINGS INC.

ORDER
(NOI Stay Extension & Administrative Relief)

THIS MOTION, made by OEM Automotive Solutions Inc. ("**Solutions**"), OEM Automotive Cornwall Inc. ("**Cornwall**") and OEM Automotive Holdings Inc. ("**Holdings**", and collectively with Solutions and Cornwall, the "**Companies**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the "**BIA**"), for an order (this "**Order**"), among other things:

- (a) if necessary, abridging the time for service and filing of the notice of motion and the motion record or, in the alternative, dispensing with the same;
- (b) extending the time for the Companies to file proposals under section 50.4(9) of the BIA to and including April 14, 2024;
- (c) approving the second report of BDO Canada Limited, in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in the Companies' BIA proposal

proceedings (collectively, the “**Proposal Proceedings**”), dated February 21, 2024 (the “**Second Report**”), and approving the activities of the Proposal Trustee described in the Second Report; and

(d) approving the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report and the fee affidavits appended to the Second Report as Appendix “F” and “G” (the “**Fee Affidavits**”),

was heard by this Honourable Court (the “**Court**”) on this day by way of judicial video conference in Ottawa, Ontario.

ON READING the Motion Record of the Companies, including the Affidavit of Caroline Bourret sworn February 21, 2024 and the exhibits thereto, and on reading the Second Report including the Fee Affidavits, and on hearing the submissions of counsel for the Companies, counsel for the Proposal Trustee, counsel for Bank of Montreal (as senior secured creditor and interim lender), counsel to the other parties listed on the participant information form, no one else appearing although properly served as appears from the affidavit of Amanda Adamo, sworn February 21, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing 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.

EXTENSION OF TIME

2. **THIS COURT ORDERS** that the time for the filing of a proposal by the Companies is hereby extended in accordance with section 50.4(9) of the BIA up to and including April 14, 2024.

APPROVAL OF SECOND REPORT & FEES

3. **THIS COURT ORDERS** that the Second Report and the actions, activities and conduct of the Proposal Trustee described therein be and are hereby approved; provided, however, that only the Proposal Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

- 3 -

4. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report and the Fee Affidavits be and are hereby taxed and approved.

GENERAL

5. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

A handwritten signature in dark ink, appearing to read "Lynn Bell", is written over a horizontal line.

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM AUTOMOTIVE HOLDINGS INC.

Court File No. BK-23-03025639-0033
Bankruptcy Estate File No. 33-3025639

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)**

**ORDER
(NOI STAY EXTENSION & ADMINISTRATIVE RELIEF)**

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix
Tel: (416) 746-4710
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*Lawyers for OEM AUTOMOTIVE CORNWALL INC.,
OEM AUTOMOTIVE HOLDINGS INC. AND OEM
AUTOMOTIVE SOLUTIONS INC.*

Fourth Report of the Proposal Trustee

Appendix “F”



Superior Court of Justice – East Region
 161 Elgin Street
 Ottawa, Ontario K2P 2K1

ENDORSEMENT OF CIVIL MOTION/APPLICATION

SHORT TITLE OF PROCEEDINGS: In the matter of the notice of intention to make a proposal of OEM Automotive solutions, OEM Automotive Cornwall, and OEM Automotive Holdings

COURT FILE NO.: BK-23-03025642-0033 and Bankruptcy Estate file no. 33-3025642

BEFORE: Justice R. Ryan Bell

HEARD: February 27, 2024

COUNSEL: G. Phoenix and S. Hamraz for OEM companies
 V. DaRe for the Proposal Trustee
 A. Ho, for BMO
 G. MacDonell for the second mortgagee

RELIEF REQUESTED:

☐ ORDER SIGNED ☐ ON CONSENT

☐ UNOPPOSED ☐ NO ONE APPEARED

☐ ADJOURNED TO [Click here to enter a date.](#)

ENDORSEMENT:

Motion to extend the time for the OEM companies to file proposals under s. 50.4(9) of the BIA, to approve the second report of the Proposal Trustee and approving the actions of the Proposal Trustee as described therein, and approving the fees and disbursements of the Proposal Trustee and its counsel as set out in the second report and the fee affidavits attached to the report.

The OEM companies request an extension to April 14, 2024 and this request is supported by the Proposal Trustee, BMO (senior secured creditor and interim financier) and the shareholders. An extension will enable the Proposal Trustee and the OEM companies to advance the court-approved



Superior Court of Justice – East Region
161 Elgin Street
Ottawa, Ontario K2P 2K1

SISP to the next stage, with expressions of interest due February 29, binding offers due March 15 and a definitive agreement targeted for April 3. The requested extension will allow for the identification of a definitive investment or sale of the Companies' business for the benefit of all stakeholders. The extended cash flow forecast provides that the Companies shall have sufficient funds, with access to the interim financing provided by BMO to maintain operating through to the end of the requested extension. Without the extension, the Companies will not be a position to carry out the SISP or make a viable proposal to their creditors and will become bankrupt to the detriment of their stakeholders. None of the Companies' creditors would be materially prejudiced by the granting of an extension. For these reasons, I make an order extending the time for the Companies to file proposals to April 14, 2024.

The Second Report of the Proposal Trustee is approved, together with the activities of the Proposal Trustee as set out therein. The court also approves the fees and disbursements of the Proposal Trustee and its counsel as set out in the affidavits attached to the Second Report.

Order signed today.

Justice R. Ryan Bell

Date: February 27, 2024

Fourth Report of the Proposal Trustee
Appendix “G”

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Estate No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS
AMENDED
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

THIRD REPORT OF THE PROPOSAL TRUSTEE
March 27, 2024

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LIST OF APPENDICES

Appendix A	- First Report of the Proposal Trustee dated January 11, 2024 (w/o appendices)
Appendix B	- Initial Court Order dated January 17, 2024
Appendix C	- Endorsement of Justice Kaufman dated January 17, 2024
Appendix D	- Second Report of the Proposal Trustee dated February 21, 2024 (w/o appendices)
Appendix E	- Second Court Order dated February 27, 2024
Appendix F	- Endorsement of Justice Bell dated February 27, 2024
Appendix G	- Cash Flow Forecasts for the period December 22, 2023 to April 14, 2024
Appendix H	- Revised Cash Flow Forecasts for the period March 25, 2024, to May 26, 2024
Appendix I	- “Redacted” Agreement of Purchase and Sale dated March 27, 2024
Appendix J	- Cash Flow Variance Analysis for the thirteen-week period ending March 24, 2024
Appendix K	- Fee Affidavit of Clark Lonergan, sworn March 27, 2024
Appendix L	- Fee Affidavit of Scott Venton, sworn March 25, 2024

INTRODUCTION

1. On December 22, 2023 (the “**Filing Date**”), OEM Automotive Solutions Inc. (“**Solutions**”), OEM Automotive Cornwall Inc. (“**Cornwall**”), and OEM Automotive Holdings Inc. (“**Holdings**”, collectively with Solutions and Cornwall, the “**Companies**”) each filed a Notice of Intention to Make a Proposal (“**NOI(s)**”) pursuant to section 50.4 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”). BDO Canada Limited (“**BDO**”), a Licensed Insolvency Trustee, was named proposal trustee (the “**Proposal Trustee**”) in each of the Companies’ proposal proceedings (collectively, the “**Proposal Proceedings**”).
2. On January 11, 2024, the Proposal Trustee prepared a report (the “**First Report**”) to the Ontario Superior Court of Justice (the “**Court**”) in advance of the Companies’ motion (the “**Motion**”) to Justice Kaufman on January 17, 2024. A copy of the First Report without appendices is attached hereto as **Appendix “A”**.
3. On January 17, 2024, the Court issued an order (the “**Initial Order**”) to grant the following material relief:
 - (a) the administrative consolidation of the three NOI proceedings;
 - (b) extension of the time to file proposals pursuant to s 50.4(9) of the BIA, up to and including March 5, 2024;
 - (c) approval of the First Report of the Proposal Trustee dated January 11, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the First Report;
 - (d) approval of a Sale and Investment Solicitation Process (the “**SISP**”), to be administered by the Proposal Trustee;
 - (e) the enhancement of certain powers of the Proposal Trustee to facilitate the SISP and also to mitigate a dispute among shareholders;
 - (f) approval of interim financing, funded by the Companies’ senior secured lender, Bank of Montreal (“**BMO**”), along with an interim financing charge to secure the Companies’ obligations under the interim financing facility (“**Interim Financing Loan**”);
 - (g) approval of the Proposal Trustee’s engagement of Dealer Solutions North America Inc. (the “**Sales Agent**”) to assist with the implementation of the SISP;
 - (h) an administrative charge to secure payment of the Proposal Trustee, Sales Agent, and other key insolvency professionals; and

- (i) a directors' charge to secure the Companies obligation to indemnify the directors and officers for post-filing liabilities that may arise.

A copy of the Initial Order and its endorsement is attached hereto as **Appendix "B"** and **Appendix "C"** respectively.

4. On February 21, 2024, the Proposal Trustee prepared a report (the **"Second Report"**) to the Court in advance of the Companies' motion (the **"Motion"**) to Justice Bell on February 27, 2024. A copy of the Second Report without appendices is attached hereto as **Appendix "D"**.
5. On February 27, 2024, the Court issued an order (the **"Second Order"**) to grant the following material relief:
 - (a) extension of the time to file proposals pursuant to s 50.4(9) of the BIA, up to and including April 14, 2024;
 - (b) approval of the Second Report of the Proposal Trustee dated February 21, 2024, and the actions, activities and conduct of the Proposal Trustee, as described in the Second Report; and
 - (c) approval of the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Second Report and the fee affidavits appended to the Second Report.

A copy of the Second Order and its endorsement is attached hereto as **Appendix "E"** and **Appendix "F"** respectively.

6. Given the Proposal Trustee's enhanced powers granted in the Initial Order with regards to the SISP, and the power to "exercise any rights of the Companies", this motion and the relief being sought is brought forward by the Proposal Trustee and its counsel. As such, this motion will not be relying on an affidavit of the Companies (Ms. Caroline Bourret) in support of the relief sought in the proposed orders. Notwithstanding, the Proposal Trustee understands that the Companies support the relief herein and that Companies' counsel will be attending this motion.

PURPOSE

7. The purpose of this third report of the Proposal Trustee (the **"Third Report"**) is to:
 - (a) provide this Court with certain information pertaining to the Proposal Proceedings, including:
 - (i) an update on the Companies' operations since the date of the Second Report;

- (ii) an update on the Proposal Trustee's activities since the Second Report;
 - (iii) provide critical information and analysis related to the proposed Transaction (defined herein) including the Sale Agreement (defined herein) entered into between the Proposal Trustee, as vendor, and Mark Motors of Ottawa (1987) Limited ("**Mark Motors**") and **Mrak Holdings Inc., as purchasers**, and vesting the business assets in Mark Motors (the "**Dealership Purchaser**") and the real property in Mrak Holdings Inc. (the "**Real Estate Purchaser**", and together with the Dealership Purchaser, the "**Purchasers**") and the steps taken to get to this transaction, including:
 - I. the results of the SISP undertaken by the Proposal Trustee and Sales Agent to affect a sale of the Companies' assets;
 - II. provide information regarding the Transaction, including the agreement of purchase and sale between the Proposal Trustee, as vendor and the Purchasers dated March 27, 2024 (the "**Sale Agreement**"); and
 - III. the Proposal Trustee's recommendations with respect to the Transaction.
 - (iv) the Companies' actual cash flow results for the 13-weeks ended March 24, 2024, versus the same budgeted period as outlined in the Companies' cash flow forecasts for the period December 22, 2023, to April 14, 2024 (the "**Cash Flow Period**"), separately for each of the Companies (the "**Cash Flow Forecasts**") projections and the Proposal Trustee's comments regarding the variances. Copies of the Cash Flow Forecasts are attached hereto as **Appendix "G"**;
 - (v) an overview of the Companies' 9-week cash flow forecasts, for the period March 25, 2024, to May 26, 2024 (the "**Revised Cash Flow Period**"), separately for each of the Companies (the "**Revised Cash Flow Forecasts**") projections and the Proposal Trustee's comments regarding the reasonableness thereof. Copies of the Revised Cash Flow Forecasts are attached hereto as **Appendix "H"**; and
 - (vi) fees and disbursements of the Proposal Trustee and its counsel.
- (b) The Proposal Trustee is also requesting the following relief from the Court:

- (i) approving this Third Report and the Confidential Supplementary Report (defined herein), including the actions and activities of the Proposal Trustee set out herein;
 - (ii) approving the Sale Agreement, and authorizing and directing the Proposal Trustee to execute such documents and take such additional steps as are necessary to complete the Transaction;
 - (iii) upon completion of the Transaction (as evidenced by the Proposal Trustee filing a certificate certifying the same), vesting the Purchased Assets (as defined in the Sale Agreement), free and clear of all liens, charges, security interests and other encumbrances (other than such permitted encumbrances as may be described in the order) in the respective Purchasers; and
 - (iv) sealing the Confidential Supplementary Report (herein defined).
8. The Proposal Trustee has also prepared and will file with the Court, subject to a request for Sealing Order, a confidential supplementary report dated March 27, 2024 (the “**Confidential Supplementary Report**”), which should be read by the Court in conjunction with this Third Report and which will assist the Court in considering the relief being sought by the Proposal Trustee herein.
9. All materials filed with the Court in these Proposal Proceedings are accessible on the Proposal Trustee’s websites at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/oem-automotive-solutions-inc> (the “**Proposal Trustee’s Websites**”).

TERMS OF REFERENCE

10. In preparing this Third Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Companies, discussions with management of the Companies (“**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in the First Report and Third Report in respect of the Cash Flow Forecasts and Revised Cash Flow Forecasts, respectively:
- (a) the Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially

comply with Generally Accepted Assurance Standards (“GAAS”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and

(b) some of the Information referred to in this Third Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.

11. Future oriented financial information referred to in this Third Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variation could be significant.
12. Unless otherwise indicated, the Proposal Trustee’s understanding of factual matters expressed in this Third Report concerning the Companies and their business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
13. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

THE COMPANIES’ OPERATIONS

14. Since the Second Report, the Management of the Companies have focused on stabilizing the operations. Management, with the assistance of the Proposal Trustee, has engaged in discussions with various stakeholders, suppliers, customers, and employees to minimize disruption to the operations and reduce conflicts. As of the date of this Third Report, the Companies have maintained their business operations without significant disruption or issues.

PROPOSAL TRUSTEE’S ACTIVITIES

15. Since the date of the Second Report, the Proposal Trustee has been engaged in the following activities:
 - (a) attended the Companies’ second motion, which occurred on February 27, 2024;
 - (b) uploaded all court materials and certain other relevant documents, including the SISP update, to the Proposal Trustee’s Website;
 - (c) engaged with its legal counsel, Fogler, Rubinoff LLP (“Fogler”), regarding matters related to these Proposal Proceedings and SISP;

- (d) monitored the Companies' receipts and disbursements on a weekly basis;
- (e) participated in various calls with the Companies' external accounting/finance consultants regarding the status of the Companies' books and records;
- (f) assisted the Companies in various human resource matters and addressed other employee questions regarding the Proposal Proceedings;
- (g) continued to monitor the Companies' vehicle sales and repayments to ensure vehicle proceeds were remitted to BMO in accordance with the terms of the Interim Financing Loan;
- (h) multiple follow-ups with Management regarding an employee vehicle purchase;
- (i) assistance to the Companies with stakeholder communications, including responding to calls, e-mails, and letters received from creditors and other parties in an effort to maintain supplier relationships and minimize service disruptions;
- (j) participated in and facilitated various discussions with Volkswagen Canada ("VW") and its legal counsel;
- (k) corresponded with shareholders and/or their respective legal counsel;
- (l) reviewed the Companies' actual cash receipts and disbursements and variances to budget for the same time period as outlined in the Cash Flow Forecasts;
- (m) assisted the Companies in the preparation of the Revised Cash Flow Projections;
- (n) assessed the reasonableness of the Revised Cash Flow Projections;
- (o) various correspondence with BMO regarding the bi-weekly reporting as outlined in the Interim Financing Loan term sheet;
- (p) assisted the Companies with interim funding requests;
- (q) review of the shareholder's security position and discussion with respective counsel regarding the same;
- (r) assisted in the execution of the SISP, including:
 - (i) supervised and assisted with activities related to the SISP;
 - (ii) updated the virtual data room ("VDR") with financial and operational information to aid potential purchasers in their due diligence process;
 - (iii) reviewed the expression of interest ("EOI(s)") received and provided a summary comparison of the same;

- (iv) worked with Fogler to draft the agreement of purchase and sale;
 - (v) drafted letter of intent (“**LOI(s)**”) bid sheet to help potential purchasers submit LOI;
 - (vi) various correspondence with the Sales Agent to address any due diligence questions and SISP inquiries potential purchasers had;
 - (vii) reviewed the LOIs received and provided a summary comparison of the same;
 - (viii) reviewed the potential purchaser’s mark up of the agreement of purchase and sale received with the respective LOI submissions;
 - (ix) various discussions with the Purchasers, Sales Agent and respective counsels regarding the Sale Agreement;
 - (x) initiated a new environmental assessment; and
 - (xi) provided updates to BMO regarding the SISP.
- (s) prepared Third Report and Confidential Supplementary Report; and
- (t) attended to other matters pertaining to the administration of these Proposal Proceedings.

16. The Proposal Trustee is requesting approval of this Third Report and the Confidential Supplementary Report and the activities of the Proposal Trustee described herein.

SALES PROCESS UPDATE

17. Immediately following the issuance of the Initial Order on January 17, 2024, which included the Court’s approval of the SISP, the Sales Agent, among other things, has:

- (a) canvased the market and prepared a list of potentially interested parties, including:
 - (i) posted the opportunity for a sale of, or investment in, all or part of the Companies’ property (the “**Opportunity**”) on its own website and Linked-In account;
 - (ii) emailed the Opportunity to over 4000+ dealers from its own database; and
 - (iii) included parties that had approached the Companies, Proposal Trustee, VW or the Sales Agent indicating an interest in the Opportunity.

- (b) prepared a process summary (the “**Teaser Letter**”) describing the Opportunity;
 - (c) prepared a confidential information memorandum (“**CIM**”) detailing the financial and operational information of the Companies;
 - (d) worked with the Proposal Trustee and Management to populate the VDR with financial and operational documents that may be required for the due diligence process; and
 - (e) sent the Teaser Letter and NDA to interested parties.
18. 63 parties were identified through the above marketing process (the “**Known Potential Bidders**”) as being possibly interested in the Companies’ business. Out of these Known Potential Bidders, 37 parties were actually interested, of which 32 parties signed NDAs and showed an active interest in participating in the SISP.
 19. Seven (7) of the Known Potential Bidders (the “**EOI Bidders**”) provided non-binding expression of interests on or before the February 29, 2024, the EOI bid date (“**EOI Bid Date**”). These EOIs were then assessed by the Proposal Trustee and Sales Agent, in consultation with BMO and shortly thereafter, on March 5, 2024, the EOI Bidders were notified if they had been selected to participate in the next phase of the SISP. Each of the EOI Bidders names and their respective dealer principals outlined in the EOIs were provided to Volkswagen Canada to get their input on the EOI Bidders ability to receive VW approval with regards to the new dealer agreement (the “**VW Approval**”).
 20. Four (4) of the EOI Bidders were selected to proceed to the next round of the SISP which required binding letters of intent to be received on or before March 15, 2024 (the “**LOI Bid Date**”). Additionally, each of the EOI Bidders were connected with VW to begin the VW Approval process so that the closing deadlines outlined in the SISP could be met.
 21. Three (3) of the EOI Bidders provided binding letters of interests (the “**LOI Bidders**”) on or before the LOI Bid Date. The LOI offers received and their associated valuations were significant, exceeding both the expectations of the Proposal Trustee and its Sales Agent. Actual sale proceeds will vary based on actual vehicle and parts inventory on-hand at close, and contained certain conditions primarily related to: environmental concerns related to the Companies’ real property assets, the requirement for the Companies’ assets to be free and clear of all encumbrances, the VW Approval, and other regulatory requirements (OMVIC, etc.). These LOIs were then assessed by the Proposal Trustee and Sales Agent, in consultation with BMO and shortly thereafter, on March 19, 2024, the LOI Bidders were notified if they had

the Successful Bid and as such had been chosen to be the Successful Party (both terms defined in the SISP). VW was also consulted with regards to the LOI Bidders.

22. The Proposal Trustee considered the LOIs that had been submitted, taking into consideration several factors, including: (a) the purchase price (b) evidence of the purchaser's ability to finance the Transaction; (c) conditions to closing the Transaction; (d) the provision of a substantial deposit; (e) the appraisals; and (f) VW support of the Successful Party.
23. After consideration of the LOIs and in consultation with the Sales Agent, BMO and VW, Mark Motors was identified as the Successful Party. As required by the SISP, the Successful Party provided 10% of the estimated purchase price as a deposit to the Proposal Trustee on March 22, 2024 (the "**Deposit**").
24. To assist with the environmental concerns and finalizing the Sale Agreement, on March 12, 2024, the Proposal Trustee engaged Pinchin Ltd. to prepare a remediation option evaluation and cost estimate letter (the "**Pinchin Cost Estimate Letter**") to assist in quantifying a potential purchase price adjustment based on the results of this aforementioned analysis. Pinchin had previously provided Phase I and Phase II environmental reports to the Companies in 2018 (the "**Existing Phase I and Phase II Environmental Reports**"), both of which were included in the VDR (including other environmental reports related to the Companies' real estate assets).

THE PROPOSED TRANSACTION

25. The Sale Agreement contains information that could prejudice the Companies in a future sale process in the event that the Transaction does not close. As such, the Sale Agreement attached hereto as **Appendix "I"** has been redacted. A copy of the un-redacted Sale Agreement will be included in the Confidential Supplementary Report.
26. Capitalized terms used in this section that are not defined shall have the meanings as defined in the Sale Agreement.
27. Pursuant to the Sale Agreement, the respective Purchasers will acquire the respective Purchased Assets as of the Closing Date (anticipated to be April 30, 2024).
28. In particular, the cash purchase price (the "**Purchase Price**") is subject to certain verifications including vehicle inventory, parts inventory, third-party warranty amounts, and a \$200,000 purchase price adjustment to cover the future cost of environmental remediation based on the Existing Phase I and Phase II Environmental Reports and the anticipated Pinchin Cost Estimate Letter. All of the right, title, and interest of the Companies in the Real Property shall vest in the Real Estate Purchaser and the remaining or other business assets of the

Companies, including but not limited to: i) all New Vehicles, Deferred New Vehicles and Demonstrator Vehicles inventory; ii) all Used Vehicles inventory; iii) all Parts & Accessories inventory; iv) Customer Contracts; v) the Equipment; vi) Warranty Rights; and vii) Goodwill (the “**Business Assets**”) shall vest in the Dealership Purchaser (collectively, the Business Assets and the Real Property are the “**Purchased Assets**”). Notwithstanding anything else in the Sale Agreement, the Purchased Assets shall not include the Excluded Assets (including cash, Work-In-Progress, Accounts Receivable, and the Litigation Claim).

29. Other than routine purchase price adjustments for actual vehicle inventory and parts inventory counts at or around the Closing Date, the only material outstanding item remains the environmental remediation cost estimate which will be based upon the Existing Phase I and Phase II Environmental Reports and the anticipated Pinchin Cost Estimate Letter. This letter is expected to be received over the next 3-4 weeks and per the Sale Agreement, a Purchase Price credit of \$200,000 has been provided to the Purchaser to cover future remediation costs based on the Existing Phase I and Phase II Environmental Reports and the anticipated Pinchin Cost Estimate Letter.
30. The Sale Agreement provides for certain conditions precedent to closing in favour of the Purchasers, including a requirement that the Court have granted an order providing for:
 - (a) approval of the Sale Agreement and completion of same by the Proposal Trustee;
 - (b) the vesting of the respective Purchased Assets in the respective Purchasers, free and clear of any encumbrances;
 - (c) such other provisions as reasonably requested by the Purchasers or that would customarily be contained in an approval and vesting order granted by the Court (together with 30 a) and 30 b), the “**Approval and Vesting Order**”);
 - (d) the approval of VW with regards to the new dealer agreement; and
 - (e) Ontario Motor Vehicle Industry Council (“**OMVIC**”) shall have approved the application for registration of the Dealership Purchaser.
31. It is also anticipated that the Dealership Purchaser will offer employment on similar or comparable terms to the majority of the Companies’ employees.

Basis for Proposal Trustee’s Recommendation

32. The Proposal Trustee is satisfied that the SISP was one with integrity and was a commercially reasonable, fair and open process developed for the purpose of identifying the best offer available (including price and other factors), as:

- (a) the direct-contact marketing method of the SISP was sufficient to attract the interest of reasonable buyers and investors;
 - (b) the timeframe over which the Companies and its assets were exposed to the market and the deadlines imposed within the SISP were sufficient to provide interested buyers and investors an opportunity to participate in the process;
 - (c) the affairs of the Companies were adequately released so that buyers and investors could make informed decisions regarding the assets available; and
 - (d) BMO and VW were supportive of the process and were consulted regarding offers submitted as part of the SISP.
33. The SISP was developed and implemented in a manner consistent with Court-supervised sale processes in all material regards.
34. Given the on-going monthly operating losses and the costs associated with administering the Proposal Proceedings, time is of the essence in respect of a value-maximizing sale transaction for the Companies' creditors.
35. If the Transaction closes, the Proposal Trustee expects that the Dealership Purchaser will keep a majority of the Companies' current employees, the business will continue as a going concern and significant funds from the net sale proceeds will be available for distributions to BMO and other creditors. Accordingly, the Transaction is favourable to the balance of Companies' stakeholders (i.e., employees, creditors, suppliers, BMO, and local community that benefit from an on-going business). The Proposal Trustee is also of the opinion that the Transaction is more beneficial to the Companies' creditors and other stakeholders than a sale in a bankruptcy scenario.

CASH FLOW PROJECTIONS

36. The Proposal Trustee has reviewed the actual cash flow from operations for the thirteen-week period ending March 24, 2024, through monitoring the banking activities of the Companies.
37. The Companies' actual cash flow from operations for the thirteen-week period ending March 24, 2024, exceeded the corresponding Cash Flow Forecasts amounts for that same period by approximately \$310,817.
- (a) This positive variance is largely due to:
 - (i) approximately \$574,889 in collections from higher vehicle sales (of this amount, approximately \$118,141 of proceeds from the sale of four (4)

vehicles, will be used to repay the corresponding floor line financing facilities during the week of March 25, 2024);

- (ii) delayed payment of floor plan curtailments of approximately \$56,623 and professional fees of approximately \$20,429, both of which are timing differences expected to reverse in the coming weeks; and
- (iii) parts and service sales of approximately \$41,451.

(b) The positive variance is offset by:

- (i) approximately \$94,638 higher disbursements for lien payouts on vehicle trade-ins;
- (ii) approximately \$112,883 used vehicle purchases; and
- (iii) approximately \$59,252 in parts purchases.

38. A summary of the variance analysis regarding the same are attached hereto as **Appendix “J”**. Consistent with the Cash Flow Forecasts, \$425,000 (of a facility total of \$500,000) has been advanced to the Companies from the Interim Financing Loan to date.

- (a) The Companies made a \$3,197.18 payment to Tire Discounter Group related to amounts owing prior to the Filing Date. The Proposal Trustee was advised of this payment prior to it being made; however, the Proposal Trustee advised Management that due to the stay of proceedings that this payment should not be made.

39. The Revised Cash Flows indicate that the Companies will have sufficient liquidity to get to May 26, 2024, given the on-going support of BMO (remaining funds to be drawn from the Interim Financing Loan is \$75,000), the Deposit received and the remaining sale proceeds from the Transaction which is anticipated to close no later than April 30, 2024.

40. Based on the Proposal Trustee’s review of the Revised Cash Flows, there were no material assumptions which seem unreasonable in the present circumstances.

APPROVAL OF THE PROPOSAL TRUSTEE’S FEES AND DISBURSEMENTS

41. The Proposal Trustee and its legal counsel, Fogler, have been paid their fees and disbursements at their standard rates and charges by the Companies from time to time, as part of the costs of the Proposal Proceedings.

42. The Proposal Trustee and Fogler have maintained records of their professional time and costs. The Proposal Trustee now requests approval of its interim fees and disbursements for the

period from January 20, 2024 to March 22, 2024, and the interim fees and disbursements for Fogler for the period from February 7, 2024 to March 25, 2024.

43. The total interim fees and disbursements of the Proposal Trustee for the period of January 20, 2024 to March 22, 2024 total \$205,186, including fees in the amount of \$181,581, and HST in the amount of \$23,605, as more particularly described in the affidavit of Clark Lonergan sworn March 27, 2024 (the “**Lonergan Fee Affidavit**”), a copy of which is attached hereto as **Appendix “K”**.
44. The total interim fees and disbursements of Fogler principally from, February 7, 2024 to March 25, 2024, total \$57,648.05, including fees in the amount of \$50,552.00, disbursements in the amount of \$463.97, and HST in the amount of \$6,632.08, as more particularly described in the affidavit of Scott Venton sworn March 25, 2024 (the “**Venton Fee Affidavit**”), a copy of which is attached hereto as **Appendix “L”**.
45. The Proposal Trustee respectfully submits that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with Proposal Proceedings. Accordingly, the Proposal Trustee respectfully requests the approval of the fees and disbursements of the Proposal Trustee and that of its counsel, as set out in this Third Report.

THE RELIEF AND ORDER BEING SOUGHT BY THE PROPSAL TRUSTEE

Proposed Stay Extension

46. The current stay of proceedings will expire on April 14, 2024 (the “**Stay Period**”).
47. The Companies seek an extension of time to file a proposal for an additional approximate 45 days up to and including May 29, 2024 (“**Proposed Stay Extension**”). The Proposed Stay Extension should continue to permit the Proposal Trustee and its Sales Agent to complete the SISP. Without the Proposed Stay Extension, the Companies will not be in a position to carry out the SISP or, if deemed advantageous, make viable proposals to their creditors and will become bankrupt to the detriment of their stakeholders.
48. It is the Proposal Trustee’s view, based on the Revised Cash Flow Forecasts, that the Companies will have sufficient liquidity to complete the SISP and to satisfy post filing obligations as they come due during the Proposed Stay Extension.
49. Based on the information presently available, the Proposal Trustee believes that the Companies’ creditors will not be materially prejudiced by the Proposed Stay Extension. Furthermore, the Proposal Trustee is not aware of any creditor who opposes the requested extension of the Stay Period.

CONCLUSION AND RECOMMENDATIONS

50. The Proposal Trustee confirms that the Companies have acted and continue to act in good faith and with due diligence.
51. For the reasons stated in this Third Report, the Proposal Trustee supports the relief sought in connection with the April 3, 2024, motion. The Proposal Trustee respectfully submits to the Court this, its Third Report and Confidential Supplementary Report.
52. We understand that the Companies are in support of the relief sought in connection with the April 3, 2024, motion as well.

All of which is respectfully submitted this 27th day of March, 2024.

BDO CANADA LIMITED, in its capacity
as Proposal Trustee of OEM Automotive
Solutions Inc., OEM Automotive Cornwall Inc.,
and OEM Automotive Holdings Inc., and not in
its corporate or personal capacity.



Clark Lonergan, CA, CPA, CIRP, LIT
Partner/Senior Vice President

Fourth Report of the Proposal Trustee
Appendix “H”

District of Ontario
Division No. 12 - Ottawa
Court File No. BK-33-03025642
Estate No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS
AMENDED
AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

CONFIDENTIAL SUPPLEMENTARY REPORT TO THE THIRD REPORT OF THE PROPOSAL TRUSTEE
March 27, 2024

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Confidential Appendix J - LOI Summary

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INTRODUCTION

1. This report (the “**Confidential Supplementary Report**”) is a supplement to the Third Report of the Proposal Trustee dated March 27, 2024 (the “**Third Report**”) wherein BDO Canada Limited (“**BDO**”), a Licensed Insolvency Trustee, was named proposal trustee (the “**Proposal Trustee**”) in each of the Companies’ proposal proceedings (collectively, the “**Proposal Proceedings**”).
2. On December 22, 2023 (the “**Filing Date**”), OEM Automotive Solutions Inc. (“**Solutions**”), OEM Automotive Cornwall Inc. (“**Cornwall**”), and OEM Automotive Holdings Inc. (“**Holdings**”, collectively with Solutions and Cornwall, the “**Companies**”) each filed a Notice of Intention to Make a Proposal (“**NOI(s)**”) pursuant to section 50.4 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”).
3. Capitalized terms used in this Confidential Supplementary Report that are not defined shall have the meanings as defined in the Third Report and/or Sale Agreement.

PURPOSE

4. The purpose of this Confidential Supplementary Report of the Proposal Trustee is to provide the Court with further information pertaining to the SISP, the Sale Agreement and the Transaction outlined in the Third Report, but which involves sensitive information which is being requested to be sealed by the Court.

SALES PROCESS

5. In the Third Report, the Proposal Trustee recommended that the Court approve the Transaction pursuant to the Sale Agreement on the basis that it is the best course of action to maximize the realizations on the Companies’ assets and beneficial for the balance of stakeholders.
6. The Proposal Trustee is satisfied that the SISP was a commercially reasonable, fair, and open process developed for the purpose of identifying the best offer available (including price and other factors) and that it was run with integrity and due care, as:
 - (a) A copy of the Sales Process Letter provided to the Known Potential Bidders outlined the process, timeline and conditions in advance of due diligence. A copy of this letter is attached hereto as **Confidential Appendix “A”**.
 - (b) the direct-contact marketing method of the SISP was sufficient to attract the interest of reasonable buyers and investors;

- (i) 4000+ dealers from the Sales Agent's database.
 - (ii) 63 parties were identified through the above marketing process (the **"Known Potential Bidders"**) and out of these Known Potential Bidders, 37 parties were interested, 32 parties signed non-disclosure agreements (**"NDA(s)"**) and showed an active interest in participating in the SISP.
 - (c) the timeframe over which the Companies and their assets were exposed to the market and the deadlines imposed within the SISP was sufficient to provide interested buyers and investors an opportunity to participate in the process, as:
 - (i) A five-week marketing process was undertaken which culminated with the requirement for interested parties to submit expressions of interest (**"EOI(s)"**); and
 - (ii) Two weeks was provided for further due diligence and the conversion of EOIs to binding letters of intent (**"LOIs"**) such that LOI's were due seven-weeks after the SISP was initiated on Monday January 29, 2024.
 - (d) Information on the affairs of the Companies were adequately released so that buyers and investors could make informed decisions regarding the assets available; and
 - (i) a virtual data room (**"VDR"**) was set up by the Proposal Trustee and all who signed NDA's were provided access to a significant amount of financial and operational information related to the Companies.
 - (e) The Bank of Montreal (**"BMO"**) and Volkswagen Canada (**"VW"**) were supportive of the process and were consulted regarding offers submitted as part of the SISP.
7. The SISP was developed and implemented in a manner consistent with other Court-supervised sale processes in all material ways.
 8. Further details regarding the seven (7) of the Known Potential Bidders (the **"EOI Bidders"**) who provided non-binding expression of interests on or before the EOI bid date (**"EOI Bid Date"**) of February 29, 2024 is attached as an EOI summary hereto as Confidential **Appendix "B"**. EOI values ranged from approximately \$7.1 million to \$9.2 million, which the Proposal Trustee is of the view was fair and reasonable value. Each of the EOIs is attached hereto as **Confidential Appendix "C"** to **Confidential Appendix "I"** respectively.
 9. The process to select EOIs was as follows:

- (a) Based on input from the Sales Agent and VW it was determined that two (2) of the EOI Bidders, S.A.S.S Auto Group (“**SASS**”) and Toronto Auto Group (“**TAG**”) were primarily used car dealers and as such would not likely qualify for VW approval required to execute the prerequisite dealer agreement with VW (the “**VW Approval**”);
 - (b) The Ercole (Nino) & Renato De Cubellis group (“**De Cubellis**”) was also eliminated by the Proposal Trustee due to it being the lowest EOI offer received;
 - (c) SASS, TAG and De Cubellis were informed by the Proposal Trustee on Tuesday March 5, 2024, that they would not be moving forward in the SISP process; and
 - (d) The remaining four (4) parties, Miller Hughes Ford Lincoln (“**Miller**”), Mark Motors Group (“**Mark Motors**”), Stephen Eastman (“**Eastman**”), and Luno Automotive Inc. (“**Luno**”, together with Miller, Mark Motors and Eastman, the “**LOI Bidder(s)**”), were notified by the Proposal Trustee on the same day that they would be proceeding to the next phase of the SISP, the binding letter of intent (“**LOI(s)**”).
10. Further due diligence was undertaken by the LOI Bidders during the period from March 5, 2024, to March 15, 2024 (the “**LOI Bid Deadline**”), at which time three (3) of the four (4) LOI Bidders submitted a binding LOI and marked up copy of the purchase and sale agreement contained in the VDR.
- (a) Prior to the LOI Bid Deadline, Luno notified the Sales Agent that they would not be continuing in the SISP and as such would not be submitting a LOI.
11. On the LOI Bid Deadline, the Proposal Trustee received LOIs from Miller, Mark Motors and Eastman ranging from \$7.2 million to \$9.2 million which are summarized hereto in **Confidential Appendix “J”**. Additionally, each of the LOIs is attached hereto as **Confidential Appendix “K”** to **Confidential Appendix “M”** respectively.
12. The top two (2) LOI offers received from Miller and Mark Motors were of the same value and both acceptable purchasers for the Proposal Trustee and BMO; however, VW had a clear preference for Mark Motors given that they already owned and operated both Porsche and Audi brands (both brands within the VW ownership group). This familiarity with VW would make the VW Approval process much quicker and allow for the April 30, 2024, outside close date to be met. The VW Approval was a condition of all LOI offers received.

THE PROPOSED TRANSACTION

13. The Proposal Trustee’s view is that the Transaction contemplated therein represents the highest and best possible outcome for the Companies’ stakeholders, taking into consideration

a number of factors, including: (i) the approximately \$9.2 million offer to purchase the Companies' assets represents the highest offer received in a SISP with a significant level of market interest as evidenced by the SISP results detailed above; (ii) VW's support for the Purchaser translating into the Transaction having the highest likelihood of the required VW Approval; (iii) the conditions to closing the Transaction are fair and reasonable; and (iv) the payment by the Purchaser of a substantial deposit. A copy of the unredacted Sale Agreement is attached hereto as **Confidential Appendix "N"**.

14. The Sale Agreement allows for the purchase of substantially all the assets of the Companies, with the exception of the Excluded Assets, on an "as is, where is" basis with no representations or warranties from the Companies or Proposal Trustee with respect to the Companies' assets as outlined below:

Sale Agreement Summary	
Bidding Party	Mark Motors Group
Name of Bidder	Michael Mrak
Dealer Principal(s)	Michael Mrak
Land & Building (Note 1)	\$ 3,400,000
New Vehicle Inventory (Note 2)	\$ 1,990,910
Used Vehicle Inventory (Note 2)	\$ 436,386
Parts Inventory (Note 2)	\$ 275,000
FF&E	\$ -
Receivables (Note 3)	\$ 250,000
Goodwill	\$ 2,800,000
Total	\$ 9,152,296

- (a) Note 1: Per the Sale Agreement, the environmental issue will result in a Purchase Price credit of \$200,000 applied to the \$3.4 million offer to cover future remediation costs based on the anticipated Pinchin Cost Estimate Letter.

(i) The value ascribed to the Companies' real property assets by the Purchaser is consistent with the real estate appraisal of Cushman & Wakefield ("**Cushman**") dated February 2, 2024 (the "**Appraisal**"). The Appraisal was commissioned by the Proposal Trustee and is attached hereto as **Confidential Appendix "O"**.

(ii) All LOI Bidders were provided with a copy of the Appraisal, after signing a non-reliance letter with the Proposal Trustee/Cushman, to assist in preparing their binding LOI offers.

- (b) Note 2: routine purchase price adjustments for actual vehicle inventory and parts inventory based on physical counts at or around the Closing Date.

(c) Note 3: subject to third-party verified warranty amounts with VW.

15. The Purchase Price is to be satisfied as follows:

- (a) The Purchaser paid the deposit of \$862,730 (the “**Deposit**”) on March 22, 2024 (approximately 10% of the anticipated Purchase price) and is being held in the Proposal Trustee’s general trust bank account; and
- (b) Subject to the purchase price adjustments noted above, at Closing, the Purchaser will pay the balance of the Purchase Price less the Deposit.

16. The Sale Agreement provides for certain conditions precedent to closing in favour of Mark Motors, including a requirement that the Court have granted an order providing for:

- (a) approval of the Sale Agreement and completion of same by the Proposal Trustee;
- (b) the vesting of the Purchased Assets in Mark Motors (the Business Assets) and in Mrak Holdings Inc. (the Real Property), free and clear of any encumbrances;
- (c) such other provisions as reasonably requested by Mark Motors or that would customarily be contained in an approval and vesting order granted by the Court (the “**Approval and Vesting Order**”);
- (d) the approval of VW with regards to the new dealer agreement; and
- (e) OMVIC shall have approved the application for registration of the Dealership Purchaser.

17. It is also anticipated that the Purchaser will offer employment on similar or comparable terms to the majority of the Companies’ employees and that this Transaction will allow for the going concern sale of the Cornwall VW dealership for the benefit of the local community and the VW brand.

**BDO CANADA LIMITED, in its capacity
as Proposal Trustee of OEM Automotive
Solutions Inc., OEM Automotive Cornwall Inc.,
and OEM Automotive Holdings Inc., and not in
its corporate or personal capacity.**



**Clark Lonergan, CA, CPA, CIRP, LIT
Partner/Senior Vice President**

Fourth Report of the Proposal Trustee

Appendix “I”

District of Ontario
 Division No. 12 - Ottawa
 Court File No. BK-33-03025642
 Bankruptcy Estate File No. 33-3025642



**ONTARIO
 SUPERIOR COURT OF JUSTICE
 (IN BANKRUPTCY & INSOLVENCY)**

THE HONOURABLE

)

WEDNESDAY, THE 3RD

JUSTICE KERSHMAN

)

DAY OF APRIL, 2024

IN THE MATTER OF THE BANKRUPTCY AND
 INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION
 TO MAKE A PROPOSAL OF OEM AUTOMOTIVE
 SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC.
 AND OEM AUTOMOTIVE HOLDINGS INC.

ANCILLARY ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as proposal trustee (in such capacity, the **"Proposal Trustee"**) of OEM Automotive Solutions Inc. (**"Solutions"**), OEM Automotive Cornwall Inc. (**"Cornwall"**) and OEM Automotive Holdings Inc. (**"Holdings"**, and collectively with Solutions and Cornwall, the **"Companies"**), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the **"BIA"**), for an ancillary order (this **"Order"**), among other things:

- (a) if necessary, abridging the time for service and filing of the notice of motion and the motion record or, in the alternative, dispensing with the same;
- (b) extending the time for the Companies to file proposals under section 50.4(9) of the BIA to and including May 29, 2024;

(c) approving the third report of the Proposal Trustee in the Companies' BIA proposal proceedings (collectively, the "**Proposal Proceedings**"), dated March 27, 2024 (the "**Third Report**"), and approving the activities of the Proposal Trustee described in the Third Report;

(d) approving the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report and the fee affidavits appended to the Third Report (the "**Fee Affidavits**"), and

(e) approving the sealing of certain confidential documents appended to the Proposal Trustee's Confidential Supplementary Report dated March 27, 2024 (the "**Confidential Supplementary Report**"),

was heard by this Honourable Court (the "**Court**") on this day by way of judicial video conference in Ottawa, Ontario.

ON READING the Third Report, the Confidential Supplementary Report and the Fee Affidavits of the Proposal Trustee and its counsel, and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Companies, counsel for the Bank of Montreal (as senior secured creditor and interim lender), counsel to and the other parties listed on the participant information form, no one else appearing although properly served as appears from the affidavit of Michelle Pham, sworn March 28, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing 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.

EXTENSION OF TIME

2. **THIS COURT ORDERS** that the time for the filing of proposals by the Companies is hereby extended in accordance with section 50.4(9) of the BIA up to and including May 29, 2024.

APPROVAL OF THIRD REPORT, ACTIONS & FEES

3. **THIS COURT ORDERS** that the Third Report and the actions, activities and conduct of the Proposal Trustee described therein be and are hereby approved; provided, however, that only the Proposal Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.


4. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report and the Fee Affidavits be and are hereby taxed and approved.

SEALING CONFIDENTIAL DOCUMENTS

5. **THIS COURT ORDERS** the sealing of the confidential documents appended to the Confidential Supplementary Report until completion of the Transaction described in the Third Report, or another transaction closes or further order of this Court.

GENERAL

6. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.



THE HONOURABLE JUSTICE
STANLEY J. KERSHMAN

THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM AUTOMOTIVE HOLDINGS INC.

Court File No. BK-33-03025642
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

Proceedings commenced at Ottawa

ANCILLARY ORDER

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Lawyers for BDO Canada Limited,
in its capacity as the Proposal Trustee

Fourth Report of the Proposal Trustee

Appendix “J”



District of Ontario
 Division No. 12 - Ottawa
 Court File No. BK-33-03025642
 Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

THE HONOURABLE)	WEDNESDAY, THE 3 rd
)	
JUSTICE KERSHMAN)	DAY OF APRIL, 2024

IN THE MATTER OF THE *BANKRUPTCY AND*
***INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM
AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of OEM Automotive Solutions Inc., OEM Automotive Cornwall Inc. and OEM Automotive Holdings Inc. (collectively, the “**Debtors**”), for an Order, *inter alia*, approving the sale transaction (the “**Transaction**”) that was selected by the Proposal Trustee under the sale and solicitation process (the “**SISP**”) granted by the Ontario Superior Court of Justice (In Bankruptcy and Insolvency) (the “**Court**”) on January 17, 2024 (the “**Sale Process Order**”), and as contemplated by an agreement of purchase and sale between the Proposal Trustee, as vendor, and Mark Motors of Ottawa (1987) Limited (“**Mark Motors**”) and Mrak Holdings Inc.

(“**Mrak Holdings**”), as purchasers, dated March 27, 2024 (the “**Sale Agreement**”), a final unredacted copy of which is attached to the Confidential Supplementary Report dated March 27, 2024 (the “**Confidential Supplementary Report**”) and a final redacted copy of which is attached to the third report of the Proposal Trustee dated March 27, 2024 (the “**Third Report**”), and vesting in Mark Motors the Debtors’ right, title and interest in and to the property described as the “**Purchased Assets**” (excluding the Real Property) in the Sale Agreement (the “**Business Assets**”), and vesting in Mrak Holdings the Debtors’ right, title and interest in and to the real property described as the “**Real Property**” in the Sale Agreement (the “**Real Property**”) (hereinafter, Mark Motors and Mrak Holdings are collectively referred to as the “**Purchaser**”, and the Business Assets and the Real Property are collectively referred to as the “**Purchased Assets**”), was heard this day by judicial videoconference.

ON READING the Third Report, the Confidential Supplementary Report and the appendices thereto, and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Companies, counsel for the Bank of Montreal and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Michelle Pham sworn March 28, 2024, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of this motion and the motion record of the Proposal Trustee is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved, and the execution of the Sale Agreement by the Proposal Trustee is hereby authorized and approved, with such minor amendments as the Proposal Trustee may deem necessary. The Debtors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Proposal Trustee's Certificate**"), all of the Debtors' right, title and interest in and to the Business Assets shall vest absolutely in Mark Motors and all of the Debtors' right, title and interest in and to the Real Property shall vest absolutely in Mrak Holdings, or such other Person(s) (as defined in the Sale Agreement) that the Purchaser may direct or designate, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Sale Process Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the

“Encumbrances”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “D”**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Stormont (No. 52) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter Mrak Holdings as the owner of the subject Real Property identified in **Schedule “B”** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule “C”** hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Proposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in

the Debtors' records pertaining to the Debtors' past and current employees, including personal information of those employees that will be employed by the Purchaser pursuant to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

7. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors,

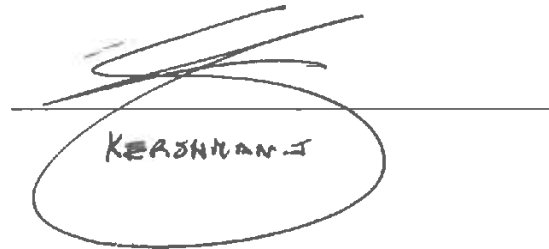
the vesting of the Business Assets in Mark Motors and the vesting of the Real Property in Mrak Holdings, or as it may direct, pursuant to this Order shall be binding on the Proposal Trustee and any other licensed insolvency trustee that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable

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federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **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 Proposal Trustee and its 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 Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



KESHAN J.

III. Pursuant to an Order of the Court dated April 3, 2024, the Court approved the agreement of purchase and sale between the Proposal Trustee, as vendor, pursuant to the Sale Process Order, and Mark Motors of Ottawa (1987) Limited ("**Mark Motors**") and Mrak Holdings Inc. ("**Mrak Holdings**"), as purchasers, dated March 27, 2024 (the "**Sale Agreement**"), and provided for the vesting in Mark Motors the Debtors' right, title and interest in and to the property described as the "Purchased Assets" (excluding the Real Property) in the Sale Agreement (the "**Business Assets**"), and vesting in Mrak Holdings the Debtors' right, title and interest in and to the real property described as the "Real Property" in the Sale Agreement (the "**Real Property**") (hereinafter, Mark Motors and Mrak Holdings are collectively referred to as the "**Purchaser**", and the Business Assets and the Real Property are collectively referred to as the "**Purchased Assets**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Proposal Trustee and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the Proposal Trustee.

IV. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Proposal Trustee and the Purchaser;

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3. The Transaction has been completed to the satisfaction of the Proposal Trustee; and
4. This Proposal Trustee's Certificate was delivered by the Proposal Trustee at _____ [TIME] on _____ [DATE].

BDO CANADA LIMITED, solely in its capacity
as the proposal trustee of the Debtors, and not in its
personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"**LEGAL DESCRIPTION**

Owned by OEM Automotive Cornwall Inc.

PIN 60180 - 0067 (LT)

PT LT 16 S/S SEVENTH ST PL CORNWALL PT 2 52R2252; CORNWALL

(municipally known as 628 Pitt Street, Cornwall, Ontario)

Owned by OEM Automotive Holdings Inc.

PIN 60180 - 0282 (LT)

PART LOT 16 SOUTH SIDE SEVENTH STREET PLAN CORNWALL, PARTS 1 AND 2,
52R4375; CITY OF CORNWALL

(municipally known as 632 Pitt Street, Cornwall, Ontario)

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM TITLE

(1) PIN 60180 - 0067 (LT) (municipally known as 628 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
ST109060	2019/11/12	Transfer	\$742,145	Macdonell Family Holdings Inc.	OEM Automotive Cornwall Inc.
ST109061	2019/11/12	Charge	\$560,000	OEM Automotive Cornwall Inc.	Bank of Montreal
ST109062	2019/11/12	Notice of Assignment of Rents General		OEM Automotive Cornwall Inc.	Bank of Montreal
ST109067	2019/11/12	Charge	\$1,000,000	OEM Automotive Cornwall Inc.	Macdonell, Glenn Joseph
ST149429	2024/01/19	Application to Register Court Order		Ontario Superior Court of Justice	BDO Canada Limited

(2) PIN 60180 - 0282 (LT) (municipally known as 632 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
ST109063	2019/11/12	Transfer	\$1,378,270	Macdonell, Michael Allan / Macdonell, Glenn Joseph	OEM Automotive Holdings Inc.
ST109064	2019/11/12	Charge	\$1,040,000	OEM Automotive Holdings Inc.	Bank of Montreal
ST109065	2019/11/12	Notice of Assignment of Rents General		OEM Automotive Holdings Inc.	Bank of Montreal
ST109066	2019/11/12	Charge	\$1,000,000	OEM Automotive Holdings Inc.	Macdonell, Glenn Joseph
ST149429	2024/01/19	Application to Register Court Order		Ontario Superior Court of Justice	BDO Canada Limited

SCHEDULE "D"
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS

(1) PIN 60180 - 0067 (LT) (municipally known as 628 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
PLCornwall	1847/10/01	Plan Subdivision			
52R2252	1984/08/22	Plan Reference			

(2) PIN 60180 - 0282 (LT) (municipally known as 632 Pitt Street, Cornwall, Ontario)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
52R4375	1991/09/10	Plan Reference			

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM AUTOMOTIVE HOLDINGS INC.

Court File No. BK-33-03025642

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)**

Proceedings commenced at Ottawa

APPROVAL AND VESTING ORDER

FOGLER, RUBINOFF LLP

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77 King Street West
Suite 3000, PO Box 95
Toronto, ON M5K 1G8

Vern W. DaRe (LSO# 32591E)

Tel: 416.941.8842

Fax: 416.941.8852

Email: vdare@foglers.com

Lawyers for the Proposal Trustee

Fourth Report of the Proposal Trustee
Appendix “K”

THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.

Court File No. BK-33-03025642
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)

Proceedings commenced at Ottawa

MOTION RECORD
(RETURNABLE APRIL 3, 2024)

FOGLER, RUBINOFF LLP

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Vern W. DaRe (LSO# 32591E)

Tel: 416.941.8842

Fax: 416.941.8852

Email: vdare@foglers.com

Lawyers for BDO Canada Limited,
in its capacity as the Proposal Trustee

April 3/24

Amended Order subject to change in para 5 is
approved as to form & content & will be signed.

Approval & Verbal order approved as to
form & content & signed.

By full power of ~~Zoom~~ via if

more than 1 hour.

K. K. K. K. K.

Fourth Report of the Proposal Trustee

Appendix “L”

IN THE MATTER OF THE PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC.
OF THE CITY OF CORNWALL
IN THE PROVINCE OF ONTARIO

STATEMENT OF PROJECTED CASH-FLOW
FOR THE PERIOD ENDING MAY 26TH, 2024

Week #		1	2	3	4	5	6	7	8	9	TOTAL
Week Ending		2024-03-31	2024-04-07	2024-04-14	2024-04-21	2024-04-28	2024-05-05	2024-05-12	2024-05-19	2024-05-26	
		Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	
Receipts											
	Notes										
New Vehicle Sales	1	72,000	108,000	108,000	108,000	108,000	36,000	-	-	-	540,000
Used Vehicle Sales	2	15,000	15,000	40,000	15,000	45,000	-	-	-	-	130,000
Other Revenue	3	-	5,000	-	-	-	-	-	-	-	5,000
Parts & Service Sales	4	40,000	40,000	40,000	40,000	40,000	20,000	-	-	-	220,000
To/(From) Intercompany	5	-	-	-	-	-	-	-	-	-	-
HST Collected	6	16,510	21,840	24,440	21,190	25,090	7,280	-	-	-	116,350
		143,510	189,840	212,440	184,190	218,090	63,280	-	-	-	1,011,350
Operating Disbursements											
Lien Payouts	7	(4,000)	-	-	-	(4,000)	-	-	-	-	(8,000)
Used Vehicle Purchases	8	-	-	-	-	-	-	-	-	-	-
Parts Purchases	9	(17,500)	(17,500)	(17,500)	(17,500)	(17,500)	(15,000)	-	-	-	(102,500)
Payroll (Including Taxes)	10	(56,636)	-	(50,000)	-	(50,000)	-	(50,000)	-	(25,000)	(231,636)
Employee Benefits	11	-	(7,500)	-	-	-	(7,500)	-	-	-	(15,000)
WSIB	12	-	-	(5,000)	-	-	-	-	-	-	(5,000)
Corporate Credit Card Repayment	13	-	-	-	(15,000)	-	-	-	-	-	(15,000)
Vendor Payments	14	(15,000)	-	-	-	(15,000)	-	-	-	-	(30,000)
Repairs and Maintenance CAPEX	15	-	-	-	-	(2,500)	-	-	-	-	(2,500)
Rent and Utilities - Property 1 OEM Automotive Cornwall Inc.	16	(998)	-	-	(6,266)	-	(998)	-	(6,266)	-	(14,527)
Rent and Utilities - Property 2 OEM Automotive holdings Inc.	17	-	-	-	(9,506)	-	-	-	(9,506)	-	(19,013)
Insurance Payments	18	-	-	-	-	-	(34,200)	-	-	-	(34,200)
HST Paid	19	(7,438)	(15,234)	(2,600)	(17,325)	(4,875)	(2,080)	(13,000)	(2,050)	-	(64,602)
HST Refund (Remittance)	20	-	2,008	-	-	(25,458)	-	-	-	(2,695)	(26,145)
Debt Service											
Floor Plan Payments To/From BMO	21	(118,141)	(85,880)	(128,820)	(128,820)	(128,820)	(128,820)	(42,940)	-	-	(762,241)
BMO Floor Plan Curtailments	22	-	(130,000)	-	-	-	-	-	-	-	(130,000)
BMO Floor Plan Interest	23	-	(22,000)	-	-	-	(22,000)	-	-	-	(44,000)
BMO Goodwill Loan (Interest)	24	(12,000)	-	-	-	(12,000)	-	-	-	-	(24,000)
Proposal Trustee & its Counsel's Fees	25	(17,139)	(89,681)	-	(75,000)	-	-	(75,000)	-	-	(256,820)
Restructuring Costs	26	(4,076)	-	-	(7,500)	-	-	(25,000)	-	-	(36,576)
Sales Agent Work Fees	27	-	(7,500)	-	-	-	-	-	-	-	(7,500)
DIP Facility Interest and fees	28	-	-	-	-	-	(25,000)	-	-	-	(25,000)
Contingency	29	(2,500)	(2,500)	(2,500)	(2,500)	(2,500)	-	-	-	-	(12,500)
Total Disbursements		(255,427)	(375,787)	(206,420)	(279,418)	(262,653)	(235,598)	(205,940)	(17,823)	(27,695)	(1,866,759)
Projected Weekly Cash Flow											
Cumulative Cash Flow		(111,917)	(185,947)	6,020	(95,228)	(44,563)	(172,318)	(205,940)	(17,823)	(27,695)	(855,409)
Cash Balance											
Opening Cash Position per Bank Statement		400,453	288,536	127,589	133,609	88,381	43,819	(128,499)	(334,439)	(352,262)	400,453
Projected Weekly Cash Flow		(111,917)	(185,947)	6,020	(95,228)	(44,563)	(172,318)	(205,940)	(17,823)	(27,695)	(855,409)
Funding from DIP Facility	30	-	25,000	-	50,000	-	-	-	-	-	75,000
Ending Cash Position		\$ 288,536	\$ 127,589	\$ 133,609	\$ 88,381	\$ 43,819	\$ (128,499)	\$ (334,439)	\$ (352,262)	\$ (379,956)	\$ (379,956)
		Note 31		Note 31		Note 31		Note 31		Note 31	

Note A. Notes to the Unaudited cash flow forecast of the Company

In preparing this cash flow forecast (the “Cash Flow Forecast”) the Company has relied upon unaudited financial information and the Company has not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the Company and additional information discussed below with respect to the requirements of a *Bankruptcy and Insolvency Act* (“BIA”) filing. Since the Cash Flow Forecast is based upon assumptions of future events and conditions that are not ascertainable, the actual results achieved during the period will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurances that any of the estimates, forecasts or projections will be realized.

Note A. Overview


The Cash Flow Forecast includes the receipts and disbursements of all of the Company during the Cash Flow Forecast period. The Company, with the assistance of BDO Canada Limited in its capacity as the proposal trustee of the Company (the “Trustee”) have prepared the Cash Flow Forecast based primarily on estimated disbursements related to the ongoing operations and to the BIA proceedings.



Caroline Bourret
General Manager

March 26th, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner/Senior Vice President

March 26th, 2024

Date

Notes/Assumptions

- 1 Estimated new vehicle sales considering the Company's sales forecasts, average MSRP of vehicles in inventory, vehicle trade-in values, current market conditions, and the cyclical sales cycle.
- 2 Estimated used vehicle sales considering the Company's sales forecast, sale of trade-in vehicles at auction, taking into account average inventory value, auction sale price, current market conditions, and the cyclical sales cycle. For trade-in vehicles, a two week delay in cash collection from auction is assumed from the trade-in date.
- 3 Other revenue consist of dealer rebates for seasonal promotions, PDI rebates, and new vehicle reserves on vehicle sales.
- 4 Amounts calculated based on historic weekly sales figures and sales mix. It is assumed that the Parts to Service Sales ratio is 2.5:1.5.
- 5 Intercompany transfers to cover for professional fees and other operating expenses paid on behalf of OEM Automotive Cornwall Inc. and OEM Automotive Holdings Inc.
- 6 Harmonized Sales Tax (HST) collected on receipts.
- 7 Assumed potential lien payout amounts on the forecasted trade-in vehicles, percentage of trade-in vehicles with liens, and an average lien amount.
- 8 Relates to used vehicle purchases.
- 9 Majority of parts purchases are billed by Volkswagen at the beginning of each week for the prior week, the forecasted amounts are in line with historical average gross margin on projected parts sales.
- 10 Payroll made up of salaried employee and hourly employee amounts. Employee payroll is administered bi-weekly through an external service provider (inclusive of taxes).
- 11 Continuation of employee benefit plan with the Company's current insurance provider.
- 12 WSIB premium to be paid on a quarterly basis, calculated based on 1.3% of payroll.
- 13 Amount relates to repayment to the Company's corporate credit cards with the Bank of Montreal, which is used to make purchases with vendors/suppliers on COD basis.
- 14 Payment of go-forward vendor payments, consistent with historic average monthly amount.
- 15 Repairs and maintenance amounts for minor repairs that are necessary to maintain the facility.
- 16 Includes monthly gas, electricity, water, and recurring rent payment for the premises located at 628 Pitt Street, Cornwall, ON paid to OEM Automotive Cornwall Inc.
- 17 Includes monthly gas, electricity, water, and recurring rent payment for the premises located at 632 Pitt Street, Cornwall, ON paid to OEM Automotive Holdings Inc.
- 18 Current insurance policy premiums are to be paid as scheduled.
- 19 Harmonized Sales Tax (HST) paid on disbursements.
- 20 Harmonized Sales Tax (HST) remittance paid monthly for previous month's net HST amounts.
- 21 Represents the net of principal repayment of floor line financing on new vehicles sold and/or new financing provided to purchase of new and used vehicles.
- 22 Vehicles that have been on the floor plan facility for 12 months may be carried for an additional 3 months, subject to monthly curtailments. Additionally new vehicles are subject to an HST curtailment amount after a minimum of 60 days after the vehicle is received. Amounts in Week 2 is for curtailment of both March and April 2024, as curtailments were delayed in March 2024 by Bank of Montreal to April 2024.
- 23 Estimated based on latest floor line principal balance using Bank of Montreal Prime Rate + 1% as stated its loan agreement.
- 24 Interest expense on the Goodwill loan facility from Bank of Montreal to finance part of the purchase of VW Cornwall. Principal repayments have been paused on this loan.
- 25 Costs of the Proposal Trustee and its counsel to the date of filing and thereafter.
- 26 Costs of the Company's and DIP lender's counsel to the date of filing and monthly amounts thereafter.
- 27 Estimated work fee for the Sales Agent related to the Court approved sale process.
- 28 Interest and fees related to DIP financing facility is due at maturity, which is expected to be April 30, 2024 per DIP financing agreement. At maturity, a commitment fee of 5% of maximum amount (\$500,000) will be due.
- 29 Contingency of \$2,500 per week, starting week 3, is assumed to cover unanticipated costs.
- 30 Relates to DIP financing from lender, up to a maximum amount of \$500,000. To date, \$425,000 have been drawn from the facility, with \$75,000 remaining available.
- 31 The anticipated closing date for the Court approved sale process is April 30, 2024 (the "Closing Date"). It is anticipated that all revenue will cease following the Closing Date, with only costs persisting thereafter. According to this Cash Flow Forecast, the remaining cash on hand and available DIP facility can support receipts and disbursements up to the Closing Date. After the Closing Date, proceeds from the sale process and the purchase deposit will be sufficient to cover disbursements. The Trustee is already in possession of the purchase deposit, which is sufficient to cover disbursements after the Closing Date.



Caroline Bourret
General Manager

March 26th, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner /Senior Vice President

March 26th, 2024

Date

IN THE MATTER OF THE PROPOSAL OF
OEM AUTOMOTIVE CORNWALL INC. (THE "COMPANY")
OF THE CITY OF CORNWALL
IN THE PROVINCE OF ONTARIO

STATEMENT OF PROJECTED CASH-FLOW
FOR THE PERIOD ENDING MAY 26TH, 2024

Week #		1	2	3	4	5	6	7	8	9	TOTAL
Week Ending		2024-03-31	2024-04-07	2024-04-14	2024-04-21	2024-04-28	2024-05-05	2024-05-12	2024-05-19	2024-05-26	
Receipts	Notes	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	
Rent	1	-	-	-	5,900	-	-	-	5,900	-	11,799
Utilities Collected	2	998	-	-	366	-	998	-	366	-	2,728
HST Collected	3	130	-	-	815	-	130	-	815	-	1,889
Total Receipts		1,128	-	-	7,080	-	1,128	-	7,080	-	16,416
Operating Disbursements											
Utilities Payments	4	(998)	-	-	(366)	-	(998)	-	(366)	-	(2,728)
Property Tax	5	(3,687)	-	-	-	(3,654)	-	-	-	-	(7,341)
From/ (To) Intercompany	6	-	-	-	-	-	-	-	-	-	-
HST Paid	7	(130)	-	-	(1,023)	-	(130)	-	(1,023)	-	(2,305)
HST Refund (Remittance)	8	-	-	-	4,000	-	-	-	-	-	4,000
Debt Service & Restructuring Costs											
Scheduled Principal & Interest Payment	9	(3,420)	-	-	-	(3,420)	-	-	-	-	(6,840)
Proposal Trustee & its Counsel's Fees	10	-	-	-	(7,500)	-	-	-	(7,500)	-	(15,000)
Restructuring Costs	11	-	-	-	-	-	-	-	-	-	-
Total Disbursements		(8,235)	-	-	(4,889)	(7,074)	(1,128)	-	(8,889)	-	(30,214)
Projected Weekly Cash Flow		(7,107)	-	-	2,192	(7,074)	-	-	(1,808)	-	(13,798)
Cumulative Cash Flow		(7,107)	(7,107)	(7,107)	(4,916)	(11,990)	(11,990)	(11,990)	(13,798)	(13,798)	
Cash Balance											
Opening Cash Position		13,917	6,809	6,809	6,809	9,001	1,927	1,927	1,927	119	13,917
Projected Weekly Cash Flow		(7,107)	-	-	2,192	(7,074)	-	-	(1,808)	-	(13,798)
Ending Cash Position		\$ 6,809	\$ 6,809	\$ 6,809	\$ 9,001	\$ 1,927	\$ 1,927	\$ 1,927	\$ 119	\$ 119	\$ 119

Note A. Notes to the Unaudited cash flow forecast of the Company

In preparing this cash flow forecast (the “Cash Flow Forecast”) the Company has relied upon unaudited financial information and the Company has not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the Company and additional information discussed below with respect to the requirements of a *Bankruptcy and Insolvency Act* (“BIA”) filing. Since the Cash Flow Forecast is based upon assumptions of future events and conditions that are not ascertainable, the actual results achieved during the period will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurances that any of the estimates, forecasts or projections will be realized.

Note A. Overview

The Cash Flow Forecast includes the receipts and disbursements of all of the Company during the Cash Flow Forecast period. The Company, with the assistance of BDO Canada Limited in its capacity as the proposal trustee of the Company (the “Trustee”) have prepared the Cash Flow Forecast based primarily on estimated disbursements related to the ongoing operations and to the BIA proceedings.



Caroline Bourret
General Manager

March 26th, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner/Senior Vice President

March 26th, 2024

Date

Notes/Assumptions

- 1 Monthly recurring rent payment collected from the operating company (OEM Automotive Solutions Inc.) for the premises located at 628 Pitt Street, Cornwall, ON.
- 2 Payment collected from the operating company (OEM Automotive Solutions Inc.) for gas, electricity and water costs.
- 3 Harmonized Sales Tax (HST) collected on receipts.
- 4 Payment paid on behalf of the operating company (OEM Automotive Solutions Inc.) for gas, electricity and water costs.
- 5 Based on current year's property tax statement.
- 6 Intercompany transfers to OEM Automotive Solutions to cover for professional fees and other operating expenses paid on behalf of OEM Automotive Cornwall Inc.
- 7 Harmonized Sales Tax (HST) paid on disbursements.
- 8 Harmonized Sales Tax (HST) refund (remittance) is paid quarterly. Q1 2024 HST is expected to be filed April 2024 (quarterly filer).
- 9 Debt service payments for mortgage.
- 10 Costs of the Proposal Trustee and its counsel to the date of filing and thereafter.
- 11 Costs of the Company's counsel to the date of filing and monthly amounts thereafter.



Caroline Bourret
General Manager

March 26th, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner/Senior Vice President

March 26th, 2024

Date

IN THE MATTER OF THE PROPOSAL OF
OEM AUTOMOTIVE HOLDINGS INC. (THE "COMPANY")
OF THE CITY OF CORNWALL
IN THE PROVINCE OF ONTARIO

STATEMENT OF PROJECTED CASH-FLOW
FOR THE PERIOD ENDING MAY 26TH, 2024

Week #		1	2	3	4	5	6	7	8	9	TOTAL
Week Ending		2024-03-31	2024-04-07	2024-04-14	2024-04-21	2024-04-28	2024-05-05	2024-05-12	2024-05-19	2024-05-26	
Receipts	Notes	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	
Rent	1	-	-	-	8,850	-	-	-	8,850	-	17,699
Utilities Collected	2	-	-	-	657	-	-	-	657	-	1,314
HST Collected	3	-	-	-	1,236	-	-	-	1,236	-	2,472
Total Receipts		-	-	-	10,742	-	-	-	10,742	-	21,485
Operating Disbursements											
Utilities Payments	4	-	-	-	(657)	-	-	-	(657)	-	(1,314)
Property Tax	5	(6,969)	-	-	-	(6,937)	-	-	-	-	(13,906)
From/(To) Intercompany	6	-	-	-	-	-	-	-	-	-	-
HST Paid	7	-	-	-	(215)	-	-	-	(1,255)	-	(1,471)
HST Refund (Remittance)	8	-	-	-	2,600	-	-	-	-	-	2,600
Debt Service & Restructuring Costs											
Scheduled Principal & Interest Payment	9	(6,352)	-	-	-	(6,352)	-	-	-	-	(12,703)
Proposal Trustee & its Counsel's Fees	10	-	-	-	(1,000)	-	-	-	(9,000)	-	(10,000)
Restructuring Costs	11	-	-	-	-	-	-	-	-	-	-
Total Disbursements		(13,321)	-	-	728	(13,289)	-	-	(10,912)	-	(36,794)
Projected Weekly Cash Flow		(13,321)	-	-	11,470	(13,289)	-	-	(170)	-	(15,309)
Cumulative Cash Flow		(13,321)	(13,321)	(13,321)	(1,851)	(15,139)	(15,139)	(15,139)	(15,309)	(15,309)	
Cash Balance											
Opening Cash Position		15,793	2,472	2,472	2,472	13,942	653	653	653	483	15,793
Projected Weekly Cash Flow		(13,321)	-	-	11,470	(13,289)	-	-	(170)	-	(15,309)
Ending Cash Position		\$ 2,472	\$ 2,472	\$ 2,472	\$ 13,942	\$ 653	\$ 653	\$ 653	\$ 483	\$ 483	\$ 483

Note A. Notes to the Unaudited cash flow forecast of the Company

In preparing this cash flow forecast (the “Cash Flow Forecast”) the Company has relied upon unaudited financial information and the Company has not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the Company and additional information discussed below with respect to the requirements of a *Bankruptcy and Insolvency Act* (“BIA”) filing. Since the Cash Flow Forecast is based upon assumptions of future events and conditions that are not ascertainable, the actual results achieved during the period will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurances that any of the estimates, forecasts or projections will be realized.

Note A. Overview

The Cash Flow Forecast includes the receipts and disbursements of all of the Company during the Cash Flow Forecast period. The Company, with the assistance of BDO Canada Limited in its capacity as the proposal trustee of the Company (the “Trustee”) have prepared the Cash Flow Forecast based primarily on estimated disbursements related to the ongoing operations and to the BIA proceedings.



Caroline Bourret
General Manager

March 26th, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner/Senior Vice President

March 26th, 2024

Date

Notes/Assumptions

- 1 Monthly recurring rent payment collected from the operating company (OEM Automotive Solutions Inc.) for premises located at 632 Pitt Street, Cornwall, ON.
- 2 Payment collected from the operating company (OEM Automotive Solutions Inc.) for gas, electricity and water costs.
- 3 Harmonized Sales Tax (HST) collected on receipts.
- 4 Payment paid on behalf of the operating company (OEM Automotive Solutions Inc.) for gas, electricity and water costs.
- 5 Based on current year's property tax statement.
- 6 Intercompany transfers to OEM Automotive Solutions to cover for professional fees and other operating expenses paid on behalf of OEM Automotive Holdings Inc.
- 7 Harmonized Sales Tax (HST) paid on disbursements.
- 8 Harmonized Sales Tax (HST) remittance is paid quarterly. Q1 2024 HST is expected to be filed April 2024 (quarterly filer).
- 9 Debt service payments for mortgage.
- 10 Costs of the Proposal Trustee and its counsel to the date of filing and thereafter.
- 11 Costs of the Company's counsel to the date of filing and monthly amounts thereafter.



Caroline Bourret
General Manager

March 26th, 2024
Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner /Senior Vice President

March 26th, 2024
Date

Fourth Report of the Proposal Trustee
Appendix “M”

IN THE MATTER OF THE PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC., AND OEM AUTOMOTIVE HOLDINGS INC.
OF THE CITY OF CORNWALL
IN THE PROVINCE OF ONTARIO

STATEMENT OF PROJECTED CASH-FLOW
FOR THE PERIOD ENDING JUNE 21ST, 2024

Week #		1	2	3	4	5	TOTAL
Week Ending		2024-05-26	2024-06-02	2024-06-09	2024-06-16	2024-06-21	
		Projected	Projected	Projected	Projected	Projected	
Receipts	Notes						
Asset Realization	1	67,500	84,933	12,000	50,000	24,000	238,433
HST Collected	2	8,775	11,041	1,560	6,500	3,120	30,996
		76,275	95,974	13,560	56,500	27,120	269,429
Operating Disbursements							
Payroll (Including Taxes)	3	(12,500)	-	(7,500)	-	(7,500)	(27,500)
Miscellaneous Vendor Payments	4	-	(7,500)	(7,500)	(5,000)	(5,000)	(25,000)
Contingency	5	(500)	(500)	(500)	(500)	(500)	(2,500)
HST Paid	6	(65)	(1,040)	(1,040)	(715)	(715)	(3,575)
HST Refund (Remittance)	7	-	-	-	-	-	-
Distributions							
DIP Repayment	8	(535,457)	-	-	-	-	(535,457)
Distribution to BMO (OEM Automotive Solutions)	9	-	(4,588,872)	-	-	-	(4,588,872)
Distribution to BMO (Cornwall & Holdings)	10	-	(1,678,254)	-	-	-	(1,678,254)
Distribution to Macdonell (Cornwall & Holdings)	11	-	(1,000,000)	-	-	-	(1,000,000)
Distribution to GrantCo (Cornwall & Holdings)	12	-	(98,450)	-	-	-	(98,450)
Proposal Trustee & its Counsel's Fees	13	-	-	-	-	-	-
Restructuring Costs	14	-	-	-	-	-	-
Trustee in Bankruptcy Retainer (no HST)	15	-	(50,000)	-	-	-	(50,000)
Total Disbursements		(548,522)	(7,424,615)	(16,540)	(6,215)	(13,715)	(8,009,607)
Projected Weekly Cash Flow		(472,247)	(7,328,641)	(2,980)	50,285	13,405	(7,740,178)
Cumulative Cash Flow		(472,247)	(7,800,888)	(7,803,868)	(7,753,583)	(7,740,178)	
Cash Balance							
Opening Cash Position per Final R&D		8,469,883	7,335,636	6,995	4,015	54,300	8,469,883
Projected Weekly Cash Flow		(472,247)	(7,328,641)	(2,980)	50,285	13,405	(7,740,178)
Restricted Cash: Holdback Reserve	16	(662,000)	-	-	-	-	(662,000)
Ending Cash Position		\$ 7,335,636	\$ 6,995	\$ 4,015	\$ 54,300	\$ 67,705	\$ 67,705

Note A. Notes to the Unaudited cash flow forecast of the Company

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Note A. Overview

The Cash Flow Forecast includes the receipts and disbursements of all of the Company during the Cash Flow Forecast period. The Company, with the assistance of BDO Canada Limited in its capacity as the proposal trustee of the Company (the “Trustee”) have prepared the Cash Flow Forecast based primarily on estimated disbursements related to the ongoing operations and to the BIA proceedings.



Caroline Bourret
General Manager

May 21, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner /Senior Vice President

May 21, 2024

Date

Notes/Assumptions

- 1 Estimated asset realizations on vehicles sold through Volkswagen Credit, vehicles sold but receipt outstanding, vehicles to be purchased by C. Bourret, and any other uncollected receivables. Any amounts owed from Volkswagen Canada (warranty claims) are assumed to be received 90 days after April 30, 2024.
- 2 Harmonized Sales Tax (HST) collected on receipts.
- 3 Payroll made up of salaries for C. Bourret and hourly for the controller helping with the clean up of HST filings and other accounting matters. Employee payroll is administered bi-weekly through an external service provider (inclusive of taxes). The week 1 payroll also includes the payroll of certain other employees that were not taken by the Purchaser but later laid-off/terminated by the Companies or who resigned. Any amounts paid should reduce the D&O Charge accordingly.
- 4 Payment of outstanding post-filing vendor payments.
- 5 Contingency of \$500 per week is assumed to cover unanticipated costs.
- 6 Harmonized Sales Tax (HST) paid on disbursements.
- 7 Harmonized Sales Tax (HST) is expected to be in a refund position once figures are finalized and submitted, the refund is assumed to occur outside of the cash flow period pending the
- 8 Relates to DIP financing from BMO up to a maximum amount of \$500,000. The repayment amount is inclusive of fees and interest, and is allocated as 70% repaid by OEM Automotive Solutions Inc., and the rest repaid by OEM Automotive Cornwall Inc., and OEM Automotive Holdings Inc.
- 9 Relates to the proposed Court approved interim distribution to be paid to BMO from OEM Automotive Solutions Inc. for floor plan balance, goodwill loan, BDO advisor fee, and BMO
- 10 Relates to the proposed Court approved interim distribution to be paid to BMO from OEM Automotive Cornwall Inc. and OEM Automotive Holdings Inc. for mortgage and BDO advisor fee, plus any shortfalls to BMO's security on OEM Automotive Solutions Inc.
- 11 Relates to the proposed Court approved interim distribution to be paid to G. MacDonell for the vendor take back loan from OEM Automotive Cornwall Inc. and OEM Automotive Holdings
- 12 Relates to the proposed Court approved interim distribution to be paid to GrantCo with left over proceeds in OEM Automotive Holdings Inc. and OEM Automotive Cornwall Inc.
- 13 Costs of the Proposal Trustee and its counsel is assumed \$Nil as it will be paid out of the Admin. Charge.
- 14 Costs of the Company's counsel is assumed \$Nil as it will be paid out of the Admin. Charge.
- 15 Retainer to be paid to BDO Canada Limited to fund its fees and costs for the Bankruptcy proceedings.
- 16 Reserve set aside to cover various expenses such as Admin. Charge, D&O Charge, purchase price adjustment, bankruptcy costs, and Trust claims.



Caroline Bourret
General Manager

May 21, 2024

Date



Clark Lonergan, CPA, CA, CIRP, LIT
Partner/Senior Vice President

May 21, 2024

Date

THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
OEM AUTOMOTIVE SOLUTIONS INC., OEM AUTOMOTIVE CORNWALL INC. AND OEM
AUTOMOTIVE HOLDINGS INC.**

Court File No. BK-23-03025642-0033
Bankruptcy Estate File No. 33-3025642

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
Proceedings commenced at Ottawa

MOTION RECORD
(RETURNABLE MAY 28, 2024)

VOLUME 1 OF 2

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in its capacity as the Proposal Trustee