

Court File No. BK-25-03166040-0031

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
864884 ONTARIO INC.

**SECOND REPORT OF THE PROPOSAL TRUSTEE,**  
**BDO CANADA LIMITED**  
(Motion Returnable February 11, 2025)

February 10, 2025

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TO: **THE SERVICE LIST**

District of: Ontario  
Division No.: 09-Toronto  
Court No.: 31-3166040  
Estate No.: 31-3166040

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

B E T W E E N:

IN THE MATTER OF NOTICE OF INTENTION TO MAKE  
A PROPOSAL OF  
864884 ONTARIO INC.

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
864884 ONTARIO INC.

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District of Ontario  
Division No. 09 - Toronto  
Court File No. 31-3166040  
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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  
864884 ONTARIO INC.

SECOND REPORT OF BDO CANADA LIMITED  
IN ITS CAPACITY AS PROPOSAL TRUSTEE

FEBRUARY 10, 2025

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## INTRODUCTION

1. On December 16, 2024, (the "Filing Date"), 864884 Ontario Inc. o/a Hyperlink Logistics and/or Illuminex ("Hyperlink" or the "Company") filed a Notice of Intention to Make a Proposal ("NOI") 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 ("Proposal Trustee") in the Company's proposal proceedings (the "Proposal Proceedings"). A copy of the certificate of filing of the NOI (the "Certificate of Filing") issued by the Office of the Superintendent of Bankruptcy (the "OSB") is attached hereto as Appendix "A".
2. On January 13, 2025, the Proposal Trustee submitted its first report in these Proposal Proceedings (the "First Report") to the Ontario Superior Court of Justice (the "Court") in support of the Company's motion to obtain a forty-five (45) day extension to the deadline to submit a proposal to creditors. An overview of the Company and the events giving rise to the Company's decision to file the NOI are included in the First Report. A copy of the First Report (without appendices) is attached hereto as Appendix "B".
3. On January 14, 2025, the Court issued an order (the "Extension Order") approving:
  - a) the extension of the initial stay period from January 15, 2025, up to and including March 1, 2025; and
  - b) the First Report and the actions, activities and conduct of the Proposal Trustee, as described in the First Report.

A copy of the Extension Order is attached hereto as Appendix "C".

## PURPOSE OF THE REPORT

4. The purpose of this second report of the Proposal Trustee (the "Second Report") is to advise the Court with respect to:
  - a) the activities of the Company and the Proposal Trustee since the issuance of the First Report;

- b) the Company's actual cash flow results for the 7-week period ending February 1, 2025, compared to the 13-week cash flow forecast (the "Cash Flow Forecast") filed in these Proposal Proceedings;
- c) the Company's operations and communications with stakeholders since January 13, 2025;
- d) information regarding the two Proposed Transactions (herein defined) which, if approved, would collectively result in the sale of all of the assets of the Company including cash on-hand, accounts receivable, machinery and equipment, and customer lists to two separate purchasers;
- e) the Company's motion to seek orders (the "Proposed Orders"):
  - (i) approving the Second Report and the activities of the Proposal Trustee as described herein;
  - (ii) approving the sale of the Purchased Assets as defined in an asset purchase agreement between the Company and Bulletproof Logistics Inc. ("Bulletproof") dated February 7, 2025 (the "Bulletproof APA");
  - (iii) approving the sale of the Company's Accounts Receivable (as defined herein) to Gianna Ponzi ("GPonzi") as contemplated in an asset purchase agreement between the Company and GPonzi dated February, 2025 (the "GPonzi APA");
  - (iv) vesting in Bulletproof, as at closing of the transaction contemplated in the Bulletproof APA, the Purchased Assets, free and clear of all liens, charges, security interests and other encumbrances (other than such permitted encumbrances as may be described in the order);
  - (v) vesting in GPonzi, as at closing of the transaction contemplated in the GPonzi APA, the Accounts Receivable, free and clear of all liens, charges, security interests and other encumbrances (other than such permitted encumbrances as may be described in the order);

- (vi) granting an Administration Charge in favour of the Proposal trustee, its counsel and counsel for the Company, over the assets of the Company, or proceeds thereof;
- (vii) approving the fees and disbursements of the Proposal Trustee and its independent legal counsel, Torkin Manes LLP (“Torkin Manes”) to January 17, 2025, and January 24, 2025, respectively, as set out in the fee affidavits appended hereto (the “Fee Affidavits”);
- (viii) approving the fees and disbursements of the Proposal Trustee and its counsel estimated not to exceed \$50,000.00 (exclusive of HST) for the completion of the Remaining Matters (herein defined) in connection with these Proposal Proceedings;
- (ix) authorizing BDO, a licensed insolvency trustee, to act as trustee (the “Trustee”) of the bankrupt estate of the Company upon the deemed bankruptcy of the Company pursuant to the BIA (the “Deemed Bankruptcy”);
- (x) subject to completion of the assignment of the Security (as herein described):
  1. approving a distribution (the “Interim Distribution”) to GPonzi (the “Secured Creditor”) being made from the sale proceeds received upon the closing of the Proposed Bulletproof Transaction (herein defined);
  2. authorizing the Company to make any subsequent distributions (the “Subsequent Distributions”) to GPonzi during the remainder of the Proposal Proceedings if the Company is still indebted to GPonzi after the Interim Distribution, as the Proposal Trustee determines appropriate, without further order of this Court, provided that the sum of the Initial Distribution and the Subsequent Distributions to GPonzi do not exceed the GPonzi Indebtedness (herein defined), including all interest and costs, subject to and with the Company maintaining sufficient reserves or holdbacks to

satisfy the Administration Charge and the Remaining Costs (collectively, the "Outstanding Disbursements");

- (xi) authorizing the Company and/or Proposal Trustee during the Proposal Proceedings to pay the Outstanding Disbursements from the available cash on hand without further approval of this Court;
- (xii) Declaring that, in the event of and notwithstanding any bankruptcy of the Company, the Court directions with respect to payment of the Interim Distribution, any Subsequent Distributions and payment of Outstanding Disbursements made during the Proposal Proceedings shall be binding on any licensed insolvency trustee of the Company; and
- (xiii) Declaring that, upon the full payment or satisfaction of the outstanding debt, liability or obligations secured by the Administration Charge or if there is no debt, liability or obligations secured by the Administration Charge, the termination, release and discharge of the Administration Charge without any further act or formality; and

f) the Proposal Trustee's recommendations with respect to the Proposed Transactions (herein defined), including the results of the liquidation analysis prepared by the Proposal Trustee, and the relief being sought by the Company.

5. The Proposal Trustee understands that the Company will be relying on the affidavit of Mr. Daniele Ponzi sworn February 10, 2025 (the "DPonzi Affidavit") in support of the relief sought in the Proposed Order.
6. The DPonzi 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/864884-ontario-inc> (the "Proposal Trustee's Website").

## TERMS OF REFERENCE

7. 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 and financial information prepared by the Company, discussions with the management and employees of the Company and other information from various sources (collectively the "Information"). Except as otherwise described in this Second Report in respect of the Company's Cash Flow Forecast:
  - 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 the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance 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 Accounts Canada Handbook, has not been performed.
8. 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 variations could be significant.
9. Unless otherwise indicated, the Proposal Trustee's understanding of factual matters expressed in this Second Report concerning the Company and its business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
10. Unless otherwise noted, all monetary amounts contained in this Second Report are expressed in Canadian dollars ("CAD").

## ACTIVITIES OF THE COMPANY

11. Since the issuance of the First Report, the Company has continued to take steps towards stabilizing business operations. Management has, with the assistance of the Proposal Trustee, engaged in various discussions with stakeholders, suppliers, and customers of the business. As a result of its efforts in this regard, and as of the date of this Second Report, the Company has maintained its business operations without significant disruption or issues.
12. Notable steps taken by the Company include, without limitation:
  - a) consulting with the Proposal Trustee in respect of operations, cash management, and vendor and supplier payments;
  - b) engaging with suppliers to ensure that the continued supply of goods and services to Hyperlink, including discussions and negotiations with:
    - (i) the primary enterprise software solution provider; and
    - (ii) a key temporary staffing solution provider;
  - c) communicated with various parties in relation to the negotiation of the Bulletproof APA with Bulletproof which, if approved, would result in the sale of the assets of the Company, other than those which are subject to the GPonzi Transaction (as herein defined), to Bulletproof, and effective combination of Bulletproof and Hyperlink's 3PL (herein defined) business divisions (the "Proposed Bulletproof Transaction");
  - d) communicated with various parties in relation to the negotiation and preparation of an asset purchase agreement to be entered into between the Company and GPonzi for the purchase and sale of the Company's Accounts Receivable (the "Proposed GPonzi Transaction", and together with the Proposed Bulletproof Transaction, the "Proposed Transactions");
  - e) negotiated the sale of all remaining LED inventory in an en-bloc sale to a customer on terms that are favourable to the Company; and
  - f) providing financial information to the Proposal Trustee to facilitate the ongoing monitoring of the Company's actual cash flow performance.

## ACTIVITIES OF THE PROPOSAL TRUSTEE

13. The Proposal Trustee has, since the date of the First Report, among other things:

- a) participated in various meetings with the Company to understand business operations, assets including machinery, equipment, financial statements, payroll cycles, etc.;
- b) assisted the Company with stakeholder communications;
- c) responded to calls and e-mails received from creditors and other parties with respect to the Proposal Proceedings;
- d) assisted in the development and advancement of the Proposed Transactions including reviewing and advising on the development of the Bulletproof APA and the GPonzi APA;
- e) assessed the Proposed Transactions versus liquidations values in a bankruptcy;
- f) assessed the offer received for the LED inventory with the assistance of an inventory liquidation specialist and provided its approval re same;
- g) monitored the Company's actual weekly cash receipts and disbursements; and
- h) prepared this Second Report.

### Cashflow Projections

14. The Proposal Trustee has reviewed the variances between actual cashflow results and the Cash Flow Forecast for the seven-week period ending February 1, 2025. The chart below provides the cumulative forecast, actual and variance for receipts and operating disbursements items for the aforementioned period:

	7 Weeks Ending February 1, 2025		
	Cumulative Forecast	Cumulative Actual	Cumulative Variance
<b>Receipts</b>			
AR Collection - Hyperlink 3PL	542,414	464,435	(77,979)
AR Collection - Illuminex	70,149	18,305	(51,844)
AR Collection - Corporate	30,993	-	(30,993)
<b>Total Receipts</b>	<b>643,556</b>	<b>482,740</b>	<b>(160,816)</b>
<b>Operating Disbursements</b>			
Payroll (Including Taxes)	(139,500)	(156,189)	(16,689)
Rent - Keyes	(43,317)	(43,317)	0
Utilities - Keyes	(6,000)	(2,039)	3,961
Equipment Loans and Leases	(2,786)	(34,390)	(31,604)
Software	(16,000)	(8,051)	7,949
ERP (Profit Solutions International PSI)	(8,000)	(19,622)	(11,622)
Couriers	(27,000)	(47,123)	(20,123)
Knightstar & Other Staffing Agencies	(61,113)	(29,923)	31,190
Repairs and Maintenance CAPEX	(4,633)	(3,757)	876
Insurance Payments	(14,287)	(2,898)	11,389
Sales Tax Payable	(34)	(7,895)	(7,861)
Contingency	(14,000)	(2,836)	11,164
Interest Payment and Bank Charges	(4,000)	(3,551)	449
<b>Total Operating Disbursements</b>	<b>(340,670)</b>	<b>(361,591)</b>	<b>(20,921)</b>
<b>Operating Cash Flow</b>	<b>302,886</b>	<b>121,150</b>	<b>(181,737)</b>
<b>Restructuring Costs</b>			
Proposal Trustee Fees (BDO)	(57,506)	(40,185)	17,321
Counsel Fees (Miller Thomson)	(25,000)	-	25,000
<b>Total Restructuring Costs</b>	<b>(82,506)</b>	<b>(40,185)</b>	<b>42,321</b>
<b>Total Cash Flow</b>	<b>220,380</b>	<b>80,965</b>	<b>(139,416)</b>

15. The Company's actual operating cashflow for the seven-week period ending February 1, 2025, is \$139,416 below forecast. The lower receipts are due to accounts receivable collections being lower than anticipated in weeks 1-7. However, collections are expected to be caught up within the coming weeks. The disbursements are lower than anticipated as a result of certain suppliers not being paid as their invoices are not yet due. The overall variance is considered to be the result of timing differences.

16. The Proposal Trustee understands that the Company has access to additional funds from shareholders in order to address any shortfall or deficiency should receivable collections be insufficient to fund operational requirements. As such the Proposal Trustee believes that the Company has sufficient funding to meet its operational needs, satisfy its post-filing obligations, and continue its efforts to stabilize and restructure its business operations.
17. It is the Proposal Trustee's view, based on the Cash Flow Forecast, that the Company will have sufficient liquidity to satisfy post-NOI obligations as they come due through to the closing of the Proposed Transactions.

## PROPOSED TRANSACTIONS

### Negotiations with Bulletproof and Previous Parties

18. In early 2024 and prior to entering into these Proposal Proceedings the Company had engaged a capital market specialist to seek new investment and/or a buyer to solve the Company's financial and liquidity problems. The feedback from the market at that time was that the Company's facilities were too small to be an attractive fit with the larger third-party logistics ("3PL") companies in the market. The Company had two (2) facilities at the time with 40,000 square feet and 53,000 square feet of space, respectively. The trend in the 3PL market has been towards using larger warehouses, typically greater than 100,000 square feet per location.
19. Hyperlink was initially introduced to Bulletproof through its efforts to source a subcontractor who could assist Hyperlink in addressing capacity limitations being encountered in the delivery of its 3PL services to customers. Continuing business relations between Hyperlink and Bulletproof have led to discussions between their respective management teams about the possibility of combining the 3PL business divisions of both Hyperlink and Bulletproof, which these parties believe will increase business efficiencies, resolve the issues contributing to Hyperlink's insolvency, preserve value for various stakeholders, including Hyperlink's employees, and result in an improved ability to service the Toronto market. Bulletproof has historically been a Montreal-based business, and is interested in expanding its Ontario business operations and servicing the Ontario market.

## Proposed Bulletproof Transaction Details

20. Pursuant to the terms of the Bullet Proof APA, Bulletproof has agreed to purchase the Purchased Assets (as defined therein) in consideration of payment of the Purchase Price and assumption of the Assumed Liabilities (as defined in the Bulletproof APA). Broadly speaking, the Purchased Assets consist of Hyperlink's customer lists (the "Customer List") and machinery and equipment (the "M&E"). A redacted copy of the Bulletproof APA is attached hereto as Appendix "D".
21. The Bulletproof APA provides that, subject to Court approval, Bulletproof would acquire the Purchased Assets on or before February 14, 2025.
22. The key features and benefits of the Bulletproof APA are:
- a) The Purchaser will offer employment to all of the Company's employees, saving approximately 20 jobs;
  - b) Closing of the Proposed Bulletproof Transaction will provide existing customers of Hyperlink with a seamless transition to a stable/well-capitalized/larger 3PL solutions provider with a broader service offering as Bulletproof has operations in Quebec and the United States; and
  - c) Bulletproof would pay a deposit equal to twenty percent (20%) of the Purchase Price and the balance is to be repaid in four (4) equal monthly payments from May to August 2025. The security interest of GPonzi and the Administration Charge interest in the Purchased Assets would remain a Permitted Encumbrance as defined in the Bulletproof APA that would not be vested out upon issuance of the Approval and Vesting Order.
23. The Bulletproof APA provides for certain conditions precedent to closing in favour of the Purchaser, including a requirement that the Court shall have granted an Order (the "BP Approval and Vesting Order") providing for:
- a) approval for the Company to enter into the Bulletproof APA;
  - b) the vesting of the Purchased Assets in Bulletproof, free and clear of any encumbrances except Permitted Encumbrances, as defined therein; and
  - c) such other provisions as reasonably requested by Bulletproof or that would customarily be contained in an approval and vesting order granted by the Court.

24. Management of the Company advised that as customer contracts in the 3PL space tend to have relatively short terms and customers have much latitude in switching 3PL service providers on short notice, the result is that a customer list will not have much value. Thus, the Purchase Price in the Bulletproof APA ascribes a nominal value to the Customer List.
25. The Company obtained two (2) separate appraisals of the M&E from accredited equipment appraisers. These appraisals are based on the M&E remaining *in-situ* and not on a forced liquidation basis. The Purchase Price, as defined in the Bulletproof APA, is supported by the appraisals of the M&E commissioned by the Company as outlined in the Proposal Trustee's liquidation analysis which has been submitted to the Court. The Proposal Trustee's liquidation analysis is attached hereto attached Appendix "E".

#### Proposed GPonzi Transaction Details and the Security Assignment

26. The Royal Bank of Canada ("RBC") holds the senior ranking registered general security interest in the assets of the Company pursuant to a loan established with the former HSBC Bank Canada (now operating post-amalgamation with RBC, as "Royal Bank of Canada") (the "RBC Loan").
27. In connection with the RBC Loan, GPonzi granted in favour of RBC (at the time, HSBC) a personal guarantee of the obligations of the Company to RBC under the RBC Loan (the "Guarantee").
28. Prior to these NOI proceedings, the Proposal Trustee understands that GPonzi repaid in full all then-outstanding obligations owed by the Company to RBC.
29. It is the Proposal Trustee's understanding that in accordance with the provisions of the *Mercantile Law Amendment Act*, GPonzi is entitled to have assigned to her the security held by RBC in respect of the RBC Loan, consisting of a General Security Agreement dated August 20, 2009 (the "Security"), and to rely on such security in seeking indemnification from the principal debtor, the Company.
30. The Proposed GPonzi Transaction is predicated upon the assignment of the Security having been effected and completed prior to Closing, and the Proposal Trustee understands that this process is underway.

31. Pursuant to the terms of the GPonzi APA, GPonzi has agreed to purchase all outstanding accounts receivable in respect of services provided by the Company prior to Closing (the "Accounts Receivable").
32. The consideration to be paid pursuant to the GPonzi APA is estimated to be approximately \$380,000, based on estimated month end values, subject to adjustment to actual.
33. All other assets of the Company other than those above and those conveyed under the Bulletproof APA are considered to have negligible value.
34. As to the value for the assets to be conveyed under the GPonzi APA, cost or face-value is, by its very nature, a fair market value for liquid assets such as cash and accounts receivable.
35. Payment of the purchase price will be made through a commensurate monetary reduction to indemnification obligations owed to GPonzi by the Company in relation to her repayment of the debt outstanding under the terms of the RBC Loan.
36. A copy of the GPonzi APA is attached hereto as Appendix "F" .
37. The GPonzi APA provides for certain conditions precedent to closing in favour of GPonzi, including requirements that:
  - a) the Court shall have granted an Order (the "GPonzi Approval and Vesting Order") providing for:
    - (i) approval for the Company to enter into the GPonzi APA;
    - (ii) the vesting of the purchased assets in GPonzi, free and clear of any encumbrances except Permitted Encumbrances, as defined therein;
    - (iii) such other provisions as reasonably requested by GPonzi or that would customarily be contained in an approval and vesting order granted by the Court; and
  - b) the Security shall have been assigned to GPonzi.

38. As the Proposed GPonzi Transaction provides for the purchase and sale of the Accounts Receivable at face value, the Proposal Trustee recommends that this Honourable Court approve the Proposed GPonzi Transaction.
39. Based on the information presently available, the Proposal Trustee believes that there will be no material prejudice to the Company's creditors or stakeholders if the Proposed Transactions are approved by this Honorable Court.
40. The Proposed Bulletproof Transaction provides for fair market value being obtained by the Company for its existing M&E and will result in additional stakeholder benefits, in that the Proposed Bulletproof Transaction:
- a) will preserve jobs for approximately twenty (20) Hyperlink employees; and
  - b) will maximize continuity of the 3PL services Hyperlink provides and minimize the risk of negative impacts for Hyperlink customers due to service interruption.
41. For all these reasons the Proposal Trustee recommends that this Honourable Court approve the Proposed Bulletproof Transaction.

#### ADMINISTRATION CHARGE

42. The Proposed Order provides for a charge of to a maximum amount of \$100,000 (the "Administration Charge") in favour of counsel to the Company, the Proposal Trustee and its independent counsel (collectively the "Chargees"), as security for the professional fees and disbursements incurred prior to and after the commencement of the Proposal Proceedings.
43. The Proposal Trustee is of the view that given the current liquidity constraints of the Company, 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.

## DISTRIBUTION

44. As stated in the First Report, the Proposal Trustee has been advised that GPonzi has repaid the balance outstanding on the RBC Loan (as defined in the First Report), \$469,646.42, on December 13, 2024. GPonzi is a personal guarantor/surety of the corporate indebtedness owed by Hyperlink to RBC.
45. The Proposal Trustee has obtained an opinion, attached hereto as Appendix "G", from Torkin Manes dated January 23, 2025 confirming, subject to the qualifications set out therein that:
- a) the Security constitutes a first ranking general security interest properly registered under the PPSA and is valid and enforceable in accordance with its terms over all present and after-acquired property (the "Property") of the Company;
  - b) the Guarantee is valid and enforceable in accordance with its terms;
  - c) the terms of the Security and Guarantee do not limit or restrict GPonzi from relying upon or asserting the rights or entitlements of a surety under the *Mercantile Law Amendment Act*, including the entitlements to:
    - (i) have the Security assigned to her whether the Security is or is not deemed at law to have been satisfied by payment of the debt; or
    - (ii) stand in the place of the secured creditor and to use all the remedies available to that creditor in order to obtain from the principal debtor indemnification for her payment or performance of the outstanding obligations owed by the Company to RBC under the terms of the RBC Loan and Security.
46. The Proposal Trustee understands that discussions are underway in relation to the assignment of the Security and that it is anticipated by the Company and GPonzi that a formal assignment of the Security will be obtained following approval of the Proposed Transactions. Given the pendency of such assignment, both the Initial Distribution and Subsequent Distributions to GPonzi and the closing of the GPonzi Transaction are conditional upon the assignment of the Security first having been completed.

47. Subject to:

- a) the Company attending to the payment of any outstanding professional fees of its legal counsel, the Proposal Trustee and Torkin Manes (all of which are subject to the Administration Charge;
- b) Payment of any post-Filing Date operating liabilities that remain outstanding (collectively, the "Remaining Costs"); and
- c) completion of the assignment of the Security,

the Proposal Trustee recommends that this Honourable Court approve and authorize the Company to make the Interim Distribution to GPonzi which funds shall be applied in reduction of the amount which GPonzi is entitled to claim in indemnification from the Company for repayment of the outstanding obligations owed but the Company under the RBC Loan and Security, which amount shall not exceed the sum of \$469,646.42, plus any additional amounts as may be advanced by GPonzi on a secured basis and secured by the Security, if any.

#### APPROVAL OF THE PROPOSAL TRUSTEE'S FEES AND DISBURSEMENTS

- 48. The Proposal Trustee has been paid its fees and disbursements at its standard rates and charges by the Company from time to time, as part of the costs of the Proposal Proceedings.
- 49. The Proposal Trustee and Torkin Manes 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 5, 2024 to January 17, 2025, and the interim fees and disbursements for Torkin Manes for the period from January 8 to January 24, 2025.
- 50. The total interim fees and disbursements of the Proposal Trustee for the period of December 5, 2024 to January 17, 2025 total \$68,165.22, including fees in the amount of \$60,302.00, disbursements in the amount of \$21.20, and HST in the amount of \$7,842.02, as more particularly described in the affidavit of Clark Lonergan sworn February 10, 2025 (the "Lonergan Fee Affidavit"), a copy of which is attached hereto as Appendix "H".

51. The total interim fees and disbursements of Torkin Manes principally from January 1, 2025 to January 23, 2025 total \$22,535.30, including fees in the amount of \$19,810.00, disbursements in the amount of \$150.00, and H.S.T. in the amount of \$2,575.30, as more particularly described in the affidavit of Jeffrey Simpson sworn January 24, 2025 (the "TM Fee Affidavit"), a copy of which is attached hereto as Appendix "I".
52. 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 connection with the 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.
53. The Proposal Trustee further requests that this Honourable Court approve an additional amount not to exceed \$50,000.00 plus H.S.T. in respect of anticipated additional fees and disbursements of the Proposal Trustee and Torkin Manes to complete the Remaining Matters and conclude these Proposal Proceedings.

#### DEEMED BANKRUPTCY OF THE COMPANY

54. It is accepted that in BIA proposal proceedings the Proposal Trustee is not precluded from subsequently acting as trustee in bankruptcy of the debtor corporation or its property.
55. Given BDO's background, knowledge and experience as Proposal Trustee of the Company, it makes economic sense for BDO to act as the Trustee of the Company if it is deemed bankrupt.
56. Given the possible deemed bankruptcy of the Company, the Proposal Trustee is requesting that the Court declare or order that the Interim Distribution, any Subsequent Distributions and payment of Outstanding Disbursements shall be binding on any trustee appointed in respect of the Company and shall not be void or voidable by creditors of the Company, 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.

57. The Administration Charge and the rights and remedies of the Chargees entitled to the benefit of the Administration Charge shall not be limited or impaired in any way by the deemed bankruptcy of the Company. However, upon the full payment of amounts owing to the Chargees or if there is no debt owing to the respective Chargees in relation to the Administration Charge, the Proposal Trustee is requesting that the Court declare or order the termination, release and discharge of the Administration Charge without any further act or formality.

#### REMAINING MATTERS TO BE COMPLETED IN THESE PROCEEDINGS

58. 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 February 11, 2025 court hearing and preparation regarding the same;
- (b) monitoring payment of:
  - (i) the Interim Distribution and any Subsequent Distributions; ;
  - (ii) the Outstanding Disbursements; and
  - (iii) payments of amounts owed to the Chargees;
- (c) working with Management to complete and file HST returns (pre and post filing returns);
- (d) assisting Management in finalizing employee ROEs, T4s and the final payroll;
- (e) completing the purchase price adjustment calculations for the Proposed Transactions;
- (f) reviewing the Company's cash flow and post filing obligations;
- (g) assisting with the closing and transition with regards to the Proposed Transactions;
- (h) applying for taxation and discharge; and
- (i) transferring duties to the Trustee.

## CONCLUSION AND RECOMMENDATIONS

59. The Proposal Trustee confirms that the Company has acted and continues to act in good faith and with due diligence.
60. For the reasons stated in this Second Report, the Proposal Trustee respectfully submits this Second Report to the Court in support of the Company's motion for the Proposed Order(s):
- a) approving the Proposal Trustee's Second Report and the Proposal Trustee's activities as reported herein;
  - b) approving the Proposed Transactions as contemplated by the Bulletproof APA and the GPonzi APA;
  - c) granting an Approval and Vesting Order in favour of Bulletproof;
  - d) granting an Approval and Vesting Order in favour of GPonzi;
  - e) approving the Administration Charge;
  - f) approving the Initial Distribution and Subsequent Distributions to GPonzi;
  - g) approving the fees and disbursements of the Proposal Trustee and Torkin Manes as detailed in the Fee Affidavits;
  - h) approving further fees and disbursements of the Proposal Trustee and Torkin Manes to conclude these Proposal Proceedings in an amount not to exceed \$50,000.00 plus H.S.T.; and
  - i) such further relief deemed appropriate by this Honourable Court.

All of which is respectfully submitted this 10<sup>th</sup> day of February, 2025.

BDO Canada Limited, in its capacity as  
Proposal Trustee of 864884 Ontario Inc.  
and not in its corporate or personal capacity.

Per:




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Clark Lonergan, CPA, CA, CIRP, LIT  
Senior Vice-President




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Peter Crawley, MBA, CPA, CA, CIRP, LIT  
Vice-President

# **Appendix A**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3166040  
Estate No. 31-3166040

In the Matter of the Notice of Intention to make a proposal of:

**864884 Ontario Inc.**

Insolvent Person

**BDO CANADA LIMITED / BDO CANADA LIMITÉE**

Licensed Insolvency Trustee

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Date of the Notice of Intention:

December 16, 2024

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: December 16, 2024, 13:24

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**

## **Appendix B**

District of Ontario  
Division No. 09 - Toronto  
Court File No. 31-3166040  
Estate No. 31-3166040

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  
864884 ONTARIO INC.

FIRST REPORT OF BDO CANADA LIMITED  
IN ITS CAPACITY AS PROPOSAL TRUSTEE

January 13, 2025

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VI. ACTIVITIES OF THE PROPOSAL TRUSTEE .....10  
VII. EXTENSION OF STAY PERIOD.....12  
VIII. CONCLUSION.....13

APPENDICES

- APPENDIX "A" - Certificate of Filing of a Notice of Intention to Make a Proposal
- APPENDIX "B" - Affidavit of Mailing and Creditor's Package
- APPENDIX "C" - Company's Cash Flow Forecast for the period ended March 15, 2025
- APPENDIX "D" - Proposal Trustee's Report on Cash Flow Statement

## I. INTRODUCTION

1. On December 16, 2024, (the "Filing Date"), 864884 Ontario Inc. o/a Hyperlink Logistics and/or Illuminex ("Hyperlink" or the "Company") filed a Notice of Intention to Make a Proposal ("NOI") 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 ("Proposal Trustee") in the Company's proposal proceedings (the "Proposal Proceedings"). A copy of the certificate of filing of the NOI (the "Certificate of Filing") issued by the Office of the Superintendent of Bankruptcy (the "OSB") is attached hereto as Appendix "A".

## II. PURPOSE OF THE REPORT

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 Company;
  - b) background on the circumstances leading to the Company's decision to commence the Proposal Proceedings;
  - c) the Company's creditors;
  - d) the Company's 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 Company's 13-week cash flow forecast for the period December 15, 2024 to March 15, 2025 (the "Cash Flow Period"), and the Proposal Trustee's comments regarding the reasonableness thereof;
  - g) the Company's motion to seek an order (the "Proposed Order"):
    - (i) extending the time for the Companies to file proposals under section 50.4(9) of the BIA by 45 days to and including March 1, 2025; and
    - (ii) approving the First Report, and approving the activities of the Proposal Trustee described in the First Report; and

- h) the Proposal Trustee's recommendations on the relief being sought by the Company.
3. The Proposal Trustee understands that the Company will be relying on the affidavit of Mr. Daniele Ponzi ("Mr. Ponzi") sworn January 13, 2025 (the "DPonzi Affidavit") in support of the relief sought in the Proposed Order.
  4. The DPonzi 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/864884-ontario-inc> (the "Proposal Trustee's Website").

### III. 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 and financial information prepared by the Company, discussions with the management and employees of the Company and other information from various sources (collectively the "Information"). Except as otherwise described in this First Report in respect of the Company's Cash Flow Forecast:
  - 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 the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance 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 Accounts 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 variations could be significant.
7. Unless otherwise indicated, the Proposal Trustee's understanding of factual matters expressed in this First Report concerning the Company and its business is based on the Information, and not independent factual determinations made by the Proposal Trustee.
8. Unless otherwise noted, all monetary amounts contained in this First Report are expressed in Canadian dollars ("CAD").

#### IV. BACKGROUND

##### Company and Operations

9. The Company was incorporated on October 30, 1989 under the *Business Corporations Act (Ontario)*, and is controlled by Daniele Ponzi ("Mr. Ponzi"), Gianna Ponzi, Gianfranco Ponzi, and Isabella Ponzi (together, the "Ponzis"). The Company is 100% owned by the Ponzis.
10. The Company had two (2) operating divisions:
  - a) Hyperlink Logistics; and
  - b) Illuminex Technologies.
11. The Hyperlink division of the Company specializes in full service third-party logistics ("3PL") and fulfillment services by providing supply chain solutions for online business, brick and mortar companies, omni-channel businesses, sellers on the Amazon platform as well as other online platforms. More specifically, the Company provides customized supply chain solutions, 3PL e-commerce fulfillment expertise with over 35 years of experience in designing effective supply chains with state-of-the-art technology, transportation and distribution, warehousing, automated order fulfillment across Canada and the US, and small business logistics by optimizing shipping and logistics processes for small businesses.

12. The Illuminex Technologies division of the Company specializes in providing high-quality LED lighting products for indoor and outdoor use, manufactured in selected factories in Asia. The product range includes various indoor and outdoor lighting products such as slim panel downlight, flat panel and troffers, linear high bay, etc.
13. Hyperlink operates a 40,000 square feet warehouse facility located at 1 Keyes Court, Unit 1, Vaughan, Ontario (the "Premises").
14. The Company had a lease for a second warehouse located at 66 Lesmill Road, Toronto, Ontario, (the "Lesmill Warehouse"). The Company disclaimed the lease for the Lesmill Warehouse effective on the day of the NOI filing.
15. The Company's key management personnel include Mr. Ponzi serving as the vice president of business development and managing partner of the Company, and the directing mind of the business, who is supported by Isabella Ponzi (Administration manager) and Andrew Moonilal (director of operations).
16. As at the date of this First Report, the Company has approximately sixteen (16) employees, comprised of both full-time and part-time staff, and employs temporary agency services for operational staffing purposes. The Proposal Trustee understands that none of Hyperlink's employees are represented by a union and that the Company does not sponsor a pension plan or health benefit plan for any of its employees.

#### Financial Performance and Causes of Financial Difficulties

17. Hyperlink has undergone various events since 2023 which have negatively impacted its financial stability and resulted in diminishing liquidity, including:
  - a) loss of several key customers;
  - b) finance function deficiencies: the previous chief financial officer suddenly passed away in 2023 leaving no room for transition, and Gianfranco Ponzi, who had been familiar with the accounting system, is no longer involved in the day-to-day activities of the Company. This has led to accounting and financial reporting challenges;
  - c) system implementation challenges: the Company had changed its enterprise resource planning ("ERP") system from Navision to a new customized system in 2023, which implementation resulted in a failed data migration and lack

of intended functionality. This made financial reporting unreliable and inefficient, whereby many reports and processing has to be produced manually;

- d) unprofitable LED division: the Company had a significant amount of working capital tied up in LED inventory in the Illuminex division. Advancements in LED technology made Illuminex' s inventory less attractive in the market and sales began to decline. In an effort to minimize the Company's losses it attempted to sell the division. However, a sale to the sole interested buyer was aborted due to high demands from the division's operations manager required to run that business segment;
- e) pending labour litigation costs: the company faced a lawsuit from a key employee for constructive dismissal. There are also unresolved issues arising from the layoff of senior employees, and any associated costs; and
- f) liquidity constraints: the Company was dealing with limits on a previous revolving line of credit facility from the Royal Bank of Canada ("RBC"), and there were significant funds billed and paid to the provider of the failed ERP system for unresolved issues. Furthermore, the high rent for the non-core Lesmill Warehouse (approx. \$102,000 per month) and outstanding accounts payable totaling more than \$800,000 weighed on the Company's ability to service its debts as they became due.

18. In order to fund operations and sustain activities, the shareholders of the Company injected approximately \$270,000 throughout 2024 and began investigations into identifying potential partners in and/or purchases of the 3PL business segment.

#### Secured Creditors

19. According to the Personal Property Security Act ("PPSA") report of the Company dated November 21, 2024, the following entities have registered security interests against the Company's property:

- a) Royal Bank of Canada ("RBC") (in respect of former HSBC credit facilities) - general security agreement (the "RBC Loan");
- b) Vault Credit Corporation - specific equipment financing;
- c) Province of Ontario - 2023 Employer Health Tax;

- d) Business Development Bank of Canada - general security agreement;
- e) Meridian OneCap Credit Corp. - specific equipment financing; and
- f) Toyota Credit Canada Inc. - vehicle financing.

20. On December 13, 2024, Gianna Ponzi (the "Lender"), as guarantor to the RBC Loan, acquired the RBC Loan by paying off the balance of \$469,646.42 in accordance with the provisions of the *Mercantile Law Amendment Act, R.S.O. 1990, c. M.10* which allowed the Lender to effectively take an assignment of the security package held by RBC, the terms of which provide for maximum credit availability of \$750,000. Therefore, the Lender is the first position secured creditor in the amount of \$469,646.42 plus any further advances made to the Company under the terms of the RBC Loan which may be made during these Proposal Proceedings.

21. The Lender holds a General Security Agreement dated August 20, 2009, as security in respect of the RBC Loan (the "Security"):

#### Other Secured & Priority Creditors

22. The Proposal Trustee understands that the Company has the following liabilities that rank, or may rank, in priority to the secured claims of Gianna Ponzi (the "Priority Claims"):

- Potential employee secured claims in accordance with Section 81.3 of the BIA for two (2) terminated Illuminex employees - \$4,000 for outstanding wages and vacation pay respectively.

23. Given the nature of the business and state of operations, HST is generally in a payable position. As at December 31, 2024, the HST payable was approximately \$1,000 according to the Company.

24. The Proposal Trustee understands that the Company is current with its payroll remittances to Canada Revenue Agency (the "CRA").

#### Unsecured Trade Creditors

25. The Proposal Trustee understands that the Company had unsecured liabilities and trade payables owing of approximately \$817,000 as at December 16, 2024.

26. The Company has an unsecured shareholder liability of approximately \$270,000.

27. The Company terminated the employment of the two (2) employees of the Illuminex division on December 24, 2024. The termination and severance entitlements of these employees are unsecured claims against the Company.

## V. ACTIVITIES OF THE COMPANY

28. Since the Filing Date, the Company has taken steps towards stabilizing business operations and Management has, with the assistance of the Proposal Trustee, engaged in various discussions with stakeholders, suppliers, and customers of the business. As a result of its efforts in this regard, and as of the date of this First Report, the Company has maintained its business operations without significant disruption or issues.

29. Notable steps taken by the Company include, without limitation:

- a) consulting with the Proposal Trustee in respect of operations, cash management, and vendor and supplier payments;
- b) engaging with RBC and Gianna Ponzi to acquire the RBC debt and associated security;
- c) the termination of two (2) employees of the closed Illuminex division;
- d) engaging with employees to address any questions and concerns about the Proposal Proceedings;
- e) engaging with suppliers to ensure the supply of goods and services to Hyperlink is not interrupted;
- f) the Company has entered into discussions with a potential purchaser regarding a transaction whereby the business of the Company would, subject to terms being reached, be effectively combined with the business or another corporate entity (the "Proposed Transaction"); and
- g) preparation of a 13-week cashflow projection for the period December 15 2025 to March 15, 2025 (the "Cash Flow Forecast").

## VI. ACTIVITIES OF THE PROPOSAL TRUSTEE

30. The Proposal Trustee established a publicly accessible online documents database for these Proposal Proceedings. All court documents and certain other relevant documents have and will continue to be posted as they are made available.
31. In accordance with its obligations under the BIA, the Proposal Trustee prepared and sent a notice to all known creditors on December 18, 2024, which included information about the Proposal Proceedings, by prepaid ordinary mail and email, due to the Canada Post strike. Attached hereto as Appendix "B" is an Affidavit of Mailing with respect to the mailing of the NOI notice along with the creditor package.
32. In accordance with subsection 50.4(2)(c) of the BIA, the Proposal Trustee assisted the Company in the preparation of its Cash Flow Forecast. The Cashflow Forecast was submitted to the OSB on December 24, 2024. The Cash Flow Forecast, together with the aforementioned reports, is attached hereto as Appendix "C" .
33. In accordance with subsection 50.4(2)(b) of the BIA, the Proposal Trustee reviewed the Cash Flow Forecast and assessed its reasonableness. A copy of the Proposal Trustee's Report on Cashflow Statement is attached hereto as Appendix "D" .
34. Furthermore, since the Filing Date, the Proposal Trustee, among other things, has:
  - a) completed statutory forms and e-filed such reports with the OSB;
  - b) participated in various meetings with the Company to understand business operations, assets including machinery, equipment and IP, financial statements, payroll cycles, etc.;
  - c) assisted the Company with stakeholder communications;
  - d) responded to calls and e-mails received from creditors and other parties with respect to the Proposal Proceedings;
  - e) assisted in the advancement of a potential sale of the Company's Assets, term sheet and documents related to the Asset Purchase Agreement(s);
  - f) created a weekly monitoring protocol with the Company to allow the Proposal Trustee to review and report on the Company's weekly cash receipts and disbursements; and

- g) reviewed the Company's actual receipts and disbursement Prepared this First Report, including reviewing the Company's assets and operations, various financial reports and other related analysis.

### Cashflow Projections

35. The Proposal Trustee has reviewed the variances between actual cashflow results and the Cash Flow Forecast for the three-week period ending January 4, 2025. The below chart provides the cumulative forecast, actual and variance for receipts and operating disbursements items for the aforementioned period:

	Week Ending 2025-01-04		
	Cumulative Forecast	Cumulative Actual	Cumulative Variance
<b>Receipts</b>			
AR Collection - Hyperlink 3PL	337,936	195,407	(142,529)
AR Collection - Illuminex	22,149	14,126	(8,023)
AR Collection - Corporate	30,993	-	(30,993)
<b>Total Receipts</b>	<b>391,078</b>	<b>209,532</b>	<b>(181,545)</b>
<b>Operating Disbursements</b>			
Payroll and Temp Agency	(133,742)	(63,817)	69,925
Rent, Utilities, Capex and Insurance	(10,633)	(1,921)	8,712
Equipment Loans and Leases	(2,080)	(16,485)	(14,405)
Software and ERP Systems	(12,000)	(11,006)	994
Couriers	(18,000)	(16,977)	1,023
Sales Tax Payable	(7,895)	(7,895)	-
Contingency	(6,000)	(1,026)	4,974
Interest Payment and Bank Charges	(4,000)	(3,141)	859
<b>Total Operating Disbursements</b>	<b>(194,349)</b>	<b>(122,268)</b>	<b>72,081</b>
<b>Operating Cash Flow</b>	<b>196,728</b>	<b>87,264</b>	<b>(109,464)</b>

36. The Company's actual cashflow for the three-week period ending January 4, 2025, is \$109,464 below forecast. The lower receipts are due to accounts receivable collections being lower than anticipated in weeks 1-3. However, collections are expected to be caught up within the coming weeks. The disbursements being lower than anticipated are the result of certain suppliers not being paid as their invoices are not yet due. The overall variance is considered to be the result of timing differences.

37. The Proposal Trustee understands that the Company has access to additional funds from the Lender which can be advanced within the terms of the Security, to address any receivable collection delays and/or cash flow deficits. As such the Proposal Trustee believes that the Company has sufficient funding to meet its operational needs, satisfy its post-filing obligations, and continue its efforts to stabilize and restructure its business operations.

## VII. EXTENSION OF STAY PERIOD

### Proposed Stay Extension

38. Under the BIA, the initial stay of proceedings will expire on January 15, 2025 (the "Initial Stay Period").
39. The Company seeks an extension of time to file a proposal of an additional 45 days to and including March 1, 2025 (the "Proposed Stay Extension"). The Proposed Stay Extension should provide the Company the additional time it needs to negotiate the Proposed Transaction, through which the Company hopes to obtain funding, the completion of which is intended to position the Company so as to be able to make a viable proposal to its creditors. The Proposed Transaction cannot be fully negotiated prior to the expiry of the deadline for making a Proposal of January 15, 2025, and without the Proposed Stay Extension, the Company will not be in a position to make a viable proposal to its creditors.
40. The Proposal Trustee is of the view that a bankruptcy at this time would be detrimental to the interest of the Company's stakeholders and creditors and that if sufficient time is afforded to the Company to continue in its efforts at negotiating the terms of the Proposed Transaction that the Company is likely to be able to make a viable Proposal.
41. It is the Proposal Trustee's view, based on the Cash Flow Forecast, that the Company will have sufficient liquidity through the period required to finalize a transaction with the interested party and to satisfy post filing obligations as they come due during the Proposed Stay Extension.
42. In the Proposal Trustee's view, Hyperlink has acted and continues to act in good faith and with due diligence.

43. Based on the information presently available, the Proposal Trustee believes that no material prejudice will result to the Company's creditors or stakeholders if the Proposed Stay Extension is granted.

44. The Proposal Trustee is not aware of any creditor who opposes the requested extension of the Stay Period.

## VIII. CONCLUSION

45. The Proposal Trustee respectfully submits this First Report to the Court in support of the Company's motion for an Order:

- a) approving the Proposal Trustee's First Report;
- b) granting a forty-five (45) day extension of time to file a proposal extending the stay of proceedings to and including March 1, 2025; and
- c) such further relief deemed appropriate by this Honourable Court.

All of which is respectfully submitted this 13<sup>th</sup> day of January, 2025.

BDO Canada Limited, in its capacity as  
Proposal Trustee of 864884 Ontario Inc.  
and not in its corporate or personal capacity.

Per:



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Clark Lonergan, CPA, CA, CIRP, LIT  
Senior Vice-President



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Peter Crawley, MBA, CPA, CA, CIRP, LIT  
Vice-President

## **Appendix C**

District of: Ontario Division No.:  
 09-Toronto Court No.: 31-3166040  
 Estate No.: 31-3166040

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

THE HONOURABLE	)	TUESDAY, THE 14 <sup>TH</sup> DAY
	)	
JUSTICE W.D. BLACK	)	OF JANUARY, 2025

B E T W E E N:

*(Court Seal)*

IN THE MATTER OF NOTICE OF INTENTION TO MAKE  
 A PROPOSAL OF  
 864884 ONTARIO INC.

**ORDER**

**THIS MOTION**, made by 864884 Ontario Inc., operating as Hyperlink Logistics and/or Illuminex Technologies Inc. (the “**Company**”), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) was heard this day by video conference at 330 University Avenue, Toronto, Ontario in accordance with the Guidelines to Determine Mode of Proceeding in Civil.

**ON READING** the Notice of Motion, the Affidavit of Daniele Ponzi sworn January 13, 2025 and the exhibits thereto (the “**Ponzi Affidavit**”), and the First Report of BDO Canada Limited (“**BDO**”) dated January 13, 2025 (the “**First Report**”), in its capacity as proposal trustee of the Company (in such capacity, the “**Proposal Trustee**”), and on being advised that the secured creditors who are likely affected by the charge created herein were given notice, and on hearing the submissions of counsel for the Company and counsel for the Proposal Trustee, and those other

parties present, no one else appearing although duly served as appears from the Affidavit of Service of Shallon Garrafa, filed,

### **SERVICE AND INTERPRETATION**

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

2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Ponzi Affidavit or the First Report, as applicable.

### **EXTENSION OF THE PROPOSAL PERIOD**

3. **THIS COURT ORDERS** that, pursuant to subsection 50.4(9) of the BIA, the time for filing a proposal with the Official Receiver in the proceedings of the Company, including the stay of proceedings, is extended up to and including March 1, 2025.

### **PROFESSIONAL FEES**

4. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Company shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel for the Proposal Trustee and counsel for the Company on a bi-weekly basis.

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

#### **APPROVAL OF PROPOSAL TRUSTEE REPORT AND ACTIVITIES**

6. **THIS COURT ORDERS** that the First Report and the conduct and activities of the Proposal Trustee described therein are hereby approved, provided 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.

#### **GENERAL**

7. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in these proceedings, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol and shall be accessible by selecting the Company’s name from the engagement list at the following URL ‘<[https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/864884\\_Ontario\\_Inc](https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/864884_Ontario_Inc)>’.

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

9. **THIS COURT ORDERS** that the Proposal Trustee shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the "**Service List**"). The Proposal Trustee shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to these proceedings. Notwithstanding the foregoing, the Proposal Trustee shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.


10. **THIS COURT ORDERS** that the Company and the Proposal Trustee and their respective counsel are at liberty to serve or distribute this Order, and 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 Company's 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 judicial obligation, and notice requirements within the

meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, to give effect to this Order and to assist the Company, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and the Proposal 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 Proposal Trustee in any foreign proceeding, or to assist the Company and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order, and this Order is enforceable without the need for entry and filing.

  
\_\_\_\_\_  
(Signature of judge, officer or registrar)

IN THE MATTER OF NOTICE OF INTENTION TO MAKE  
A PROPOSAL OF  
864884 ONTARIO INC.

District of: Ontario  
Division No.: 09-Toronto  
Court No.: 31-3166040  
Estate No.: 31-3166040

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

Proceeding Commenced at  
Toronto

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**ORDER**

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**MILLER THOMSON LLP**

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Lawyers for 864884 Ontario Inc.

## **Appendix D**

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of the 7th day of February, 2025.

**BETWEEN:** 864884 ONTARIO INC. (the "Vendor");

**AND:** BULLETPROOF LOGISTICS INC. (the "Purchaser");

### WHEREAS:

- A. The Vendor filed a notice of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") on December 16, 2024; and
- B. The Vendor wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Vendor, all of Vendor's right, title, and interest in and to the Purchased Assets (as defined herein) on and subject to the terms and conditions of this Agreement;

**NOW THEREFORE, IN CONSIDERATION** of the premises and covenants, agreements, representations, warranties, and payments contained in this Agreement, the Vendor and the Purchaser agree as follows:

### 1. Definitions

The following terms have the following meanings:

- (a) "**Agreement**" means this Asset Purchase Agreement made as of the date first written above;
- (b) "**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (a) and (b), "**Law**") in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation;
- (c) "**Books and Records**" means all books, records, files and papers used or intended for use in connection with the ownership of the Purchased Assets, including title documentation, manuals, sales and advertising materials, and all other documents and data (technical or otherwise) relating to the Purchased Assets, and all copies and recordings of the foregoing;

- (d) "**Business Day**" means any day other than a Saturday, Sunday, or any other statutory holiday in Ontario;
- (e) "**Claim**" means any right or claim of any person that may be asserted or made in whole or in part against the Vendor, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a provable claim in bankruptcy within the meaning of the BIA, had the Vendor become bankrupt;
- (f) "**Closing**" means the completion of the Transaction in accordance with this Agreement;
- (g) "**Closing Date**" means the date that is three (3) Business Days after the granting of the Approval and Vesting Order or the date on which the conditions precedent set forth in Sections 12, 13, and 14 below are fulfilled or waived, or as otherwise agreed upon in writing by the Vendor and the Purchaser;
- (h) "**Closing Employees**" has the meaning given in Section 6.4 (c) herein;
- (i) "**Closing Time**" means 12:00 noon on the Closing Date;
- (j) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (k) "**Customer Contracts**" are those contracts listed in **Schedule "A"** attached hereto;
- (l) "**Deposit**" has the meaning ascribed thereto in Section 9.1;
- (m) "**ETA**" means the *Excise Tax Act*, RSC, 1985, c E-15 and the regulations thereto;
- (n) "**Encumbrance**" means any encumbrance against or interest in the Purchased Assets of any kind whatsoever and includes, without limitation, a security interest, mortgage, lien, pledge, assignment, charge, title retention agreement, option, trust or deemed trust (whether contractual, statutory, or otherwise arising), licence, and any covenant or other agreement, restriction, or limitation relating to the Purchased

Assets or the transfer of the Purchased Assets to the Purchaser pursuant to this Agreement, and includes Competing Proprietary Claims;

- (o) “**Excluded Assets**” means all the Vendor’s right, title and interest in and to the Property other than the Purchased Assets, which Excluded Assets include, among other things, the Vendor’s right, title and interest, if any, in and to the following:
  - (i) any of the Vendor’s cash or cash equivalents;
  - (ii) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Vendor that do not relate exclusively or primarily to any of the Purchased Assets;
  - (iii) the benefit of any refundable Taxes payable or paid by the Vendor in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Vendor to any refund, rebate, or credit of Taxes for the period prior to the Closing Date;
  - (iv) all accounts receivable in respect of services provided by the Vendor prior to Closing;
  - (v) the inventory of LED lighting;
  - (vi) the interest of the Vendor in any litigation and in the proceeds of any judgment or order thereof; and
  - (vii) the interest of the Vendor in any insurance policies, including any cash surrender value thereof;
- (p) “**Excluded Employees**” are employees or former employees of the Vendor that are not or will not be employed by the Purchaser at the Closing Date;
- (q) “**Excluded Liabilities**” has the meaning given in section 6.3 herein;
- (r) “**Final Order**” means an order issued by the Court in these Proposal Proceedings which: (i) is not subject to a stay of execution or an application or request for a stay of execution, and, if the deadline for filing any such application or request is designated by statute or regulation, such deadline, including any extensions thereof, has passed; and (ii) is not then under appeal or other form of judicial review, is not subject to an application for leave to appeal or other form of judicial review, and the deadline for filing any notice of appeal or application for appeal or other form of judicial review, including any extensions thereof, has passed;
- (s) “**Governmental Authority**” means any Canadian, foreign, domestic, federal, territorial, provincial, state, municipal, or local governmental authority, quasi-

governmental authority, instrumentality, court, government, or self-regulatory organization, bureau, commission, tribunal, or organization or any regulatory, administrative, or other agency, or any political or other subdivision, department, or branch of any of the foregoing having jurisdiction with respect to the Vendor, the Purchased Assets, or any other matter that is the subject of this Agreement;

- (b) "**GST/HST**" means any goods and services tax/harmonized sales tax imposed under Part IX of the ETA;
- (t) "**Interim Period**" means the period from the date of this Agreement to the Closing Date;
- (c) "**ITA**" means the *Income Tax Act* (Canada) RSC, 1985, c 1 (5th Supp.);
- (u) "**Legal Proceeding**" means any litigation, action, application, demand, suit, investigation, hearing, Claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review;
- (v) "**Machinery & Equipment**" means those items listed in **Schedule "B"** attached hereto;
- (w) "**Monthly Payments**" has the meaning ascribed thereto in Section 8.1(b) hereof;
- (x) "**Obligations**" means any indebtedness, liabilities and obligations, whether present, future, direct, indirect, liquidated or contingent, whether due or to become due, owed by the Vendor to any person;
- (y) "**Party**" or "**Parties**" mean either the Vendor or the Purchaser, as appropriate in the context, or both;
- (z) "**Permitted Encumbrances**" means all those Encumbrances described in **Schedule "D"** hereto;
- (d) "**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity;
- (e) "**Promissory Note**" has the meaning ascribed thereto in Section 8.1(b) hereof;
- (aa) "**Property**" has the meaning ascribed thereto in the recitals hereto;
- (bb) "**Proposal Proceeding**" means the proposal proceeding commenced on December 16, 2024 whereby the Vendor filed a notice of intention to make a proposal pursuant

to the Bankruptcy & Insolvency Act and whereby BDO Canada Limited was appointed the proposal trustee (the “**Proposal Trustee**”);

- (cc) "**Purchase Price**" has the meaning ascribed thereto in Section 7 hereof;
- (dd) "**Purchased Assets**" means those assets enumerated in **Schedule “A and “B”** hereto;
- (ee) "**Taxes**" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties;
- (ff) "**Transfer Taxes**" means all applicable Taxes, including where applicable, all GST/HST payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement;
- (gg) "**Transaction**" means the purchase and sale of the Purchased Assets and all other transactions contemplated by this Agreement;
- (hh) "**Vendor's Solicitors**" means Miller Thomson LLP;
- (ii) "**Vesting Order**" means an Order of the Court made in the Proposal Proceeding, substantially in the form attached as **Schedule “C”** hereto, approving the Agreement and the Transaction, and vesting title in and to the Purchased Assets in favour of the Purchaser free and clear of all Encumbrances except for Permitted Encumbrances and as otherwise may be expressly provided therein; and
- (jj) "**VTB Security**" has the meaning ascribed thereto in Section 8.2 hereof.

## 1.1 Schedules

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

### SCHEDULES

Schedule “A”	Customer Contracts
Schedule “B”	List of Machinery & Equipment
Schedule “C”	Form of Vesting Order
Schedule “D”	Permitted Encumbrances

## 2. Construction

- 2.1 This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party does not apply to the construction or interpretation of this Agreement.

## 3. Certain Rules of Interpretation

### 3.1 In this Agreement:

- (a) headings are inserted for convenience of reference only and will not affect the interpretation of this Agreement;
- (b) the division into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- (c) the expressions "**hereof**", "**herein**", "**hereto**", "**hereunder**", "**hereby**" and similar expressions refer to this Agreement and not to any particular portion of this Agreement;
- (d) "**including**" or "**includes**" means "**including (or includes) but is not limited to**" and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;
- (e) references to any legislation, statutory instrument or regulation or a section thereof are references to the legislation, statutory instrument, regulation or section as amended, re-enacted, consolidated or replaced from time to time; and
- (f) words in the singular include the plural and vice-versa and words in one gender include all genders.

## 4. Performance on Business Days

- 4.1 If any action is required to be taken pursuant to this Agreement on or by a specified date that is not a Business Day, the action is valid if taken on or by the next succeeding Business Day.

## 5. Currency and Payment

- 5.1 In this Agreement, unless specified otherwise, references to dollar amounts or "\$" are to Canadian dollars, and any payment is to be made by an official bank draft drawn on a Canadian chartered bank, wire transfer or any other method (other than cash payment) that provides immediately available funds.

## 6. Purchase and Sale of the Purchased Assets

6.1 Subject to the timely fulfillment or waiver of the conditions precedent set forth in Sections 12, 13, and 14 hereof, including the granting of the Vesting Order, and the terms and conditions of this Agreement, on the Closing Date, the Vendor agrees to sell, assign, and transfer to the Purchaser, and the Purchaser agrees to purchase from the Vendor, all right, title, and interest of the Vendor in and to the Purchased Assets free and clear of all Encumbrances at the Closing Time.

### 6.2 Excluded Assets

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

### 6.3 Excluded Liabilities

With the exception of the Permitted Encumbrances, the Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Vendor or the Proposal Trustee or of any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Purchased Assets or the Vendor's ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "**Excluded Liabilities**"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Vendor arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than the Purchased Assets arising with respect to the period from and after the Closing Date;
- (b) any liability, obligation or commitment associated with the Accounts Payable or any employees of the Debtors;
- (c) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance; and
- (d) any liability, obligation or commitment of the Vendor in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

### 6.4 Employees

- (a) The Vendor shall be responsible for the payment of all remittances and all accrued or earned and outstanding compensation owing to the employees of the Vendor (the "**Employees** ") up to the day preceding the Closing Date in accordance with the Applicable Law including the Employment Legislation and BIA, including without

limitation, any salary, wages, overtime, holiday pay, benefits, commissions, bonuses, and incentive payments owing pursuant to their employment agreements.

- (b) The Purchaser shall have the opportunity to interview all Employees on or before the Closing Date in order to select which Employees it wishes to offer continued employment to. The Purchaser shall offer continued employment to all Employees of the Vendor, other than to Excluded Employees, who are employed by the Vendor on the Closing Date on comparable terms and conditions of employment, by offering each of those Employees a position, compensation and benefits that are comparable in the aggregate to those provided to the Employees, and recognizing the Employees' years of service with the Vendor.
- (c) The Purchaser will recognize the service of the Closing Employees, as hereinafter defined up to the Closing Date as if such service had occurred with the Purchaser. The Purchaser will, on the Closing Date, provide to the Proposal Trustee a list of the Employees who did not accept the Purchaser's offer of employment, and the Employees who accept the Purchaser's offer of employment are referred to herein as the "**Closing Employees**".
- (d) The Vendor shall be liable in accordance with the Applicable Law including the Employment Legislation and BIA for the payment of wages, salaries, bonuses, pension, or other benefits, severance pay, notice, or pay in lieu of notice, and holiday pay, up to the day preceding the Closing Date in respect of all Excluded Employees and all of the Employees who did not accept the Purchaser's offer of employment.
- (e) The Purchaser shall be liable in accordance with the Applicable Law including the Employment Legislation and BIA for the payment of wages, salaries, bonuses, pension, or other benefits, severance pay, notice, or pay in lieu of notice, and holiday pay for the Closing Employees from Closing Date forward, and the Purchaser shall indemnify and save the Vendor harmless from and against all claims, demands, suits, actions, causes of actions, losses, damages, costs and expenses which may be brought against the Vendor by any Closing Employees pertaining to matters from the Closing Date forward. This indemnity shall survive Closing.
- (f) Effective as of the Closing Date, the Closing Employees shall cease participation in any Vendor benefit plans. Also, effective as of the Closing Date, the Purchaser shall establish or cause to be established benefit plans for the Closing Employees that are substantially equivalent (or better) to the Vendor's applicable benefit plans, as disclosed to the Purchaser as being provided to Employees immediately prior to the Closing Date. Closing Employees shall commence participation in the Purchaser's benefit plan effective as of the Closing Date.

**6.5** In respect to the Closing Employees, the Purchaser's benefit plan shall be responsible for all claims based on facts arising after the Closing Date, regardless of when filed or reported.

The Vendor's benefit plan, if applicable, shall remain responsible for all claims based on facts arising before the Closing Date, regardless of when filed or reported..

## 7. Purchase Price

7.1 The amount payable by the Purchaser to the Vendor for the Purchased Assets will be One Hundred Seventy Thousand Dollars (**\$170,000**) (the "**Purchase Price**").

7.2 Purchase Price Allocation. The Purchase Price Allocation shall be as agreed upon by the Parties prior to Closing.

## 8. Payment of the Purchase Price

8.1 The Purchaser shall pay the Purchase Price to the Vendor by wire transfer or certified cheque as follows:

- (a) the amount of \$10,000, payable on Closing, to be satisfied by the Vendor's retention of the Deposit; and
- (b) five monthly instalments, each in the amount of \$32,000, payable on the first Business Day of each of May, June, July, August and September of 2025 (collectively, the "**Monthly Payments**"), and the Purchaser shall execute a promissory note in form and substance satisfactory to the Vendor (the "**Promissory Note**") in favour of the Vendor evidencing such payment obligations.

### 8.2 Security for Monthly Payments

As security for performance of the Purchaser's obligations hereunder including, in particular, payment of the Monthly Instalments under the Promissory Note, the Purchaser shall execute a general security agreement (and such other security agreements and ancillary documents as the Vendor deems necessary or advisable) granting to the Vendor a security interest in the Purchased Assets (the "**VTB Security**"), and for greater certainty the VTB Security shall be treated as a Permitted Encumbrance.

## 9. Deposit

9.1 The Parties acknowledge that a deposit in the amount of **\$10,000** has been provided by the Purchaser to the Vendor on or before January 28, 2025 and is being held in a non-interest-bearing trust account, to be released only in accordance with the provisions of this Section 9. The Deposit shall be held in trust by the Vendor until one of the following events occur:

- (a) if Closing occurs, the Deposit shall be credited to the Vendor at Closing for its own account absolutely and be applied as partial payment of the Purchase Price;

- (b) if Closing does not occur due to a breach of this Agreement by the Purchaser or the failure of the Purchaser to fulfill the conditions in Sections 12.1(a) through 12.1(c) (provided that for greater certainty, with respect to the conditions in Sections 12.1(a) through 12.1(c), such failure is due to matters within the reasonable control of the Purchaser, as applicable) the Deposit (along with any interest earned thereon) shall be forfeited by the Purchaser to the Vendor (and for the account of the Vendor absolutely); and
- (c) if Closing does not occur due to any reason other than as addressed by Section 9.1(b), the Deposit shall be paid to the Purchaser for the account of the Purchaser absolutely.

**9.2** In the event of termination of this Agreement under Section 9.1(b) pursuant to which the Vendor shall be entitled to retain the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre estimate of liquidated damages representing the Vendor's losses and liabilities as a result of Closing not occurring and agree that the Vendor shall not be entitled to recover from the Purchaser any amounts that are in excess of the Deposit as a result of Closing not occurring. The Purchaser hereby waives any claim or defence that the amount of the Deposit is a penalty or is otherwise not a genuine pre estimate of the Vendor's damages.

## **10. Transfer Taxes**

- 10.1** The Purchase Price is exclusive of any applicable Transfer Taxes. Subject to Section 11(a), the Purchaser shall pay to the Vendor upon Closing or, where permitted by Applicable Law, directly to the appropriate Governmental Authorities, all Transfer Taxes, registration charges and transfer fees payable by it in respect of the purchase and sale of the Purchased Assets under this Agreement, and, on request of the Vendor, the Purchaser shall furnish to the Vendor proof of direct payment to a Governmental Authority.
- 10.2** GST/HST Certificate and Indemnity. In respect of any GST/HST to be self-assessed by the Purchaser, the Purchaser shall deliver to the Vendor a GST/HST certificate and indemnity in form agreeable to the Vendor.
- 10.3** GST/HST Gross-Up. If any payment made by the Vendor or the Purchaser as the result of a breach, modification or termination of this Agreement is deemed by the ETA to include GST/HST, or is deemed by any applicable provincial or territorial legislation to include a similar value-added or multi-staged tax, the amount of such payment shall be increased accordingly.
- 10.4** The Purchaser shall indemnify and save harmless the Vendor from any amounts, including interest and penalties, that may be assessed against the Vendor arising out of the failure of the Purchaser to pay, when due, any taxes described in this Section 10.

## **11. Tax Elections**

- (a) Section 167 Tax Election. If available, at the Closing, the Vendor and the Purchaser shall execute jointly an election under Section 167 of the ETA, to have the sale of

the Purchased Assets take place on a GST/HST-free basis under Part IX of the ETA. The Purchaser shall file the elections in the manner and within the time prescribed by the relevant legislation. Notwithstanding anything to the contrary in this Agreement, the Purchaser shall indemnify and hold harmless the Vendor in respect of any GST/HST, penalties, interest and other amounts which may be assessed against the Vendor as a result of the transactions under this Agreement not being eligible for such election or as a result of the Purchaser's failure to file the election within the prescribed time.

- (b) Section 20(24) Tax Election. The Purchaser and the Vendor shall, if applicable, jointly execute and file an election under Section 20(24) of the ITA in the manner required by Section 20(25) of the ITA and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed forms and within the time period permitted under the ITA and under any other applicable provincial or territorial statute, as to such amount paid by the Vendor to the Purchaser for assuming future obligations. In this regard, the Purchaser and the Vendor acknowledge that a portion of the Purchased Assets transferred by the Vendor pursuant to this Agreement and having a value equal to the amount elected under Section 20(24) of the ITA and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Vendor as a payment for the assumption of such future obligations by the Purchaser.
- (c) Section 56.4 Tax Election. At the request of the Vendor and to the extent permitted by the ITA, the Parties shall make, and the Vendor shall file, any election or amended election in prescribed form (or such other form as the Purchaser or the Vendor may reasonably request) and within the prescribed time limits pursuant to Section 56.4(7) of the ITA proposed by the Minister of Finance (Canada) as it reads on the date of this Agreement or any amended or successor provision thereto, and any analogous provision of provincial or territorial Tax legislation.

## **12. Conditions in Favour of the Purchaser**

### **12.1** The obligations of the Purchaser under this Agreement are subject to the fulfillment of the following conditions precedent:

- (a) Each of the representations and warranties of the Vendor set forth in Section 15 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Vendor on or before the Closing Time shall have been complied with and not been breached in any material respect; and
- (c) the Vendor has caused to be delivered to the Purchaser, all as reasonably requested and prepared by the Purchaser all Books and Records, deeds, conveyances, bills of sale, assurances, transfers, assignments and any other documentation or action which in the opinion of the Purchaser are necessary or reasonably required to transfer the Purchased Assets to the Purchaser with good and marketable title, free

and clear of all Encumbrances, in each case duly executed by the Vendor and in form and substance satisfactory to the Purchaser, acting reasonably.

**12.2** The Purchaser may, in its sole discretion, waive any of the foregoing conditions. Any waiver by the Purchaser must be in writing and delivered to the Vendor's Solicitors.

**13. Conditions in Favour of the Vendor**

**13.1** The obligations of the Vendor under this Agreement are subject to the fulfillment of the following conditions precedent:

- (a) each of the representations and warranties of the Purchaser set forth in Section 16 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Purchaser on or before the Closing Time shall have been complied with and not been breached in any material respect; and
- (c) the Purchaser has, as at the Closing Time: (i) delivered and paid the Deposit to the Vendor, (ii) paid and delivered all taxes applicable to the Transaction; and (iii) has delivered the Promissory Note and the VTB Security.

**13.2** The Vendor may, in its sole discretion, waive either of the foregoing conditions. Any waiver by the Vendor must be in writing and delivered to the Purchaser.

**14. Mutual Conditions**

**14.1** The obligations of the Parties under this Agreement are subject to the following mutual conditions precedent:

- (a) the security charging the Purchased Assets shall not have been reinstated or redeemed prior to the Closing Date;
- (b) the Vesting Order shall have been obtained and shall be a Final Order, unless the Purchaser has provided written consent that Closing occur despite the Vesting Order not being a Final Order; and
- (c) there shall be in effect no order, injunction, judgment, decree, ruling, writ, assessment, or arbitration award of the Court or other court of competent jurisdiction or of a relevant Governmental Authority prohibiting the consummation of the transactions contemplated hereby and which has not been withdrawn or terminated.

**14.2** The Parties may agree to amend or waive any the foregoing conditions. Any amendment or waiver by the Parties must be in writing and delivered to the Vendor's Solicitors and the Purchaser.

## 15. Representations and Warranties of the Vendor

15.1 The Vendor represents and warrants to the Purchaser as follows, with the intent that the Purchaser will rely on these representations and warranties in entering into this Agreement, and in concluding the purchase and sale contemplated by this Agreement:

- (a) subject to obtaining and pursuant to the Vesting Order, the Vendor has the power, authority and capacity to enter into this Agreement, subject to its terms, and the authority to execute all instruments required by this Agreement to be delivered by it, and to perform its obligations hereunder and thereunder;
- (b) The Vendor is registered for GST/HST purposes under Part IX of the ETA and its registration number is # 12323 6838 RT0001; and
- (c) the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act*.

## 16. Representations and Warranties of the Purchaser

16.1 The Purchaser represents and warrants to the Vendor as follows, with the intent that the Vendor will rely on these representations and warranties in entering into this Agreement, and in concluding the purchase and sale contemplated by this Agreement:

- (a) the Purchaser has the power and capacity to enter into this Agreement and carry out its terms;
- (b) the Purchaser is a corporation duly incorporated, validly existing, and in good standing under the *Business Corporations Act [Quebec]*, and has the power and capacity to enter into this Agreement and carry out its terms;
- (c) the execution and delivery of this Agreement and the completion of the transaction contemplated by this Agreement have been duly and validly authorized by all necessary corporate action on the part of the Purchaser, and this Agreement constitutes a legal, valid, and binding obligation of the Purchaser.
- (d) this Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress, pending against or threatened against or affecting either Purchaser, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting either Purchaser which, in any such case, affects adversely or might affect adversely the ability of either Purchaser to enter into this Agreement or to perform its obligations hereunder;
- (e) Purchaser is not a "non-Canadian" within the meaning of the *Investment Canada Act*, RSC 1985, c 28 (1<sup>st</sup> Supp);

- (f) Purchaser shall, or upon Closing shall be, registered for HST purposes under Part IX of the ETA, and shall provide its registration numbers to the Vendor at or prior to Closing; and
- (g) the Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by, the Purchaser or either of them.

## **17. Covenants of the Vendor**

- 17.1** The Vendor will consult with the Purchaser at all reasonable times with respect to the status of the Purchased Assets and the Proposal Proceeding.
- 17.2** Upon payment of the Purchase Price by the Purchaser at the Closing Time, and subject to the terms of this Agreement, the Vendor will transfer and assign to the Purchaser all of its right, title, and interest in and to the Purchased Assets in accordance with the terms of the Vesting Order.
- 17.3** On the Closing Date, the Vendor shall deliver, and shall cause to be delivered, to the Purchaser the Books and Records and all documents (except, in the case of those required by applicable law to be retained by the Vendor, copies thereof) and other data, technical or otherwise, which are in the possession of the Vendor at the Closing Date, relating materially to the Purchased Assets. The Purchaser shall permit the Proposal Trustee, and its authorized representatives, reasonable access to those documents while they are in the Purchaser's possession or control solely to the extent that access is required by the Proposal Trustee to perform its or the Vendor's obligations under this Agreement or under applicable law, but the Purchaser shall not be responsible or liable to the Vendor for, or as a result of, any loss or destruction of or damage to any such documents and other data unless that destruction, loss or damage is caused by the Purchaser's gross negligence or wilful misconduct. The Vendor shall be responsible for all reasonable out-of-pocket costs and expenses incurred, directly or indirectly, by the Purchaser in connection with any access contemplated by this Section 17.3.
- 17.4** Notwithstanding the immediately foregoing Section 17.3, the Vendor shall be entitled to retain copies of any documents or other data delivered to the Purchaser pursuant to this Agreement provided that those documents or data are reasonably required and only used or relied on by the Receiver to perform its obligations under this Agreement or under applicable law.
- 17.5** Subject to the terms of this Agreement, the Vendor will use all commercially reasonable efforts to take or cause to be taken all other actions, and do or cause to be done all other things, necessary or appropriate to obtain the Vesting Order and to consummate the transactions contemplated by this Agreement.
- 17.6** From the date of this Agreement until completion of the transaction contemplated herein, the Vendor covenants to maintain the Purchased Assets in a commercially reasonable manner, to ensure that the Purchased Assets are insured, and to ensure that such insurance coverage of the Purchased Assets is maintained in good standing up to and including the

Closing Date, after that time the Vendor shall have no further obligation to insure the Purchased Assets.

**17.7** From the date of this Agreement until completion of the transaction contemplated herein, and except as contemplated by this Agreement, the Vendor will not sell, transfer, or otherwise dispose of, or agree to sell, transfer, pledge, lease, encumber, or otherwise dispose of, any Purchased Assets, or enter into any agreement or transaction which would result in the creation of any Encumbrance on any of the Purchased Assets.

**18. As is, Where is.**

**18.1** Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:

- (a) except for the representations and warranties of the Vendor set forth in Section 15 and the covenants of the Vendor set forth in Section 17, it is entering into this Agreement, acquiring the Purchased Assets on an "**as is, where is**" basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk of the Purchaser;
- (b) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets as it deemed appropriate, and based solely thereon, has determined to proceed with the Transaction;
- (c) except as expressly stated in Section 15, neither the Vendor nor its Representatives have made or are making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Vendor's right, title or interest in or to the Purchased Assets, including with respect to merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, environmental condition, existence of any parts and/or components, latent defects, quality, quantity or any other thing affecting any of the Purchased Assets, or normal operation thereof, or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;
- (d) all written and oral information obtained from the Vendor or its Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain "**data rooms**", management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets has been obtained for the convenience of the Purchaser only, and neither the Vendor nor its Representatives have made

any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information; and

- (e) any information regarding or describing the Purchased Assets in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by the Vendor or its Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions.

**18.2** Notwithstanding anything to the contrary herein, the Purchaser hereby expressly acknowledges that if any consents of: (i) any Governmental Entities are required to effect the transfer of any of the Purchased Assets; or (ii) any lessees are required to effect the transfer of any of the leases or licences to be acquired by the Purchaser pursuant to this Agreement, then it is the sole responsibility of the Purchaser to obtain any such consents, and the granting of any such consents shall not be a condition precedent to the Purchaser's obligations under this Agreement, including the payment of the Purchase Price. At the request and cost of the Purchaser, both before and after the Closing Date, the Vendor will assist the Purchaser in its efforts to obtain any consents required of any Government Entities or lessees in order to complete the sale and transfer of the Purchased Assets pursuant to this Agreement.

## **19. Investigation**

**19.1** During the Interim Period, the Vendor shall permit the Purchaser and its authorized representatives to make such investigations, inspections, surveys or tests of the Purchased Assets, as the Purchaser deems reasonably necessary or desirable to familiarize itself with the Purchased Assets. Without limiting the generality of the foregoing, the Vendor shall, to the extent reasonably possible and at no cost to the Vendor provide the Purchaser with free and unrestricted access to (i) all documents relating to information scheduled or required to be disclosed under this Agreement, and (ii) the Books and Records in the possession of the Vendor.

**19.2** At the Purchaser's request and at no cost to the Vendor, the Vendor shall execute, or cause to be executed, such consents, authorizations and directions as may be necessary to permit any inspection of any of the Purchased Assets and to enable the Purchaser or its authorized representatives to obtain full access to all files and records relating to any of the Purchased Assets maintained by Governmental Authorities and self-regulating authorities.

## **20. Conduct Prior to Closing**

**20.1** Without in any way limiting any other obligations of the Vendor hereunder, during the Interim Period, but subject to any order or direction made by the Court:

- (a) the Vendor shall not, without the prior written consent of the Purchaser, enter into any transaction or refrain from doing any action that, if effected before the date of this Agreement, would constitute a breach of any representation, warranty, covenant or other obligation of the Vendor under this Agreement;

- (b) the Vendor shall take all necessary corporate action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and to complete the transfer of the Purchased Assets to the Purchaser; and
- (c) the Vendor shall use commercially reasonable efforts to satisfy the conditions contained in Sections 15.1 and 17.

## **21. Notification of Certain Matters**

**21.1** During the Interim Period, the Vendor shall, provided the Vendor has actual knowledge of the event or occurrence, give prompt notice in writing to the Purchaser of:

- (a) the occurrence, or failure to occur, of any event, which occurrence or failure would be likely to cause any of the representations or warranties of the Vendor contained in this Agreement to be untrue or inaccurate during the Interim Period;
- (b) any notice or communication from any Person alleging that the consent of such Person is or may be required in connection with the Transaction;
- (c) any notice or communication from any Governmental Authority in connection with the Transaction;
- (d) any Proceeding commenced or threatened against the Vendor or relating to or involving or otherwise affecting the Vendor which relates to the consummation of the Transaction; and
- (e) any failure by the Vendor to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied under this Agreement.

**21.2** The giving of any notice under this Section 21 does not in any way change or modify the representations and warranties of the Vendor, or the conditions to the obligations of the Purchaser, contained in this Agreement or otherwise affect the remedies available to the Purchaser under this Agreement.

## **22. Covenants of the Purchaser**

**22.1** At the Closing Time, the Purchaser will pay the Purchase Price to the Vendor. The Purchaser will be liable for and shall pay all applicable taxes in accordance with Section 10 hereof.

**22.2** At the Closing Time, the Purchaser will assume and thereafter perform all obligations and liabilities arising from and in connection with the Purchased Assets that accrue from and after the Closing Time.

**22.3** The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any laws applicable to such Books and Records. The Purchaser shall make

such Books and Records, as well as electronic copies of such Books and Records (to the extent reasonably feasible), available to the Vendor, their respective successors, and any trustee in bankruptcy, and shall permit any of the foregoing persons to take copies of such Books and Records as they may require.

### **23. Termination**

**23.1** This Agreement may be terminated by notice given prior to or at the Closing Time as follows:

- (a) by mutual written agreement of the Parties;
- (b) by the Purchaser by notice in writing to the Vendor if the Vendor has failed to comply in any material respect with any of its obligations under this Agreement (other than those to be performed at the Closing Time) for a period of three Business Days (or a lesser period specified by the Purchaser if the Closing Date is to occur within three Business Days after the giving of such notice) after the Purchaser shall have notified the Vendor of such failure to comply in writing;
- (c) by the Purchaser by notice in writing to the Vendor if any conditions specified in Sections 12 or 14 have not been satisfied by the Closing Time and the Purchaser has not, in the case of Section 12, and the Parties have not, in the case of Section 14, waived such conditions by such time;
- (d) by the Purchaser in accordance with Section 24.2(b);
- (e) by the Vendor by notice in writing to the Purchaser if the conditions specified in Sections 13 or 14 have not been satisfied by the Closing Time and the Vendor has not, in the case of Section 13, and the Parties have not, in the case of Section 14, waived such conditions by such time; or
- (f) by either of the Parties on written notice to the other, provided such Party is not in material breach of its obligations under this Agreement, if the Vesting Order has not been pronounced and entered by December 31, 2018.

### **24. Risk**

**24.1** The Purchased Assets will be at the Vendor's risk until the completion of the transaction contemplated herein on the Closing Date and thereafter at the Purchaser's risk.

**24.2** If, before the Closing, any of the Purchased Assets is lost, damaged or destroyed or is appropriated, expropriated or seized by any Governmental Authority, then:

- (a) the Parties shall agree on an adjustment to the Purchase Price to account for such loss, damage, destruction, appropriation, expropriation or seizure; or

- (b) if such loss, damage, destruction, appropriation, expropriation or seizure is materially adverse to the Purchaser, as determined by the Purchaser, acting reasonably, then the Purchaser, at its sole discretion may terminate this Agreement.

## **25. Closing**

**25.1** Subject to the terms and conditions of this Agreement, and the satisfaction or the waiver of the conditions precedent in Sections 12, 13, and 14, the purchase and sale of the Purchased Assets will be completed at the Closing Time at the offices of the Vendor's Solicitors.

**25.2** At the Closing Time the Purchaser will deliver, or cause to be delivered to the Vendor:

- (a) the Purchase Price;
- (b) duly executed election referred to in Section 11(a), if applicable; and
- (c) other tax Election forms required by Section 11.

**25.3** At the Closing Time the Vendor shall deliver, or cause to be delivered to the Purchaser:

- (a) a Court-certified copy of the Vesting Order;
- (b) all of the Vendor's right, title, and interest in and to the Purchased Assets, in accordance with the Vesting Order;
- (c) duly executed election referred to in Section 11(a), if applicable;
- (d) other tax Election forms required by Section 11.
- (e) the Books and Records; and
- (f) all such assignments, instruments of transfer, deeds, assurances, consents, registrations, and other documents executed by the Vendor as requested by the Purchaser in respect of transferring the Purchased Assets to the Purchaser and registrations in connection therewith;

and the Purchaser shall be entitled to possession of the Purchased Assets, in accordance with the Vesting Order, upon payment of the Purchase Price in accordance with this Agreement.

## **26. Further Assurances**

**26.1** The Parties will execute such further and other documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement.

**27. Notice**

All notices required or permitted to be given under this Agreement will be in writing and delivered by courier or email as follows:

**28. Legal Advice**

**28.1** The Parties have each consulted with and been advised by their own solicitors before entering into this Agreement, have read same, and know the contents thereof.

**29. Expenses**

**29.1** Each Party shall pay all of its own expenses (including taxes imposed on those expenses) incurred in the authorization, negotiation, preparation, execution and performance of this Agreement and the Transaction, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

**30. No Third-Party Beneficiary**

**30.1** This Agreement is solely for the benefit of the Parties and no third party accrues any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

**31. Entire Agreement**

**31.1** This Agreement constitutes the entire agreement between the Parties and there are no representations or warranties, express or implied, statutory or otherwise and no collateral agreements other than as expressly set forth or referred to in this Agreement.

**32. Amendment**

**32.1** No amendment of this Agreement will be binding unless made in writing by both Parties.

**33. Severability**

**33.1** If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited, or unenforceable, that provision will, as to that jurisdiction, be ineffective only to the extent of that restriction, prohibition, or unenforceability without invalidating the remaining provisions of this Agreement, without affecting the validity or enforceability of that provision in any other jurisdiction and, if applicable, without affecting its application to the other Parties or circumstances.

**34. Assignment**

**34.1** This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party hereto, which consent may be arbitrarily withheld, provided that the Purchaser may designate one or more nominees to take title in and to the Purchased Assets, or any part thereof, by giving the Vendor written notice of such assignment at least two clear Business Days prior to the date of the hearing of the application for the Vesting Order.

**35. Time of the Essence**

**35.1** Time will be of the essence of this Agreement.

**36. Applicable Law and Court Jurisdiction**

**36.1** This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, and the Parties hereby attorn to the jurisdiction of the Ontario Superior Court of Justice.

**37. Successors and Assigns**

**37.1** This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

**38. Counterparts**

**38.1** This Agreement may be signed in counterparts and each such counterpart will constitute an original document, and such counterparts, taken together, will constitute one and the same instrument. A counterpart may be delivered by email or any other form of electronic transmission.

*[Remainder of page intentionally left blank]*

**AS EVIDENCE OF THEIR AGREEMENT** the Parties have executed this Agreement as of the day and year first written above.

**864884 ONTARIO INC.**

DocuSigned by:

*Daniele Ponzi*

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Name: Daniele Ponzi

Title: Managing Partner

**BULLETPROOF LOGISTICS INC.**

DocuSigned by:

*J. Robinson*

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Name: James Robinson

Title: President

DocuSigned by:

*Dino Pomilio*

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Name: Dino Pomilio

Title: Vice President

**Schedule “A”**  
**Schedule of Customer Contracts**

864884 Ontario Inc. - Sale to Bulletproof Logistics Inc.		
Schedule of Customer Contracts to be Assigned to Purchaser		
<b>Code</b>	<b>Client</b>	<b>Warehouse</b>
3ACI01	ACID LEAGUE	Keyes
3ACT01	Action Supplies	Lesmill
3AGE01	AGENCE ELEVEN SARL	Keyes
3AMO01	Amoena	Keyes
3ARCX02	Arc International INT.	Keyes
3ARC01	Arc International INT.	Keyes
3BAK01	BAKNOR/ INTELATECHRUSGEN COMPANY INC.	Keyes
3BER02	Berglite	Lesmill
3CEN01	Centrum	Lesmill
3CLE01	CLEVERFOXSV Digital SA	Keyes
3CON01	Contra	Lesmill
3DIS01	District Ride	Lesmill
3DR01	DRINKPROXIES INC.	Keyes
3EAR01	EARTH'S MUSHROOMS INC.	Keyes
3EMB01	EMBRACE ESSENTIALS INC.	Keyes
3FER03	Ferris Wheel Press Inc. (B2B)	Keyes
3FER02	Ferris Wheel Press Inc. (DTC)	Keyes
3FIL01	Fillon	Lesmill
3FIN01	FINNTRAIL POWERSPORTS CA INC.	Keyes
3HOD	HOD	Lesmill
3IMP01	ImpaceMedical	Lesmill
3ISL01	ISLAND CORPORATION	Keyes
3WAL01	Jol Baby Products - WALMART	Keyes
3JOB01	Jol Baby Productsbol Products LLC	Keyes
3MAH01	Mahara	Lesmill
3MIS01	Mississauga Air Delivery	Keyes
3MOV01	Movemate	Lesmill
3NEW01	NEW SEASON'S TEX INC.	Keyes
3OPP01	Oppo Suits	Keyes
3OSP01	OSPREY ASSOCIATES CO., LIMITED	Keyes
3PAT01	Path Pharm Inc.	Keyes
3REC01	Recom	Lesmill
3S2C01	S2 Creative Space	Lesmill
3SAM01	SAMSONIC TRADING CO.	Keyes
3SER01	Serenade	Lesmill
3SHO01	Show Pony LLC	Keyes
3SIO01	Soxx	Lesmill
3TAN02	TANDO INC.	Keyes
3TOT01	Total Packaging	Lesmill
3URV01	Urvil	Lesmill
3VAN01	VANTAMQIAKOBSLI TRADING LLC	Keyes
3VEG01	Vegepod Canada Ltd	Keyes
3CAT01	XCE HOLDINGS, LLC Catch Creation	Keyes

**Schedule "B"**  
**Machinery & Equipment List**

864884 Ontario Inc. - Sale to Bulletproof Logistics Inc. Schedule of Machinery & Equipment to be Purchased by Bulletproof Logistics.	
<b>QTY</b>	<b>Description</b>
1	2011 Raymond "740 R45T" Electric Reach Truck
6	Half Door Lockers
9	Pallet Trucks
8	Order Picking Carts
2	Sections Pallet Racking
1	2003 Raymond "112TM-FRE60L" Electric Pallet Walkie
1	Toyota "7FBEU20" Electric 3 Wheel Forklift
3	Sections Pallet Racking
1	Toyota "7FBEU20" Electric 3 Wheel Forklift
1	Tianjg TJG-115" Digital Platform Floor Scale
26	Sections Pallet Racking (22' x 42" Uprights, ~154 Cross Beams)
6	Sections Pallet Racking (12' and 18' x 42" Uprights, ~32 Cross Beams)
1	Eagle "2000B" Turntable Type Pallet Wrapper
3	Zebra "105SL" Label Printers
3	HP Computers with Monitor, Keyboard
1	HP "Laserjet 600 M601" Laset Printer
2	Weigh-Tronix Benchtop Digital Platform Scales
1	Dymo Benchtop Digital Scale
2	Samsung Laser Printers
	Gravity Feed Roller Conveyor
8	Sections Gravity Feed Order Picking Racks
62	Sections Metal Shelving
1	2003 Raymond "112TM-FRE60L" Electric Pallet Walkie
1	Crown "Series 5200" Electric Reach Truck
1	Yale "NDR035E" Electric Reach Truck
1	Crown "Series 3000" Electric Order Picker
2	Warehouse Rollling Stairs
1	Rolling Pallet Rack
1	2016 Raymond "750-R45TT" Electric Reach Truck
1	4 Wheel Warehouse Dolly
1	2005 Raymond "112TM-FRE60L" Electric Pallet Walkie
50	Sections Pallet Racking (22' x 42" Uprights, ~400 Cross Beams)
176	Section Pallet Racking (28' x 42" Uprights ~2400 Cross Beams)
5	3 Drawer Lateral File Cabinets
2	2 Drawer Lateral File Cabinets
10	Modular Office Work Stations (with Office Chairs)

1	5 Drawer lateral File Cabinet
2	Reception Chairs and Side Tables
	Miscellaneous Office Equipment ( with Phone System, Printers, Storage Cabinets, Security Cameras and Folding Chairs)
	Wraparound Executive Desk (Office Chair, Computers, Side Chair, Side Table and Bookcase)
	Wraparound Executive Desk and Credenza (with Office Chair, Computer, 4 Side Chairs, Conference Table, Brother Printer)
	Boardroom Furniture (with Table, Chairs, Conference Table, White Board and Flat Screen Television)
	Wraparound Executive Desk (with Office Chair, Computer, Side Chair, Side Table and Samsung Printer)
	Wraparound Executive Desk (with Office Chair, Computers, two Side Chairs, Side Table, Samsung Printer, Two-Door Storage Cabinet and Two-Drawer Lateral File Cabinet
	Wraparound Executive Desk (with Office Chair, Computers, two Side Chairs, Side Table and HP Printer)
	Wraparound Executive Desk (with Office Chair, Computers, two Side Chairs, Side Table and Samsung Printer)
	Round Conference Table (with 2 Chairs)
	Wraparound Executive Desk (with Office Chair, Computers, two Side Chairs and a two Door Storage Cabinet.
	Cafeteria Equipment - Consisting of: Refrigerator, Microwave, Coffee Maker, Dishes, Glasses, Tables and Chairs, Etc.
	Computer Server Room - Consisting of: Gear Racks, Hewlett Packard Services and Storage Systems, Patch Panels, Battery Backups, Keyboards, Spare Parts, , Desks, Bookcase, Printers, Etc.
	Miscellaneous Equipment - Consisting of: Chrome Wire Rolling Racks, Mop and Pail, Plastic Tote Bins, Forklift Fork Extensions, Peestal Floor Fan, Garbage Cans, Work Benches, Shelving, Office Chairs, Storage Cabinets, Lockers.

**Schedule "C"**

**Form of Vesting Order <Insert>**

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**Schedule "D"**

**Permitted Encumbrances**

N/A

## **Appendix E**

864884 Ontario Inc. o/a Hyperlink Logistics and/or Illuminex  
Liquidation Schedule  
As at January 23, 2025

Bulletproof APA

ESTIMATED NET LIQUIDATION VALUE (CAD\$)				
	Net book value <i>note 1</i>	Scenarios		Notes
		Low	High	
ASSETS				
Machinery & Equipment	346,199	61,600	200,000	<i>note 2</i>

GPonzi APA

ESTIMATED NET LIQUIDATION VALUE (CAD\$)				
	Net book value	Scenarios		Notes
		Low	High	
ASSETS				
Cash	1	1	1	<i>note 3</i>
Accounts Receivable	379,386	341,448	379,386	<i>note 4</i>
Total	379,387	341,449	379,387	

Notes

*Note 1* The net book values are from the Company's books and records (unless otherwise noted) as at January 23, 2025.

*Note 2* Two (2) appraisals of machinery and equipment provided for forced liquidation values ranging between \$61,600 and \$93,000, and orderly liquidation values or fair market values between \$157,000 and \$200,000.

Appraisal	<u>NBV</u>	<u>FLV (Low)</u>	<u>FMV (High)</u>
Canam	\$ 346,199	\$ 61,600	\$ 200,000
Leveredge	\$ 346,199	\$ 93,000	\$ 157,000
Low / High	\$ 346,199	\$ 61,600	\$ 200,000

*Note 3* Cash is assumed to be negligible as a result of Outstanding Disbursements.

*Note 4* Accounts receivable were approximately \$380,000 at December 31, 2024 and the realization is estimated at 90% and 100% in the low scenario and high scenario, respectively.

## **Appendix F**

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of the \_\_\_\_ day of February, 2025.

**BETWEEN:**            **864884 ONTARIO INC.** (the "**Vendor**");

**AND:**                 **GIANNA PONZI or her assignee** (the "**Purchaser**");

**WHEREAS:**

- A. The Vendor was indebted to Royal Bank of Canada ("**RBC**") in the amount of \$469,646.42 as at December 13, 2024 (the "**RBC Debt**");
- B. RBC held certain security, including a general security agreement (the "**Security**"), as security for the RBC Debt, as well as a written guarantee of the RBC Debt from Gianna Ponzi (the "**Guarantor**");
- C. On December 13, 2024, the Guarantor paid the RBC Debt in full and demanded an assignment of the RBC Debt and Security from RBC pursuant to the *Mercantile Law Amendment Act* (Ontario);
- D. The Vendor filed a notice of intention to make a proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* on December 16, 2024;
- E. The Vendor wishes to sell to the Purchaser all of Vendor's right, title, and interest in and to the Purchased Assets (as defined herein) located in Vaughan, Ontario, and the Purchaser wishes to purchase all of Vendor's right, title, and interest in and to the Purchased Assets on and subject to the terms and conditions of this Agreement;
- F. RBC and the Purchaser are in the course of preparing an agreement pursuant to which RBC will assign, transfer and convey to the Purchaser all of RBC's right, title and interest in and to the RBC Debt and Security; and
- G. Upon completion of the assignment, the Vendor will be indebted to the Purchaser in the amount of \$469,646.42 as at the date hereof and that liability is secured by a valid and registered charge against all assets, properties and undertakings of the Vendor.

**IN CONSIDERATION** of the premises and covenants, agreements, representations, warranties, and payments contained in this Agreement, the Vendor and the Purchaser agree as follows:

**1. Definitions**

The following terms have the following meanings:

- (a) "**Agreement**" means this Asset Purchase Agreement made as of the date first written above;

- (b) "**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively, in the foregoing clauses (a) and (b), "**Law**") in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.
- (c) "**Books and Records**" means all books, records, files and papers used or intended for use in connection with the ownership of the Purchased Assets, including title documentation, manuals, sales and advertising materials, and all other documents and data (technical or otherwise) relating to the Purchased Assets, and all copies and recordings of the foregoing;
- (d) "**Business Day**" means any day other than a Saturday, Sunday, or any other statutory holiday in Ontario;
- (e) "**Claim**" means any right or claim of any person that may be asserted or made in whole or in part against the Vendor, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a provable claim in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, had 236 Inc. become bankrupt;
- (f) "**Closing**" means the completion of the Transaction in accordance with this Agreement;
- (g) "**Closing Date**" means three Business Days after the latter of the granting of the Vesting Order or the date on which the conditions precedent set forth in Sections

12, 13, and 14 are fulfilled or waived, or as otherwise agreed upon in writing by the Vendor and the Purchaser;

- (h) "**Closing Time**" means 12:00 noon on the Closing Date;
- (i) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (j) "**Deposit**" has the meaning ascribed thereto in Section **Error! Reference source not found.**;
- (k) "**ETA**" means the *Excise Tax Act*, RSC, 1985, c E-15 and the regulations thereto;
- (l) "**Encumbrance**" means any encumbrance against or interest in the Purchased Assets of any kind whatsoever and includes, without limitation, a security interest, mortgage, lien, pledge, assignment, charge, title retention agreement, option, trust or deemed trust (whether contractual, statutory, or otherwise arising), licence, and any covenant or other agreement, restriction, or limitation relating to the Purchased Assets or the transfer of the Purchased Assets to the Purchaser pursuant to this Agreement, and includes Competing Proprietary Claims;
- (m) "**Final Order**" means an order issued by the Court in these Proposal Proceedings which: (i) is not subject to a stay of execution or an application or request for a stay of execution, and, if the deadline for filing any such application or request is designated by statute or regulation, such deadline, including any extensions thereof, has passed; and (ii) is not then under appeal or other form of judicial review, is not subject to an application for leave to appeal or other form of judicial review, and the deadline for filing any notice of appeal or application for appeal or other form of judicial review, including any extensions thereof, has passed;
- (n) "**Governmental Authority**" means any Canadian, foreign, domestic, federal, territorial, provincial, state, municipal, or local governmental authority, quasi-governmental authority, instrumentality, court, government, or self-regulatory organization, bureau, commission, tribunal, or organization or any regulatory, administrative, or other agency, or any political or other subdivision, department, or branch of any of the foregoing having jurisdiction with respect to 236 Inc., the Purchased Assets, or any other matter that is the subject of this Agreement;
- (o) "**GST/HST**" means any goods and services tax/harmonized sales tax imposed under Part IX of the ETA;
- (p) "**Interim Period**" means the period from the date of this Agreement to the Closing Date;
- (q) "**ITA**" means the *Income Tax Act* (Canada) RSC, 1985, c 1 (5th Supp.)
- (r) "**Legal Proceeding**" means any litigation, action, application, demand, suit, investigation, hearing, Claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar

proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review;

- (s) "**Obligations**" means any indebtedness, liabilities and obligations, whether present, future, direct, indirect, liquidated or contingent, whether due or to become due, owed by 236 Inc. to any person;
- (t) "**Party**" or "**Parties**" mean either the Vendor or the Purchaser, as appropriate in the context, or both;
- (u) "**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.
- (v) "**Property**" has the meaning ascribed thereto in the recitals hereto;
- (w) "**Proposal Proceeding**" means the proposal proceeding commenced on December 16, 2024 whereby the Vendor filed a notice of intention to make a proposal pursuant to the Bankruptcy & Insolvency Act and whereby BDO Canada Limited was appointed the proposal trustee (the "**Proposal Trustee**");
- (x) "**Purchase Price**" has the meaning ascribed thereto in Section 7 hereof;
- (y) "**Purchased Assets**" means those assets listed in Schedule "A";
- (z) "**Secured Liability**" means the amount of \$469,646.42 that was owed by the Vendor to RBC and which shall be assigned to the Purchaser and which amount is subject to a valid and enforceable charge against all assets, properties and undertakings.
- (aa) "**Taxes**" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties;
- (bb) "**Transfer Taxes**" means all applicable Taxes, including where applicable, all GST/HST payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement;

- (cc) "**Transaction**" means the purchase and sale of the Purchased Assets and all other transactions contemplated by this Agreement;
- (dd) "**Vendor's Solicitors**" means Miller Thomson LLP; and
- (ee) "**Vesting Order**" means an Order of the Court made in the Proposal Proceeding in form and content satisfactory to the Purchaser and the Vendor, each acting reasonably, approving the entry into this Agreement by the Vendor and the consummation of the Transaction contemplated hereby, and vesting in the Purchaser or its nominee(s) all right, title, and interest of the Vendor in and to the Purchased Assets free and clear of all Encumbrances upon payment of the Purchase Price. The draft Vesting Order is attached hereto as **Schedule "B"**.

## 1.1 Schedules

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

### SCHEDULES

<b>Error! Reference source not found.</b>	Customer Accounts Receivable
Schedule "B"	Form of

## 2. Construction

- 2.1 This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party does not apply to the construction or interpretation of this Agreement.

## 3. Certain Rules of Interpretation

### 3.1 In this Agreement:

- (a) headings are inserted for convenience of reference only and will not affect the interpretation of this Agreement;
- (b) the division into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- (c) the expressions "**hereof**", "**herein**", "**hereto**", "**hereunder**", "**hereby**" and similar expressions refer to this Agreement and not to any particular portion of this Agreement;
- (d) "**including**" or "**includes**" means "**including (or includes) but is not limited to**" and is not to be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;

- (e) references to any legislation, statutory instrument or regulation or a section thereof are references to the legislation, statutory instrument, regulation or section as amended, re-enacted, consolidated or replaced from time to time; and
- (f) words in the singular include the plural and vice-versa and words in one gender include all genders.

#### **4. Performance on Business Days**

- 4.1 If any action is required to be taken pursuant to this Agreement on or by a specified date that is not a Business Day, the action is valid if taken on or by the next succeeding Business Day.

#### **5. Currency and Payment**

- 5.1 In this Agreement, unless specified otherwise, references to dollar amounts or "\$" are to Canadian dollars, and any payment is to be effected by way of a corresponding adjustment to the Secured Liability.

#### **6. Purchase and Sale of the Purchased Assets**

- 6.1 Subject to the timely fulfillment or waiver of the conditions precedent set forth in Sections 12, 13, and 14, including the granting of the Vesting Order, and the terms and conditions of this Agreement, on the Closing Date, the Vendor agrees to sell, assign, and transfer to the Purchaser, and the Purchaser agrees to purchase from the Vendor, all right, title, and interest of the Vendor in and to the Purchased Assets free and clear of all Encumbrances at the Closing Time.

#### **7. Purchase Price**

- 7.1 The amount payable by the Purchaser to the Vendor for the Purchased Assets will be \$● (the "**Purchase Price**"), which shall be effected by way of a corresponding adjustment to the Secured Liability.

#### **8. Payment of the Purchase Price**

- 8.1 The Purchase Price shall be paid to the Vendor by the Purchaser on the Closing Date.

#### **9. Deposit**

- 9.1 Section intentionally removed.

#### **10. Transfer Taxes**

- 10.1 The Purchase Price is exclusive of any applicable Transfer Taxes. Subject to Section 11(a), the Purchaser shall pay to the Vendor upon Closing or, where permitted by Applicable Law, directly to the appropriate Governmental Authorities, all Transfer Taxes, registration charges and transfer fees payable by it in respect of the purchase and sale of the Purchased

Assets under this Agreement, and, on request of the Vendor, the Purchaser shall furnish to the Vendor proof of direct payment to a Governmental Authority.

- 10.2** GST/HST Certificate and Indemnity. In respect of any GST/HST to be self-assessed by the Purchaser, the Purchaser shall deliver to the Vendor a GST/HST certificate and indemnity in form agreeable to the Vendor.
- 10.3** GST/HST Gross-Up. If any payment made by the Vendor or the Purchaser as the result of a breach, modification or termination of this Agreement is deemed by the ETA to include GST/HST, or is deemed by any applicable provincial or territorial legislation to include a similar value-added or multi-staged tax, the amount of such payment shall be increased accordingly.
- 10.4** The Purchaser shall indemnify and save harmless the Vendor from any amounts, including interest and penalties, that may be assessed against the Vendor arising out of the failure of the Purchaser to pay, when due, any taxes described in this Section 10.

## **11. Tax Elections**

- (a) Section 167 Tax Election. If available, at the Closing, the Vendor and the Purchaser shall execute jointly an election under Section 167 of the ETA, to have the sale of the Purchased Assets take place on a GST/HST-free basis under Part IX of the ETA. The Purchaser shall file the elections in the manner and within the time prescribed by the relevant legislation. Notwithstanding anything to the contrary in this Agreement, the Purchaser shall indemnify and hold harmless the Vendor in respect of any GST/HST, penalties, interest and other amounts which may be assessed against the Vendor as a result of the transactions under this Agreement not being eligible for such election or as a result of the Purchaser's failure to file the election within the prescribed time.
- (b) Section 20(24) Tax Election. The Purchaser and the Vendor shall, if applicable, jointly execute and file an election under Section 20(24) of the ITA in the manner required by Section 20(25) of the ITA and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed forms and within the time period permitted under the ITA and under any other applicable provincial or territorial statute, as to such amount paid by the Vendor to the Purchaser for assuming future obligations. In this regard, the Purchaser and the Vendor acknowledge that a portion of the Purchased Assets transferred by the Vendor pursuant to this Agreement and having a value equal to the amount elected under Section 20(24) of the ITA and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Vendor as a payment for the assumption of such future obligations by the Purchaser.
- (c) Section 56.4 Tax Election. At the request of the Vendor and to the extent permitted by the ITA, the Parties shall make, and the Vendor shall file, any election or amended election in prescribed form (or such other form as the Purchaser or the Vendor may reasonably request) and within the prescribed time limits pursuant to

Section 56.4(7) of the ITA proposed by the Minister of Finance (Canada) as it reads on the date of this Agreement or any amended or successor provision thereto, and any analogous provision of provincial or territorial Tax legislation.

## **12. Conditions in Favour of the Purchaser**

**12.1** The obligations of the Purchaser under this Agreement are subject to the fulfillment of the following conditions precedent:

- (a) Each of the representations and warranties of the Vendor set forth in Section 15 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Vendor on or before the Closing Time shall have been complied with and not been breached in any material respect; and
- (c) the Vendor has caused to be delivered to the Purchaser, all as reasonably requested and prepared by the Purchaser all Books and Records, deeds, conveyances, bills of sale, assurances, transfers, assignments and any other documentation or action which in the opinion of the Purchaser are necessary or reasonably required to transfer the Purchased Assets to the Purchaser with good and marketable title, free and clear of all Encumbrances, in each case duly executed by the Vendor and in form and substance satisfactory to the Purchaser, acting reasonably.

**12.2** The Purchaser may, in its sole discretion, waive any of the foregoing conditions. Any waiver by the Purchaser must be in writing and delivered to the Vendor's Solicitors.

## **13. Conditions in Favour of the Vendor**

**13.1** The obligations of the Vendor under this Agreement are subject to the fulfillment of the following conditions precedent:

- (a) each of the representations and warranties of the Purchaser set forth in Section 16 shall be true and correct as if restated on and as of the Closing Date;
- (b) the covenants and obligations contained in this Agreement to be complied with by the Purchaser on or before the Closing Time shall have been complied with and not been breached in any material respect; and
- (c) the Purchaser has, as at the Closing Time: (i) delivered and paid the Purchase Price to the Vendor, and (ii) paid and delivered all taxes applicable to the Transaction.

**13.2** The Vendor may, in its sole discretion, waive either of the foregoing conditions. Any waiver by the Vendor must be in writing and delivered to the Purchaser.

## **14. Mutual Conditions**

**14.1** The obligations of the Parties under this Agreement are subject to the following mutual conditions precedent:

- (a) the security charging the Purchased Assets shall not have been reinstated or redeemed prior to the Closing Date;
- (b) the Vesting Order shall have been obtained and shall be a Final Order, unless the Purchaser has provided written consent that Closing occur despite the Vesting Order not being a Final Order;
- (c) RBC shall have delivered to the Purchaser an assignment agreement assigning to the Purchase all of RBC's right, title and interest in and to the RBC Debt and the Security, in form and substance satisfactory to the Parties; and
- (d) there shall be in effect no order, injunction, judgment, decree, ruling, writ, assessment, or arbitration award of the Court or other court of competent jurisdiction or of a relevant Governmental Authority prohibiting the consummation of the transactions contemplated hereby and which has not been withdrawn or terminated.

**14.2** The Parties may agree to amend or waive any the foregoing conditions except (c) above, which cannot be waived. Any amendment or waiver by the Parties must be in writing and delivered to the Purchaser and the Vendor's Solicitors.

## **15. Representations and Warranties of the Vendor**

**15.1** The Vendor represents and warrants to the Purchaser as follows, with the intent that the Purchaser will rely on these representations and warranties in entering into this Agreement, and in concluding the purchase and sale contemplated by this Agreement:

- (a) subject to obtaining and pursuant to the Vesting Order, the Vendor has the power, authority and capacity to enter into this Agreement, subject to its terms, and the authority to execute all instruments required by this Agreement to be delivered by it, and to perform its obligations hereunder and thereunder;
- (b) The Vendor is registered for GST/HST purposes under Part IX of the ETA and its registration number is # 12323 6838 RT0001; and
- (c) the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act*.

## **16. Representations and Warranties of the Purchaser**

**16.1** The Purchaser represents and warrants to the Vendor as follows, with the intent that the Vendor will rely on these representations and warranties in entering into this Agreement, and in concluding the purchase and sale contemplated by this Agreement:

- (a) the Purchaser has the power and capacity to enter into this Agreement and carry out its terms;
- (b) the Purchaser is a corporation duly incorporated, validly existing, and in good standing under the *Ontario Business Corporations Act*, and has the power and capacity to enter into this Agreement and carry out its terms;
- (c) the execution and delivery of this Agreement and the completion of the transaction contemplated by this Agreement have been duly and validly authorized by all necessary corporate action on the part of the Purchaser, and this Agreement constitutes a legal, valid, and binding obligation of the Purchaser.
- (d) this Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms. There is no Legal Proceeding in progress, pending against or threatened against or affecting either Purchaser, and there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting either Purchaser which, in any such case, affects adversely or might affect adversely the ability of either Purchaser to enter into this Agreement or to perform its obligations hereunder;
- (e) Purchaser is not a "non-Canadian" within the meaning of the *Investment Canada Act*, RSC 1985, c 28 (1<sup>st</sup> Supp);
- (f) Purchaser shall, or upon Closing shall be, registered for HST purposes under Part IX of the ETA, and shall provide its registration numbers to the Vendor at or prior to Closing; and
- (g) the Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by, the Purchaser or either of them.

## **17. Covenants of the Vendor**

- 17.1** The Vendor will consult with the Purchaser at all reasonable times with respect to the status of the Purchased Assets and the Proposal Proceeding.
- 17.2** Upon payment of the Purchase Price by the Purchaser at the Closing Time, and subject to the terms of this Agreement, the Vendor will transfer and assign to the Purchaser all of its right, title, and interest in and to the Purchased Assets in accordance with the terms of the Vesting Order.
- 17.3** On the Closing Date, the Vendor shall deliver, and shall cause to be delivered, to the Purchaser the Books and Records and all documents (except, in the case of those required by applicable law to be retained by the Vendor, copies thereof) and other data, technical or otherwise, which are in the possession of the Vendor at the Closing Date, relating materially to the Purchased Assets. The Purchaser shall permit the Proposal Trustee, and its authorized representatives, reasonable access to those documents while they are in the

Purchaser's possession or control solely to the extent that access is required by the Proposal Trustee to perform its or the Vendor's obligations under this Agreement or under applicable law, but the Purchaser shall not be responsible or liable to the Vendor for, or as a result of, any loss or destruction of or damage to any such documents and other data unless that destruction, loss or damage is caused by the Purchaser's gross negligence or wilful misconduct. The Vendor shall be responsible for all reasonable out-of-pocket costs and expenses incurred, directly or indirectly, by the Purchaser in connection with any access contemplated by this Section 17.3.

- 17.4** Notwithstanding the immediately foregoing Section 17.3, the Vendor shall be entitled to retain copies of any documents or other data delivered to the Purchaser pursuant to this Agreement provided that those documents or data are reasonably required and only used or relied on by the Receiver to perform its obligations under this Agreement or under applicable law.
- 17.5** Subject to the terms of this Agreement, the Vendor will use all commercially reasonable efforts to take or cause to be taken all other actions, and do or cause to be done all other things, necessary or appropriate to obtain the Vesting Order and to consummate the transactions contemplated by this Agreement.
- 17.6** From the date of this Agreement until completion of the transaction contemplated herein, the Vendor covenants to maintain the Purchased Assets in a commercially reasonable manner, to ensure that the Purchased Assets are insured, and to ensure that such insurance coverage of the Purchased Assets is maintained in good standing up to and including the Closing Date, after that time the Vendor shall have no further obligation to insure the Purchased Assets.
- 17.7** From the date of this Agreement until completion of the transaction contemplated herein, and except as contemplated by this Agreement, the Vendor will not sell, transfer, or otherwise dispose of, or agree to sell, transfer, pledge, lease, encumber, or otherwise dispose of, any Purchased Assets, or enter into any agreement or transaction which would result in the creation of any Encumbrance on any of the Purchased Assets.
- 18. As is, Where is.**
- 18.1** Notwithstanding any other provision of this Agreement, the Purchaser acknowledges, agrees and confirms that:
- (a) except for the representations and warranties of the Vendor set forth in Section 15 and the covenants of the Vendor set forth in Section 17, it is entering into this Agreement, acquiring the Purchased Assets on an "**as is, where is**" basis as they exist as of the Closing Time and will accept the Purchased Assets in their state, condition and location as of the Closing Time except as expressly set forth in this Agreement and the sale of the Purchased Assets is made without legal warranty and at the risk of the Purchaser;

- (b) it has conducted to its satisfaction such independent searches, investigations and inspections of the Purchased Assets as it deemed appropriate, and based solely thereon, has determined to proceed with the Transaction;
- (c) except as expressly stated in Section 15, neither the Vendor nor its Representatives have made or are making, and the Purchaser is not relying on, any representations, warranties, statements or promises, express or implied, statutory or otherwise, concerning the Purchased Assets, the Vendor's right, title or interest in or to the Purchased Assets, including with respect to merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, environmental condition, existence of any parts and/or components, latent defects, quality, quantity or any other thing affecting any of the Purchased Assets, or normal operation thereof, or in respect of any other matter or thing whatsoever, including any and all conditions, warranties or representations expressed or implied pursuant to any Applicable Law in any jurisdiction, which the Purchaser confirms do not apply to this Agreement and are hereby waived in their entirety by the Purchaser;
- (d) all written and oral information obtained from the Vendor or its Representatives, including in any teaser letter, asset listing, confidential information memorandum or other document made available to the Purchaser (including in certain "**data rooms**", management presentations, site visits and diligence meetings or telephone calls), with respect to the Purchased Assets has been obtained for the convenience of the Purchaser only, and neither the Vendor nor its Representatives have made any representation or warranty, express or implied, statutory or otherwise as to the accuracy or completeness of any such information; and
- (e) any information regarding or describing the Purchased Assets in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and no representation, warranty or condition, express or implied, has or will be given by the Vendor or its Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions.

**18.2** Notwithstanding anything to the contrary herein, the Purchaser hereby expressly acknowledges that if any consents of: (i) any Governmental Entities are required to effect the transfer of any of the Purchased Assets; or (ii) any lessees are required to effect the transfer of any of the leases or licences to be acquired by the Purchaser pursuant to this Agreement, then it is the sole responsibility of the Purchaser to obtain any such consents, and the granting of any such consents shall not be a condition precedent to the Purchaser's obligations under this Agreement, including the payment of the Purchase Price. At the request and cost of the Purchaser, both before and after the Closing Date, the Vendor will assist the Purchaser in its efforts to obtain any consents required of any Government Entities or lessees in order to complete the sale and transfer of the Purchased Assets pursuant to this Agreement.

**19. Investigation**

- 19.1** During the Interim Period, the Vendor shall permit the Purchaser and its authorized representatives to make such investigations, inspections, surveys or tests of the Purchased Assets, as the Purchaser deems reasonably necessary or desirable to familiarize itself with the Purchased Assets. Without limiting the generality of the foregoing, the Vendor shall, to the extent reasonably possible and at no cost to the Vendor provide the Purchaser with free and unrestricted access to (i) all documents relating to information scheduled or required to be disclosed under this Agreement, and (ii) the Books and Records in the possession of the Vendor.
- 19.2** At the Purchaser's request and at no cost to the Vendor, the Vendor shall execute, or cause to be executed, such consents, authorizations and directions as may be necessary to permit any inspection of any of the Purchased Assets and to enable the Purchaser or its authorized representatives to obtain full access to all files and records relating to any of the Purchased Assets maintained by Governmental Authorities and self-regulating authorities.

**20. Conduct Prior to Closing**

- 20.1** Without in any way limiting any other obligations of the Vendor hereunder, during the Interim Period, but subject to any order or direction made by the Court:
- (a) the Vendor shall not, without the prior written consent of the Purchaser, enter into any transaction or refrain from doing any action that, if effected before the date of this Agreement, would constitute a breach of any representation, warranty, covenant or other obligation of the Vendor under this Agreement;
  - (b) the Vendor shall take all necessary corporate action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and to complete the transfer of the Purchased Assets to the Purchaser; and
  - (c) the Vendor shall use commercially reasonable efforts to satisfy the conditions contained in Sections 15.1 and 17.

**21. Notification of Certain Matters**

- 21.1** During the Interim Period, the Vendor shall, provided the Vendor has actual knowledge of the event or occurrence, give prompt notice in writing to the Purchaser of:
- (a) the occurrence, or failure to occur, of any event, which occurrence or failure would be likely to cause any of the representations or warranties of the Vendor contained in this Agreement to be untrue or inaccurate during the Interim Period;
  - (b) any notice or communication from any Person alleging that the consent of such Person is or may be required in connection with the Transaction;

- (c) any notice or communication from any Governmental Authority in connection with the Transaction;
- (d) any Proceeding commenced or threatened against the Vendor or relating to or involving or otherwise affecting the Vendor which relates to the consummation of the Transaction; and
- (e) any failure by the Vendor to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied under this Agreement.

**21.2** The giving of any notice under this Section 21 does not in any way change or modify the representations and warranties of the Vendor, or the conditions to the obligations of the Purchaser, contained in this Agreement or otherwise affect the remedies available to the Purchaser under this Agreement.

## **22. Covenants of the Purchaser**

**22.1** At the Closing Time, the Purchaser will pay the Purchase Price to the Vendor. The Purchaser will be liable for and shall pay all applicable taxes in accordance with Section 10.

**22.2** At the Closing Time, the Purchaser will assume and thereafter perform all obligations and liabilities arising from and in connection with the Purchased Assets that accrue from and after the Closing Time.

**22.3** The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any laws applicable to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such Books and Records (to the extent reasonably feasible), available to the Vendor, their respective successors, and any trustee in bankruptcy, and shall permit any of the foregoing persons to take copies of such Books and Records as they may require.

## **23. Termination**

**23.1** This Agreement may be terminated by notice given prior to or at the Closing Time as follows:

- (a) by mutual written agreement of the Parties;
- (b) by the Purchaser by notice in writing to the Vendor if the Vendor has failed to comply in any material respect with any of its obligations under this Agreement (other than those to be performed at the Closing Time) for a period of three Business Days (or a lesser period specified by the Purchaser if the Closing Date is to occur within three Business Days after the giving of such notice) after the Purchaser shall have notified the Vendor of such failure to comply in writing;

- (c) by the Purchaser by notice in writing to the Vendor if any conditions specified in Sections 12 or 14 have not been satisfied by the Closing Time and the Purchaser has not, in the case of Section 12, and the Parties have not, in the case of Section 14, waived such conditions by such time;
- (d) by the Purchaser in accordance with Section 24.2(b);
- (e) by the Vendor by notice in writing to the Purchaser if the conditions specified in Sections 13 or 14 have not been satisfied by the Closing Time and the Vendor has not, in the case of Section 13, and the Parties have not, in the case of Section 14, waived such conditions by such time; or
- (f) by either of the Parties on written notice to the other, provided such Party is not in material breach of its obligations under this Agreement, if the Vesting Order has not been pronounced and entered by February 28, 2025.

## **24. Risk**

**24.1** The Purchased Assets will be at the Vendor's risk until the completion of the transaction contemplated herein on the Closing Date and thereafter at the Purchaser's risk.

**24.2** If, before the Closing, any of the Purchased Assets is lost, damaged or destroyed or is appropriated, expropriated or seized by any Governmental Authority, then:

- (a) the Parties shall agree on an adjustment to the Purchase Price to account for such loss, damage, destruction, appropriation, expropriation or seizure; or
- (b) if such loss, damage, destruction, appropriation, expropriation or seizure is materially adverse to the Purchaser, as determined by the Purchaser, acting reasonably, then the Purchaser, at its sole discretion may terminate this Agreement.

## **25. Closing**

**25.1** Subject to the terms and conditions of this Agreement, and the satisfaction or the waiver of the conditions precedent in Sections 12, 13, and 14, the purchase and sale of the Purchased Assets will be completed at the Closing Time at the offices of the Vendor's Solicitors.

**25.2** At the Closing Time the Purchaser will deliver, or cause to be delivered to the Vendor:

- (a) the Purchase Price;
- (b) duly executed election referred to in Section 11(a), if applicable; and
- (c) other tax Election forms required by Section 11.

**25.3** At the Closing Time the Vendor shall deliver, or cause to be delivered to the Purchaser:

- (a) a Court-certified copy of the Vesting Order;

- (b) all of the Vendor's right, title, and interest in and to the Purchased Assets, in accordance with the Vesting Order;
- (c) duly executed election referred to in Section 11(a), if applicable;
- (d) other tax Election forms required by Section 11.
- (e) the Books and Records; and
- (f) all such assignments, instruments of transfer, deeds, assurances, consents, registrations, and other documents executed by the Vendor as requested by the Purchaser in respect of transferring the Purchased Assets to the Purchaser and registrations in connection therewith;

and the Purchaser shall be entitled to possession of the Purchased Assets, in accordance with the Vesting Order, upon payment of the Purchase Price in accordance with this Agreement.

## **26. Further Assurances**

- 26.1** The Parties will execute such further and other documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement.

## **27. Notice**

All notices required or permitted to be given under this Agreement will be in writing and delivered by courier or email as follows:

## **28. Legal Advice**

- 28.1** The Parties have each consulted with and been advised by their own solicitors before entering into this Agreement, have read same, and know the contents thereof.

## **29. Expenses**

- 29.1** Each Party shall pay all of its own expenses (including taxes imposed on those expenses) incurred in the authorization, negotiation, preparation, execution and performance of this Agreement and the Transaction, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

## **30. No Third Party Beneficiary**

- 30.1** This Agreement is solely for the benefit of the Parties and no third party accrues any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

**31. Entire Agreement**

31.1 This Agreement constitutes the entire agreement between the Parties and there are no representations or warranties, express or implied, statutory or otherwise and no collateral agreements other than as expressly set forth or referred to in this Agreement.

**32. Amendment**

32.1 No amendment of this Agreement will be binding unless made in writing by both Parties.

**33. Severability**

33.1 If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited, or unenforceable, that provision will, as to that jurisdiction, be ineffective only to the extent of that restriction, prohibition, or unenforceability without invalidating the remaining provisions of this Agreement, without affecting the validity or enforceability of that provision in any other jurisdiction and, if applicable, without affecting its application to the other Parties or circumstances.

**34. Assignment**

34.1 This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party hereto, which consent may be arbitrarily withheld, provided that the Purchaser may designate one or more nominees to take title in and to the Purchased Assets, or any part thereof, by giving the Vendor written notice of such assignment at least two clear Business Days prior to the date of the hearing of the application for the Vesting Order.

**35. Time of the Essence**

35.1 Time will be of the essence of this Agreement.

**36. Applicable Law and Court Jurisdiction**

36.1 This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, and the Parties hereby attorn to the jurisdiction of the Ontario Superior Court of Justice.

**37. Successors and Assigns**

37.1 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

**38. Counterparts**

38.1 This Agreement may be signed in counterparts and each such counterpart will constitute an original document, and such counterparts, taken together, will constitute one and the same instrument. A counterpart may be delivered by email or any other form of electronic transmission.

*[Remainder of page intentionally left blank]*

**AS EVIDENCE OF THEIR AGREEMENT** the Parties have executed this Agreement as of the day and year first written above.

**864884 ONTARIO INC.**

---

Name:

Title:

---

**GIANNA PONZI**



14. We have not considered or investigated whether any security interests appearing on the Searches constitute purchase money security interests in accordance with s.33 of the PPSA and we express no opinion as to the relative priority of any such interests, if any, to the interests which are the subject matter of this opinion ;
15. We have assumed that all statements of fact which appear on any of the Searches are true and correct;
16. We have assumed that no facts or circumstances exist which are not reflected in the Searches and/or Documents that would affect the opinions given herein; and
17. This opinion is confined to statements of fact or matters set forth herein as existing as at the date of this opinion.

### **OPINION**

This opinion is confined to statements of fact and to the matters set forth herein, as existing as at the date of this opinion. Based upon the foregoing and subject to the qualifications set out herein, we are of the opinion that:

- (a) The Credit Agreement constitutes a valid and binding obligation of the Borrower in favour of the Creditor which may be enforced in accordance with its terms;
- (b) The GSA is a valid and binding obligation of the Borrower in favour of the Creditor and are enforceable in accordance with its terms;
- (c) The Guarantee constitutes a valid and binding obligation of the Guarantor in favour of the Creditor and may be enforced in accordance with its terms
- (d) The security interest created by the GSA was validly registered pursuant to the PPSA and is the senior ranking general security interest in the assets and property of the Borrower amongst those interests appearing on the Searches;
- (e) Our review has not disclosed any reason to believe that the Guarantor would be restricted or limited in any respect in relation to the exercise of any right or entitlement ordinarily conferred under the provisions of the *Mercantile Law Amendment Act*, R.S.O. 1990 CHAPTER M.10

The opinions expressed herein are provided solely for the benefit of the party to whom it is delivered and may not be relied upon or used by any other person for any reason whatsoever.

**Schedule "A"**

**List of Customer Accounts Receivable**

**Schedule "B"**

**Form of Vesting Order**

Page 5

Yours truly,

**TORKIN MANES LLP**

Per:

A handwritten signature in black ink, appearing to be 'Stewart D. Thom', with a long horizontal line extending to the right.

Stewart D. Thom

SDT/jj

## **Appendix G**

**Torkin Manes LLP**  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto, Ontario M5C 2W7

Main: 416-863-1188  
Fax: 416-863-0305  
www.torkin.com

**Stewart D. Thom**  
Direct: 416-777-5197  
Fax: 1-877-689-3872  
Email: sthom@torkinmanes.com

Our File No: 47745.0004

January 23, 2025

**Sent Via E-mail**

**Attention: Peter Crawley**

Dear Sirs/Mesdames,

**Re: Review of Security re-864884 Ontario Inc. (the “Borrower”), Royal Bank of Canada (the “Creditor”) and Gianna Ponzi (hereinafter, the “Guarantor”)**

You have requested that we review and provide you with our opinion as to:

- (a) the validity, enforceability and priority of certain security interests and related documents granted by, or entered into between, the Borrower and the Creditor;
- (b) the validity and enforceability of the Guarantee of the corporate indebtedness of the Borrower granted by the Guarantor in favour of the Creditor;
- (c) Whether our review has disclosed any reason to believe that the Guarantor would be restricted or limited in any respect in relation to the exercise of any right or entitlement ordinarily conferred under the provisions of the *Mercantile Law Amendment Act*, R.S.O. 1990 CHAPTER M.10

In forming the opinions expressed below, we have examined electronic copies of the following:

**Searches:**

We have reviewed the following searches (collectively, the “**Searches**”) in connection with the preparation of this opinion:

- (a) Corporation Profile Report for the Borrower corporation having a Currency date of January 23, 2025

- (b) *Personal Property Security Act (“PPSA”)* Registry Search results for the Borrower having a currency date of January 23, 2025
- (c) Certificate of Status – Currency Date: January 23, 2025;
- (d) Insolvency Search (Superintendent of Bankruptcy & CCAA)– Currency Date: January 21, 2024;
- (e) Execution Search (Regional Municipality of York – Newmarket) – Currency Date: January 23, 2025
- (f) S.427 *Bank Act* Security search having a currency date of January 23, 2025

**Documents:**

We have reviewed the following documents (collectively, the “Documents”) in connection with the preparation of this opinion:

- (a) Amended and Restated Credit Facilities Letter between the Borrower and HSBC Bank Canada, dated April 19, 2023, executed by or on behalf of the Borrower, the Creditor and the guarantors of the corporate indebtedness of the Borrower to the Creditor, being the Guarantor, Giannafranco Ponzi and Daniele Ponzi (the “**Credit Facility**”);
- (b) General Security Agreement dated August 20, 2009, executed by or on behalf of the Borrower and the Creditor (the “**GSA**”);
- (c) Guarantee of the corporate indebtedness of the Borrower to the Creditor dated August 21, 2020 (the “**Guarantee**”), executed by the Guarantor, Giannafranco Ponzi and Daniele Ponzi in favour of the Creditor.

**QUALIFICATIONS**

The opinions expressed herein are expressly subject to the following qualifications:

1. We have assumed that all documents were executed on the date indicated therein;
2. We have assumed the genuineness of all signatures, legal capacity of the Borrower and Guarantor, and the conformity to the original documents to the copies of same which have been transmitted to us in electronic form;
3. We have assumed the accuracy and currency of the indices and filing systems maintained at the public offices where we have searched or inquired or have caused such Searches or inquiries to be conducted and that all instruments and registrations were authorized by,

- performed by or consented to by those parties thereon indicated or whose interests were directly affected through same;
4. We have assumed that the Borrower has no legal defences against the Creditor for, without limitation, absence of legal capacity, fraud by or to the knowledge of the Creditor, misrepresentation, undue influence or duress or any other defences based on doctrines of equity or equitable subordination;
  5. We have assumed that the GSA was delivered by the Borrower as security for the obligations of the Borrower to the Creditor;
  6. We have assumed that monies were in fact advanced as reflected by the Credit Agreement, or value was given by the Creditor to the Borrower;
  7. We express no opinion as to title of the Borrower to any of the collateral whatsoever;
  8. We express no opinion as to the sufficiency of the secured collateral with respect to the security interests referenced herein;
  9. As it pertains to the GSA, our opinion as to the priority of the interests created by the GSA is confined to an opinion as to the relative priority of such interests in relation to all other interests registered pursuant to the PPSA in respect of the Borrower and as such does not include any opinion as to the existence of or priority of any interests not appearing on a search of the PPSA registry system as of the date searches were completed which could rank in priority to the interests contemplated hereunder;
  10. The enforcement of the GSA by the Creditor or any judgment arising out of or in connection therewith, and priority of any rights thereunder, may be limited or restricted by laws, statutes or regulations of general application affecting the Creditor's rights from time to time in effect in the material jurisdiction, and/or general principles of equity including the equitable or statutory powers of the courts of Ontario and Canada to stay proceedings, stay the execution of judgment and grant relief against forfeiture;
  11. We are qualified to render opinions in this regard only as to the laws in force in the Province of Ontario and the applicable federal laws of Canada as currently applied and in force in Ontario and, accordingly, we render no opinion with respect to any security delivered by the Borrower or which has been registered in provinces other than Ontario;
  12. We have assumed that the security interest created by the GSA has, to the extent that a financing statement has been registered under the PPSA with respect to any of them, attached in accordance with the provisions of the PPSA in connection therewith;
  13. We have assumed that the description of the collateral secured is sufficient to enable it to be identified within the meaning of subsection 11(1)(a) of the PPSA and that, neither the Borrower nor any other creditor has agreed to postpone the time for attachment;

## **Appendix H**

Court File No. **31-3166040**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**(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 864884 ONTARIO INC.**

**AFFIDAVIT OF CLARK LONERGAN  
(Sworn February 10, 2025)**

I, **CLARK LONERGAN**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY** that:

1. I am a Partner of BDO Canada Limited, and as such have personal knowledge of the matters referred to herein.
2. On December 16, 2024 (the “**Filing Date**”), 864884 Ontario Inc. o/a Hyperlink Logistics and/or Illuminex (“**Hyperlink**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) 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 the Company’s proposal proceedings (collectively, the “**Proposal Proceedings**”).
3. On January 13, 2025, the Proposal Trustee finalized its First Report to the Court in which it outlined its activities with respect to the Proposal Proceedings.
4. On February 10, 2025, the Proposal Trustee finalized its Second Report to the Court in which it outlined additional activities undertaken with respect to the Proposal Proceedings, as well as provided information with respect to the Proposal Trustee’s

fees and disbursements for the period of December 5, 2024, to January 17, 2025, (the “**Period**”) and those of its legal counsel.

5. The Proposal Trustee commenced its activities on the Filing Date and has been engaged in carrying out the administration of the Proposal Proceedings.
6. The Proposal Trustee has provided services and incurred disbursements, in the amount of \$60,302.00 (excluding disbursements and H.S.T.), during the Period with respect to services provided. Attached hereto and marked as **Exhibit “A”** to this Affidavit is a summary of all invoices, and disbursements, respectively, rendered by the Proposal Trustee, on a periodic basis during the Period (the “**Proposal Trustee’s Accounts**”).
7. True copies of the Proposal Trustee’s Accounts, which include a fair and accurate description of the services provided, along with hours and applicable rates claimed by the Proposal Trustee, are attached as **Exhibit “B”** to this my Affidavit.
8. In the course of performing its duties as set out above at paragraph 5, the Proposal Trustee’s staff expended a total of 112.9 hours during the Period. The average hourly rate billed by the Proposal Trustee during this Period is \$534.12.
9. The Proposal Trustee requests that this Court approve its Proposal Trustee’s Accounts for the Period, in the total amount of \$60,302.00 (plus disbursements and H.S.T.) for services rendered and recorded during the Period.
10. The time and amounts shown in the detailed account attached as Exhibits A-B are a fair and accurate description of the services provided and the amounts charged by the Proposal Trustee, which reflect the Proposal Trustee’s time as billed at its standard billing rates.
11. Torkin Manes LLP (“**Torkin Manes**”), as independent legal counsel to the Proposal Trustee, has provided legal services to the Proposal Trustee throughout the Proposal

Proceedings in a manner consistent with the instructions of the Proposal Trustee and has prepared an affidavit with respect to the services rendered during the period from January 8 to January 24, 2025, (the “**Counsel’s Period**”). The Proposal Trustee has reviewed the invoices rendered by Torkin Manes during the Counsel’s Period.

- 12. To the best of my knowledge, the rates charged by the Proposal Trustee and Torkin Manes are comparable to the rates charged for the provision of similar services by other accounting and law firms in downtown Toronto.
- 13. I verily believe that the fees and disbursements incurred by BDO and Torkin Manes are fair and reasonable in the circumstances.
- 14. This affidavit is sworn in support of the Company’s motion for, among other things, approval of the Proposal Trustee’s fees and disbursements and those of its legal counsel and for no other or improper purpose.

SWORN before me at the City of )  
Toronto, in the Province )  
of Ontario this 10th day of February )  
2025 )



\_\_\_\_\_  
A commissioner, etc.



\_\_\_\_\_  
**CLARK LONERGAN**

Antonio Montesano, a Commissioner, etc.,  
Province of Ontario, for BDO Canada LLP  
and BDO Canada Limited, and  
their subsidiaries, associates and affiliates  
Expires December 21, 2026

## Exhibit "A"

This is Exhibit  "A"  to the Affidavit

of  Clark Lonergan

Sworn before me this  10<sup>th</sup>  day

of  February , 2025



**A Commissioner, etc.**

Antonio Montesano, a Commissioner, etc.,  
Province of Ontario, for BDO Canada LLP  
and BDO Canada Limited, and  
their subsidiaries, associates and affiliates  
Expires December 31, 2026

In the Matter of the Proposal of  
 8644884 Ontario Inc.  
 Summary of Professional Fees of the Proposal Trustee  
 For the period December 5, 2024 to January 17, 2025

**District of: Ontario**  
**Division No.: 09-Toronto**  
**Court No.: 31-3166040**  
**Estate No.: 31-3166040**

<u>Employee</u>	<u>Title</u>	<u>Rate</u>
C.Lonergan	Partner	\$ 735.00
P. Crawley	Sr Manger	\$ 600.00
P.Kouadio	Manager	\$ 500.00
T.Montesano	Sr. Analyst	\$ 350.00
J.Hue	Analyst	\$ 350.00
G.Arenas	Admin	\$ 225.00
Subtotal - fees		
Disbursements		
H.S.T.		
Total		

Invoice CINV3241896 Dec 10-24 to Jan-3-25		Invoice CINV3245246 Jan-6 to Jan-17-25		Total Fees Invoiced To Jan-17-25	
<u>Hrs</u>	<u>Fees</u>	<u>Hrs</u>	<u>Fees</u>	<u>Hrs</u>	<u>Fees</u>
4.5	\$ 3,307.50	5.2	\$ 3,822.00	9.7	\$ 7,129.50
20.9	\$ 12,540.00	8.7	\$ 5,220.00	29.6	\$ 17,760.00
33.3	\$ 16,650.00	31.3	\$ 15,650.00	64.6	\$ 32,300.00
0.3	\$ 105.00	0.0	\$ -	0.3	\$ 105.00
8.2	\$ 2,870.00	0.2	\$ 70.00	8.4	\$ 2,940.00
0.3	\$ 67.50	0.0	\$ -	0.3	\$ 67.50
67.5	\$ 35,540.00	45.4	\$ 24,762.00	112.9	\$ 60,302.00
	\$ 21.20		\$ -		\$ 21.20
	\$ 4,622.96		\$ 3,219.06		\$ 7,842.02
	\$ 40,184.16		\$ 27,981.06		\$ 68,165.22

Average Hrly Rate: \$ 534.12

## Exhibit "B"

This is Exhibit     "B"     to the Affidavit

of     Clark Lonergan    

Sworn before me this     10<sup>th</sup>     day

of     February    , 2025



**A Commissioner, etc.**

Antonio Montesano, a Commissioner, etc.,  
Province of Ontario, for BDO Canada LLP  
and BDO Canada Limited, and  
their subsidiaries, associates and affiliates  
Expires December 31, 2026



Tel: 416 865 0210  
 Fax: 416 865 0904  
 www.bdo.ca

BDO Canada Limited  
 20 Wellington Street E, Suite 500  
 Toronto ON M5E 1C5 Canada

**Strictly Private & Confidential**

864884 Ontario Inc.  
 1 Keyes Court  
 Vaughan, ON L4H 4V6

Attention: Mr. Ponzi

Date	Invoice
January 10, 2025	CINV3241896

**RE:** 864884 Ontario Inc. o/a Illuminex and Hyperlink Logistics - NOI

**OUR FEE FOR PROFESSIONAL SERVICES** rendered in connection with our engagement up to and including January 3, 2025, as per the details below:

Our Fee	\$ 35,540.00
Disbursements: PPSA searches	21.20
Subtotal	<u>35,561.20</u>
HST - 13.00% (#R101518124)	4,622.96
<b>TOTAL</b>	<b><u>\$ 40,184.16</u></b>

**Summary of Time Charges:**

	Hours	Rate	Amount
C. Lonergan, Partner	4.50	735.00	3,307.50
P. Crawley, Sr. Manager	20.90	600.00	12,540.00
P. Kouadio, Manager	33.30	500.00	16,650.00
T. Montesano, Sr. Analyst	0.30	350.00	105.00
J. Hue, Sr. Analyst	8.20	350.00	2,870.00
G. Arenas, Admin	0.30	225.00	67.50
Total	<u>67.50</u>		<u>\$ 35,540.00</u>

**BANK WIRE TRANSFER/EFT PAYMENTS:** Payment can be made online in Canadian funds. Please ensure you email your online payment confirmations including invoice #, amount paid and payment date) to [EFTPayments@bdo.ca](mailto:EFTPayments@bdo.ca)

**The banking information for BDO Canada Limited is as follows for Canadian Funds**

CIBC Main Branch  
 Commerce Court  
 199 Bay Street  
 Toronto, ON M5L 1G9  
 Account Name: BDO Canada Limited

Bank: Canadian Imperial Bank of Commerce  
 Bank Institution #: 010  
 Transit #: 00002  
 Account #: 91-26910  
 Swift Reference #: CIBCCATT

Staff	Date	Comments	Hours
J. Hue	5-Dec-24	Telephone call with P. Kouadio, prepare the NOI Ascend file and corporate search.	1.4
P. Crawley	6-Dec-24	Cashflow review; prepare update to team with further details and discussion with CL re: the same.	2.0
C. Lonergan	6-Dec-24	Asset analysis and valuations and next steps discussion with BDO team, etc.	0.5
P. Crawley	8-Dec-24	Finalize and send task status update to team.	0.2
C. Lonergan	8-Dec-24	Review of update correspondence re: next steps, etc.	0.2
J. Hue	9-Dec-24	Call with P. Kouadio discussion on the NOI filing and review of schedule. Enter creditors and review and finalize upload.	0.9
P. Kouadio	9-Dec-24	Update and finalize preparation of creditors listing for Ascend re: NOI; Research contact details and discuss with I Ponzi re: same; Correspond with J Hue re: creditors listing; Correspond with team re: next steps; Correspond with I Ponzi re: receivables for cash flow.	2.2
P. Crawley	9-Dec-24	Revisit strategy with CL and then GA; respond to queries from DP; call with PK re updates.	0.5
C. Lonergan	9-Dec-24	Update discussion with BDO team and Counsel re: next steps, etc.	0.5
P. Crawley	10-Dec-24	Discuss lease valuation and issues with CBRE.	0.3
P. Kouadio	12-Dec-24	Review NOI documents to be filed incl. EIS, Minutes meeting of directors, NOI form 33 and proposal consent; Email and call to I Ponzi re: o/s creditor list.	0.8
J. Hue	13-Dec-24	Revisions to the NOI, update creditor information, telephone call with P. Kouadio, resend the NOI filing documents, Consent, NOI, EIS and the minutes of directors.	1.1
P. Crawley	13-Dec-24	Review and finalize signup documents; call with D. Ponzi; correspond with G. Azeff; modify creditor list for fx balances; emails with staff and client.	1.5

Staff	Date	Comments	Hours
P. Kouadio	13-Dec-24	Revise creditors' list for NOI filing; Finalize statutory documents for NOI filing incl. EIS, Minutes meeting of directors, NOI form 33 and proposal consent; Discuss with P Crawley and J Hue re: same; Various correspondence with I Ponzi and D Ponzi thereto.	2.9
J. Hue	16-Dec-24	Revisions to the NOI filing, prepare the EIS and e-file the NOI, Proposal Consent, Minutes with the OSB.	0.8
P. Crawley	16-Dec-24	Review and sign EIS; receipt of final NOI signed resolution; confirm client's filing instructions; instructions to JH to e-file; respond to D. Ponzi queries; instructions to PK re equipment list edits;	1.0
P. Kouadio	16-Dec-24	Review capex list and prepare list of equipment/fixtures.	2.8
P. Crawley	17-Dec-24	Review notice to creditors and provide comments to J. Hue.	0.3
J. Hue	17-Dec-24	Prepare the NOI notice package to creditors and email P. Crawley.	1.2
P. Kouadio	18-Dec-24	Review mailing package to creditors and other stakeholders; Discuss changes to be made with J. Hue; Emails with D. Ponzi, I Ponzi and team re: employees matters, creditors mailing; Review AR collections; Complete list of equipment and correspond with P Crawley thereto.	3.2
J. Hue	18-Dec-24	Prepare the NOI notice package for the mailing and prepare the affidavit of mailing.	2.8
G. Arenas	18-Dec-24	Requested information to the bank re: retainer received. Recorded transaction accordingly in Ascend, and drafted deposit form.	0.3
P. Kouadio	19-Dec-24	Meeting with C Lonergan and P Crawley re: progress and next steps; Multiple calls and emails to appraisers for proposals for equipment; Review quick flip documents.	3.5
P. Crawley	19-Dec-24	Planning meeting; call with D. Ponzi and software vendor; prepare draft update to team. Meeting with PK and CL re: the same.	2.0
C. Lonergan	19-Dec-24	Meeting with BDO team re: next steps spreadsheet, etc.	0.8
P. Kouadio	20-Dec-24	Coordinate site visits with appraisers; Various emails and calls with Canam-Appraiz, Leveredge Solutions, Platinum D and Corporate Assets; Calls and emails Ponzi, I Ponzi and team re: appraisals; Workshop with I Ponzi re: update to cashflow with new receipts and disbursements; Update cashflow.	4.8
C. Lonergan	20-Dec-24	Review of next steps spreadsheet, update on items status, APA term sheet items, review of statutory filings, etc.	1.2
P. Crawley	20-Dec-24	Discuss cashflow preparations with PK; review and edit draft BP APA; finalize and send update to team; respond to D. Ponzi's questions.	1.5

Staff	Date	Comments	Hours
P. Crawley	21-Dec-24	Prepare draft APA and related schedules for Company counsel to review.	2.0
P. Kouadio	22-Dec-24	Review appraisal report from Canam-Appraiz and emails to D Ponzi and team thereto.	0.3
P. Kouadio	23-Dec-24	Finalize cashflow and notes and prepare documents to be filed with the OSB; Call and working session with I Ponzi thereto. Various emails with I Ponzi, D Ponzi and P Crawley thereto. Finalize Trustee's report, Insolvent Person's report and Insolvent Person's acknowledgment on cash flow; Correspond with team for e-filing; Call with creditor re: mailing.	4.8
T. Montesano	23-Dec-24	Correspond with P . Kouadio re uploading Cash Flow to the OSB, upload same to the OSB	0.3
P. Crawley	23-Dec-24	Review Canam liquidation cost outline; follow up on status of cashflows; review FLV and OLV appraisals and provide update to client; discuss APAs and court time with G.Azeff; correspond with mgt on termination issues; review cashflow and related reports; edit notes; signoff.	2.5
P. Kouadio	24-Dec-24	Review cashflow documents to be e-filed and emails with D Ponzi thereto; Emails and calls with T Montesano and P Crawley re: e-filing.	0.3
P. Crawley	24-Dec-24	Sign cashflow reports and arrange e-filing.	0.5
P. Crawley	27-Dec-24	Respond to payroll query from I.Ponzi.	0.1
P. Crawley	30-Dec-24	Review emails from terminated employees; respond to query from DP; email counsel for update; respond to email from freightcomm.	1.0
P. Crawley	31-Dec-24	Call with freightcomm to review ongoing provision of services; call with DP and counsel to review process; review numerous emails re freightcomm; respond to concerns re PSI; call with G.Azeff to discuss.	2.0
P. Kouadio	2-Jan-25	Various calls and emails from stakeholders re: termination of employment, WEPPA and overdue invoices; Review term sheet with Bullet Proof; Emails with Company re: employees, and cash flow monitoring; Correspondence with appraisers re: appraisals and invoices; Email from counsel to Lesmill landlord and prepare lease disclaimer for Lesmill premises, and email to P Crawley re: same.	3.4
P. Crawley	2-Jan-25	Edit BP APA with employee considerations; discuss various creditor queries with PK; review emails from former employees and research WEPPA for NOI situations; calls with PK and CL; instruct PK on lease disclaimer.	2.0
P. Kouadio	3-Jan-25	Review lease disclaimer and email to MT and D Ponzi re: same; Call Service Canada re: WEPPA and emails with P Crawley re:	4.3

Staff	Date	Comments	Hours
		same; Emails with Canam re: appraisal; Preliminary draft of Trustee's report to Court.	
C. Lonergan	3-Jan-25	File update, APA/deal terms, lease disclaimer, appraisals update, draft report framework, etc.	1.3
P. Crawley	3-Jan-25	Respond to DP re PSI notice; review and edit draft lease disclaimer and give instructions to PK; draft response to broader PSI issues for counsel's review; speak with former employee.	1.5



Tel: 416 865 0210  
 Fax: 416 865 0904  
 www.bdo.ca

BDO Canada Limited  
 20 Wellington Street E, Suite 500  
 Toronto ON M5E 1C5 Canada

## INVOICE

864884 Ontario Inc.  
 1 - 180 New Huntington Road  
 Vaughan, ON L4H 0P5  
 Canada

<i>Date</i>	<i>Invoice No.</i>
January 22, 2025	CINV3245246

**Re** 864884 Ontario Inc - Div I

**OUR FEE FOR PROFESSIONAL SERVICES RENDERED** in connection with our Engagement in the above noted matter for the period January 6, 2025 to January 17, 2025 as per the details below:

Our Fee	\$ 24,762.00
Subtotal	24,762.00
HST 13% (#R101518124)	3,219.06
<b>Total Due</b>	<b>\$ 27,981.06</b>

<i>Summary of Time Charges</i>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
C. Lonergan, Partner	5.2	735.00	\$ 3,822.00
P. Crawley, Senior Manager	8.7	600.00	\$ 5,220.00
P. Kouadio, Manager	31.3	500.00	\$ 15,650.00
J. Hue, Associate	0.2	350.00	\$ 70.00
<b>Total</b>	<b><u>45.4</u></b>		<b><u>\$ 24,762.00</u></b>

Staff	Date	Comments	Hours
P. Crawley	2025-01-06	Discuss status of NOI with counsel; review email from Lesmill landlord's counsel and give instruction to PK; review email response from Kenny; query company counsel on motion for NOI extension.	0.5
P. Kouadio	2025-01-06	Draft Trustee's report to Court; Review memos and various notes re: same; Email to I Ponzi re: cashflow monitoring; Various correspondence with D Ponzi and counsel re: lease disclaimer; Update same and emails thereto; Emails with appraisers.	5.7
C. Lonergan	2025-01-06	Update re: draft report framework, lease disclaimer update/review of correspondence re: the same.	0.9
P. Crawley	2025-01-08	Review draft report; updates to team; correspond with counsel; call with CL; instructions to PK; call with former employee re WEPPA.	1.5
P. Kouadio	2025-01-08	Email with Canada Post re: critical service.	0.2
C. Lonergan	2025-01-08	Update with BDO team re: next steps, status of the APAs, Court dates and report update, etc.	0.6
P. Crawley	2025-01-09	Review current proposed relief with counsel; discuss reports with PK; review and edit First Report.	1.5
P. Kouadio	2025-01-09	Prepare Trustee's first report for NOI extension, Call with P Crawley thereto; Call with I Ponzi re: cashflow monitoring and discuss NOI various related questions; Respond to email from Canada Post re: post-filing amounts owed.	5.5
P. Crawley	2025-01-10	Editing First Report; update email to counsel; provide draft report to counsel; provide strategic overview update to counsel; discussions with CL; address queries from debtor and creditors.	1.5
P. Kouadio	2025-01-10	Prepare cash flow monitoring analysis, review bank statements, AR, AP and other documents shared by I. Ponzi; Email to Canada Post and Company re: amounts owed; Email to ITN Logistics re: list of creditors; Set up creditor website and correspond with IT thereto; Review draft report and emails re: same.	7.5
C. Lonergan	2025-01-10	Review of First Report of the Proposal Trustee and discussion with BDO team re: the same.	0.7
P. Kouadio	2025-01-11	Working session with I Ponzi re: cashflow monitoring; Finalize cashflow and correspond with P Crawley thereto; Respond to inquiry from Total Lift re: forklifts and outstanding payments; Email to I Ponzi re: Amex charges and outstanding payments.	3.4
P. Crawley	2025-01-11	Review cashflow and provide comments to PK; review counsel's comments on draft report.	1
P. Crawley	2025-01-12	Final review and edits of First Report.	1
P. Kouadio	2025-01-12	Various updates made to report; Call with I Ponzi re: cashflow monitoring and subsequent questions, Update cashflow workbook; Various emails with team and Company; Correspond with IT re: creditors website.	1.8

Staff	Date	Comments	Hours
C. Lonergan	2025-01-12	Review of Proposal Trustee's First Report and discussion with BDO team re: the same.	0.8
P. Kouadio	2025-01-13	Email with team re: planning; Email to Alectra Utilities and Company re: new account set up; Review motion record from Miller Thomson; Review bank transactions for cashflow monitoring and various correspondence with I Ponzi thereto; Various emails re: court report, motion and hearing.	3.1
J. Hue	2025-01-13	Provide P. Crawley with schedule with the list of creditor list with emails.	0.2
C. Lonergan	2025-01-13	Review of Company's motion materials for Court appearance, and final review of the First Court Report of the Proposal Trustee, etc.	0.5
P. Crawley	2025-01-14	Attend NOI extension hearing; respond to creditor queries; correspond with counsel re lease disclaimer.	0.5
C. Lonergan	2025-01-14	Update on Court hearing, review of next steps correspondence, discussion with BDO team re: the same.	0.6
P. Kouadio	2025-01-14	Attend to Court hearing.	0.1
P. Kouadio	2025-01-15	Email with Alectra Utilities re: claims process; Draft of second Trustee report.	1.8
P. Crawley	2025-01-15	Call with R. Sicilia.	0.2
C. Lonergan	2025-01-15	Draft report framework.	0.3
P. Crawley	2025-01-16	Review temp agency situation with counsel; email to debtor and debtor's counsel re same; status update request to team.	0.5
P. Crawley	2025-01-17	Call with I. Ponzi re Knightstar; review Knightstar contract and forward comments to counsel.	0.5
P. Kouadio	2025-01-17	Working session with I Ponzi re: cashflow monitoring; Review bank statements and update cashflow workbook; Email re: missing explanations.	2.2
C. Lonergan	2025-01-17	Review of Draft report, update on BP deal terms and APA review, review of Company and legal correspondence and discussion with BDO team re: the same.	0.8

# **Appendix I**

Court File No. BK-25-03166040-0031

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
864884 ONTARIO INC.

**AFFIDAVIT OF JEFFREY J. SIMPSON**

I, Jeffrey J. Simpson, of the City of Toronto, in the Province of Ontario, MAKE OATH  
AND SAY:

1. I am a Lawyer with the law firm of TORKIN MANES LLP (“**Torkin Manes**”), which has been engaged as independent counsel to BDO Canada Limited (“**BDO**”), the proposal trustee of 864884 Ontario Inc., and as such have knowledge of the matters to which I hereinafter depose either through my own knowledge or by informing myself with respect thereto in which case I have indicated the source of my information and belief.

2. Attached hereto as **Exhibit "A"** is true copy of the account issued by Torkin Manes to BDO, in its capacity as Proposal Trustee, which includes detailed descriptions of all work performed to date. The total fees charged by Torkin Manes to BDO during this period were \$19,810.00, plus HST of \$2,575.30, plus disbursements of \$150.00, for a total amount of \$22,535.30.

3. I confirm that the attached account accurately reflects the services provided by Torkin Manes in this matter and the fees and disbursements claimed by it during the period described above.

4. Additionally, attached hereto as **Exhibit "B"** is a summary of additional information with respect to the aforesaid account indicating the members of Torkin Manes who worked on this matter during the period described above, their year of call to the bar, total time charges and hourly rates, and I hereby confirm that this list represents an accurate account of such information.

**SWORN** by Jeffrey J. Simpson of the City of Toronto, before me at the City of Toronto, in the Province of Ontario, on January 24, 2025.



Commissioner for Taking Affidavits  
*(or as may be)*

**STEWART THOM**



**JEFFREY J. SIMPSON**

This is Exhibit "A" referred to in the Affidavit of Jeffrey J. Simpson  
sworn January 24, 2025

A handwritten signature in black ink, appearing to be "ST" with a flourish, positioned above a horizontal line.

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*Commissioner for Taking Affidavits (or as may be)*

**STEWART THOM**



151 Yonge Street, Suite 1500  
 Toronto ON M5C 2W7  
 T: 416 863 1188

BDO Canada Limited  
 Attention: Peter Crawley  
 25 Main Street West, Suite 805  
 Hamilton, ON L8P 1H1

Invoice Date: January 24, 2025  
 Invoice Num.: 545455  
 Our ref: 0706/47745.0004  
 Our Tax Num.: R117245456

## INVOICE

Matter: 864884 Ontario Inc.

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*To our professional services for our client BDO Canada Limited, up to and including January 24, 2025.*

	Tax Rate	Amount (CAD)
<b>Professional Fees</b>	13.00%	19,810.00
<b>Costs (Non-Taxable)</b>		
File		150.00
<b>Subtotal</b>		<u>150.00</u>
		<u>19,960.00</u>
	Net Total	19,960.00
	HST @ 13%	2,575.30
	<b>Amount payable</b>	<b><u>\$22,535.30</u></b>

**Invoice due on receipt**

Client: BDO Canada Limited  
Matter: 864884 Ontario Inc.

123

Invoice Date: January 24, 2025  
Invoice Num.: 545455  
Matter Number: 47745.0004

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**Time Detail**

<u>Date</u>	<u>Name</u>	<u>Description</u>	<u>Hours</u>
01/08/25	Stewart D. Thom	Communications with Proposal Trustee re term sheet and extension motion; communications with counsel for Hyperlink re extension motion, security review and related issues; communications with court	1.40
01/10/25	Stewart D. Thom	Communications re extension motion, proposed transaction and related issues; review of draft First Report of the Proposal Trustee and comments/revisions re same	2.90
01/13/25	Stewart D. Thom	Communications re extension motion and finalization of materials; communications with Proposal Trustee re cashflow forecast; finalization of First Report of Proposal Trustee; communications with counsel and Proposal Trustee re service list and service issues	4.30
01/14/25	Stewart D. Thom	Preparation for and attendance on extension motion; communications with Proposal Trustee re motion for approval of proposed sale transaction	2.00
01/16/25	Stewart D. Thom	Communications re sale approval motion, proposed transaction and related issues	0.60
01/20/25	Stewart D. Thom	Review of security; review of PPSA registry search; consider issues; communications with counsel for Hyperlink re MLAA issues	2.60
01/21/25	Stewart D. Thom	Communications with counsel for Hyperlink re security review, opinion and MLAA issues; review and analysis of MLAA issue and related legal research; communications with Hyperlink re assignment of security and related considerations/process issues	3.90
01/22/25	Stewart D. Thom	Communications with Proposal Trustee re sale approval motion, status of proposed transaction, security review and related considerations	0.70
01/23/25	Stewart D. Thom	Preparation of Security Opinion; review of loan and security documents; obtain and review PPSA, corporate and related searches respecting Hyperlink;. consideration of issues re application of Mercantile Law Amendment Act; communications with Proposal Trustee; communications with counsel for Hyperlink; review of draft Second Report of Proposal Trustee; comments and revisions re draft Second Report of Proposal Trustee	5.10
01/24/25	Stewart D. Thom	Finalization of security opinion; finalization of Second Report of the Proposal Trustee; preparation of Fee Affidavit; communications with counsel for Hyperlink and Proposal Trustee re motion for approval of sale and related matters	4.80
<b>Total</b>			<b>28.30</b>

124

Client: BDO Canada Limited  
Matter: 864884 Ontario Inc.

Invoice Date:  
Invoice Num.:  
Matter Number:

January 24, 2025  
545455  
47745.0004

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**Timekeeper Summary**

<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Stewart D. Thom	28.30	700.00	19,810.00
<b>Total</b>	<b>28.30</b>		<b>\$19,810.00</b>

**Cost Detail (Non-Taxable)**

<u>Description</u>	<u>Amount</u>
File	150.00
<b>Total</b>	<b>\$150.00</b>

BDO Canada Limited  
 Attention: Peter Crawley  
 25 Main Street West, Suite 805  
 Hamilton, ON L8P 1H1

Invoice Date: January 24, 2025  
 Invoice Num.: 545455  
 Matter Number: 47745.0004

---

**REMITTANCE COPY**

**864884 Ontario Inc.**

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Balance Due</u>
01/24/25	545455	\$22,535.30
<b>Amount payable</b>		<b>\$22,535.30</b>

---

**Online Bill Payment:**

Add Torkin Manes LLP as a Payee.  
 The account number is the first 5  
 digits of the matter number, (listed  
 above)

**Interac e-Transfer:**

Email: AR@Torkin.com

**Mail To:**

Torkin Manes LLP  
 151 Yonge Street  
 Suite 1500  
 Toronto, ON M5C 2W7

**Wire/EFT Instructions:**

Bank of Montreal  
 100 King Street West  
 First Canadian Place  
 Toronto, ON M5X 1A3  
 Swift Code: BOFMCAM2  
 Institute: 0001 Transit: 0002  
 Account: 00021316071 – Wires  
 Account: 1316071 – EFT  
 Email: AR@Torkin.com

**(Please reference invoice number when remitting payment)**

This is Exhibit "B" referred to in the Affidavit of Jeffrey J. Simpson  
sworn January 24, 2025



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*Commissioner for Taking Affidavits (or as may be)*

**STEWART THOM**

**Summary of Additional Information**

<u>Name</u>	<u>Year of Call</u>	<u>Hours Billed</u>	<u>Hourly Rate</u>	<u>Total Billed</u>
Stewart Thom	2008	28.30	\$700.00	\$19,810.00

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
864884 ONTARIO INC.

Court File No. BK-25-03166040-0031

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**  
  
PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF JEFFREY J. SIMPSON**

**TORKIN MANES LLP**  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7

Stewart Thom (55695C)  
sthom@torkinmanes.com  
Tel: 416-777-5197

Lawyers for the Proposal Trustee, BDO Canada Limited

RCP-E 4C (May 1, 2016)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
864884 ONTARIO INC.

Court File No. BK-25-03166040-0031

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

PROCEEDING COMMENCED AT  
TORONTO

**SECOND REPORT OF THE PROPOSAL TRUSTEE,**  
**BDO CANADA LIMITED**  
(Motion Returnable February 11, 2025)

**TORKIN MANES LLP**  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7

Stewart Thom (55695C)  
sthom@torkinmanes.com  
Tel: 416-777-5197

Lawyers for the Proposal Trustee, BDO Canada Limited