



**Second Report to Court of
KSV Restructuring Inc. as Proposal
Trustee of 2505243 Ontario Limited**

October 18, 2020

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
2505243 ONTARIO LIMITED,
OF THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO

SECOND REPORT OF KSV RESTRUCTURING INC. AS PROPOSAL TRUSTEE OF
2505243 ONTARIO LIMITED

OCTOBER 18, 2020

1.0 Introduction

1. This report (the “Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as proposal trustee (the “Proposal Trustee”) in connection with a Notice of Intention to Make a Proposal (“NOI”) filed by 2505243 Ontario Limited (the “Company”) on September 24, 2020 (the “Filing Date”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).
2. Pursuant to an order issued by Mr. Justice Koehnen of Ontario Superior Court of Justice (Commercial List) (the “Court”) dated October 9, 2020 (the “October 9th Order”) a bankruptcy application (“Bankruptcy Application”) filed against the Company by Princes Gates GP (“PGH”) and certain other creditors was stayed. A copy of the October 9th Order and the endorsement of Mr. Justice Koehnen issued on the same date is attached as Appendix “A”.
3. The principal purposes of these restructuring proceedings are to provide the Company the opportunity to advance its litigation against PGH on a streamlined basis and to formulate and make a proposal to its creditors.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company and these proceedings;
 - b) discuss the Company’s request for an extension of the stay of proceedings from October 24, 2020 to December 8, 2020;
 - c) report on the Company’s weekly cash flow projections for the period October 19 to December 8, 2020 (the “Cash Flow Forecast”);

- d) discuss the Company's need for a debtor-in-possession financing facility (the "DIP Facility") to be advanced from Peter and Paul's Gifts Limited (the "DIP Lender"), a related entity, in the maximum principal amount of \$300,000, as well as a charge in favour of the DIP Lender over the Company's assets, properties and undertakings (collectively, the "Property") to secure repayment of the amounts borrowed by the Company under the DIP Facility;
- e) discuss the rationale for a charge in the amount of \$100,000 on the Company's Property (the "Administration Charge") as protection for the fees and disbursements of the Proposal Trustee, the Proposal Trustee's counsel, Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland"), and the Company's counsel, Norton Rose Fulbright Canada LLP ("Norton Rose"); and
- f) recommend that the Court make an order:
 - granting the Company's request for an extension of the time to file a proposal from October 24, 2020 to December 8, 2020; and
 - approving the DIP Term Sheet and the DIP Charge (as each is defined below) and the Administration Charge.

1.2 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Company, the Company's books and records and discussions with the Company's management. The Proposal Trustee has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*.
2. The Proposal Trustee expresses no opinion or other level of assurance with respect to the financial information presented in this Report or relied upon by the Proposal Trustee in preparing this Report. Any party wishing to place reliance on the Company's financial information should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.
3. An examination of the Cash Flow Forecast as outlined in the *Chartered Professional Accountants of Canada Handbook* has not been performed. Future oriented financial information relied upon in this Report is based upon the Company's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

1.3 Court Materials

1. Court materials filed in these proceedings can be found on the Proposal Trustee's website at <https://www.ksvadvisory.com/insolvency-cases/case/2505243-ontario-limited>.

2.0 Background

1. The Company is part of a hospitality services group (the “Group”) that operates under the business name “byPeterandPauls.com”. The Group is privately owned and has operated in the local hospitality industry for close to forty years. The Group presently operates several restaurants across Ontario, including Eaton Hall, The Savoy, Vue, The Clubhouse, Bellagio, Paramount, Universal, The Manor, The Kortright Centre, Black Creek Pioneer Village, Mennagio Restaurant, David Duncan House and PeterandPaulsEventCatering.
2. In 2017, the Company was contracted by Princes Gates GP Inc., the general partner of Princes Gates Hotel Limited Partnership (jointly, “PGH”) to provide food, beverage and catering services at Hotel X, which is located on the Exhibition Grounds in downtown Toronto (“Hotel X”).
3. The agreements between the Company and PGH include two leases in relation to the restaurants at Hotel X (Maxx’s Kitchen (“Maxx’s”) and Petros 82 (“Petros”)) and a food and beverage agreement for the Company to operate and provide services to Hotel X’s banquet facilities, conference halls, a roof top patio and other facilities.
4. The Proposal Trustee has been advised that the Company invested millions of dollars in leasehold improvements at Hotel X, including in Maxx’s and Petros. The restaurants opened in March and September 2019, respectively; however, on March 23, 2020, Hotel X and both restaurants were required to close due to the Covid-19 pandemic crisis.
5. On July 2, 2020, PGH terminated the agreements between PGH and the Company. The terminations coincided with PGH’s announcement of its plans to host National Hockey League players who were booked to stay at Hotel X when the NHL season resumed. PGH contracted with Harlo Entertainment to provide the food and beverage services at Hotel X that were formerly provided by the Company.
6. On July 20, 2020, the Company filed a Statement of Claim against PGH seeking over \$60 million in damages and costs.
7. On September 9, 2020, PGH and a small number of other creditors filed a Bankruptcy Application against the Company.
8. On September 24, 2020, the Company filed the NOI.
9. Pursuant to the October 9th Order, the Bankruptcy Application was stayed.

3.0 Company's Request for an Extension

1. The Company is seeking an extension of the time to file a proposal from October 24, 2020 to December 8, 2020.
2. The Company advises that it intends to use the stay extension period to advance its litigation against PGH. The Company's legal counsel, Norton Rose, has written to and requested that the legal counsel to PGH, Loopstra Nixon LLP ("Loopstra"), engage in discussions so the parties can agree on a process to move the action forward. The Proposal Trustee has been advised that Loopstra has not engaged with Norton Rose since the date of the October 9th Order other than to advise it will respond next week.
3. The Proposal Trustee supports the Company's request for the following reasons:
 - a) the Company is acting in good faith and with due diligence;
 - b) the Company is likely to be able to make a viable proposal to creditors that will provide recoveries greater than they would realize in a bankruptcy of the Company;
 - c) no creditor will be materially prejudiced if the extension is granted. The Company's only material asset is its litigation. The Company has essentially no other assets that can be realized upon that would generate recoveries for creditors; and
 - d) it will allow the Company to advance its litigation with PGH.

4.0 Cash Flow Forecast

1. Pursuant to the BIA, the Company is required to prepare a cash flow forecast for the stay extension period. The Company's Cash Flow Forecast for the period October 19, 2020 to December 8, 2020 (the "Period"), together with Management's Report on the Cash-Flow Statement as required by Section 50.4(2)(c) of the BIA, are provided in Appendix "B".
2. The Company's only projected receipts during the Period are anticipated to be from the collection of wage subsidies under a Government of Canada program enacted in response to the Covid-19 Pandemic. All disbursements other than professional costs are for payroll. Minimal contingency payments are also projected.
3. The Company shares head office space and administrative support services with related companies. The related companies do not allocate any of the related costs to the Company for these services. Accordingly, no such costs are reflected in the Cash Flow Forecast.
4. Based on the Proposal Trustee's review of the Cash Flow Forecast, there are no material assumptions which seem unreasonable. The Proposal Trustee's Report on the Company's Cash Flow Statement as required by Section 50.4(2)(b) of the BIA is attached as Appendix "C".

4.1 DIP Facility¹

1. The Company has a cash balance of approximately \$29,000. Absent additional financing, the Company will not have the ability to continue to fund its nominal operating costs and the professional fees associated with these proceedings.
2. The DIP Lender has agreed to fund these proceedings under the DIP Facility. The DIP Facility is to rank in priority to all other creditors, except for amounts accruing under the Administration Charge. The terms of the DIP Facility are set out in a DIP term sheet dated October 16, 2020 and is attached as Appendix “D” to this Report (the “DIP Term Sheet”). The principal terms of the DIP Term Sheet are as follows:
 - a) Type of DIP Credit Facility: senior secured debtor-in-possession, interim, non-revolving multiple draw credit facility of \$300,000².
 - b) Maturity Date: The earliest of (a) the occurrence of any Event of Default; (b) the implementation of a Proposal under the BIA; and (c) March 24, 2021. All amounts outstanding under the DIP Facility are payable in full on the Maturity Date, including all accrued interest and other amounts, fees and costs.
 - c) Interest Rate: 5% per annum, compounded monthly and payable on the Maturity Date.
 - d) Security and Priority: A second ranking Court ordered super-priority charge (the “DIP Charge”) on the Company’s Collateral. All encumbrances, with the exception of the Administration Charge and any other Permitted Priority Liens³, are subordinate to the DIP Charge except as otherwise agreed to in writing by the DIP Lender.
 - e) The Funding Conditions are as follows:
 - i. DIP Lender’s satisfaction with all material documents filed in respect of the DIP Order;
 - ii. the Court issuing the DIP Order substantially in the form reasonably acceptable to the DIP Lender;
 - iii. Borrower’s approval;
 - iv. execution of the DIP Term Sheet;
 - v. absence of Defaults or Events of Defaults;

¹ Terms not defined in this section have the meaning provided to them in the DIP Term Sheet unless otherwise defined herein.

² It is likely that increases to the amount of the DIP Facility will be required. The Company will seek approval of increases, as required.

³ Permitted Priority Liens include (i) the Administration Charge; and (ii) any amounts payable by the Company for wages, vacation pay, deductions, sales tax, excise tax, income tax and workers compensation claims or governmental liens that have been validly perfected. The Proposal Trustee understands that, with the possible exception of a small amount registered by the Ministry of Finance under the *Personal Property Security Act* (Ontario) in respect of Employer Health Tax arrears, there are currently no other Permitted Priority Liens.

- vi. absence of any Liens ranking in priority to the DIP Lender's Charge over the Property of the Borrower, other than the Permitted Priority Liens; and
 - vii. payment in full of any expenses incurred by the DIP Lender in connection with the DIP Facility.
- f) Reporting: The Company shall deliver DIP Budgets and Variance Reports coincident with the Company's Extension Motions. A net negative variance of 20% on an accumulated basis reported on a Variance Report constitutes an Event of Default.
- g) Prepayment: The Company may, without premium or penalty, prepay any amounts outstanding under the DIP Facility at any time prior to the Maturity Date.

4.2 DIP Facility Recommendation

1. The Proposal Trustee has considered the factors set out in Section 50.6(5) of the BIA with respect to the granting of an order for interim financing and a charge related thereto. The Proposal Trustee believes that the terms of the DIP Facility are reasonable for the following reasons:
 - a) the DIP Facility enhances the prospect that the Company will be able to successfully restructure;
 - b) the Company is without liquidity to fund these proceedings and its litigation. The DIP Facility is necessary to fund these costs;
 - c) no creditor will be materially prejudiced by the DIP Facility. The DIP Facility is integral to pay the professionals involved with these proceedings, so that there may be a recovery on the litigation. In an immediate liquidation of the Company, creditors will not have any recovery;
 - d) the terms of the DIP Facility are reasonable. There are no fees payable under the DIP Facility and the rate of interest under the DIP Term Sheet (5%) is well below market for a debtor-in-possession loan facility; and
 - e) in the Proposal Trustee's view, these proceedings cannot advance without funding under the DIP Facility.

5.0 Administration Charge

1. The Company is seeking an Administration Charge in the amount of \$100,000 as protection for the fees and disbursements of the Proposal Trustee, Paliare Roland and Norton Rose. An Administration Charge is a common feature in restructuring proceedings. The Proposal Trustee is of the view that the Administration Charge is appropriate in this case due to the Company's lack of liquidity. The Administration Charge is to have a senior ranking charge on the Company's business and assets, including litigation proceeds.

6.0 Conclusion and Recommendation

1. The Proposal Trustee is of the view that the litigation in the proceedings should be advanced on an expedited basis. The success of these proceedings is contingent on advancing the litigation rapidly. The Proposal Trustee recommends that a litigation timetable be put in place forthwith so that there are concrete milestones in place that minimize the risk of delay.
2. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(f) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICES OF INTENTION TO MAKE A PROPOSAL OF
2505243 ONTARIO LIMITED
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

THE HONOURABLE

JUSTICE KOEHNEN

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FRIDAY, THE 9TH

DAY OF OCTOBER, 2020

**IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF 2505243 ONTARIO LIMITED
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

ORDER

THIS MOTION, made by 2505243 Ontario Limited (the **Company**) for an order, among other things, (a) declaring and confirming that the Bankruptcy Application (defined below) is stayed pursuant to section 69(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the **BIA**); and (b) granting an administration charge on the Company's property was heard this day via Zoom videoconference as a result of the COVID 19 pandemic.

ON READING the affidavit of Peter Eliopoulos sworn on September 25, 2020, the affidavit of Peter Tae-Min Choi sworn on September 26, 2020, the First Report dated September 28, 2020 (the **First Report**) of KSV Restructuring Inc., in its capacity as proposal trustee of the Company (the **Proposal Trustee**), the affidavit of Christopher Lambert sworn on September 28, 2020, and the affidavit of Amanda Adamo sworn on October 5, 2020, and on being advised that the Motion Record of the Company and the Reply Motion Record of Princes Gates GP Inc., Lowell Security Inc., The Small Winemakers Collection Inc., D.N.B. Media Group Inc. PR CC Plated Meals Inc. and Platinum Valet Hotel Cleaners Inc. (collectively, the **Bankruptcy Applicants**) were served to those parties listed on the Service List, and on hearing the submissions of counsel for the Company, counsel for the Proposal Trustee and counsel for the Bankruptcy Applicants, no one else appearing although duly served as appears from the Affidavit of Service of Gianni Bianchi sworn on September 25, 2020;

SERVICE

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

STAY OF PROCEEDINGS

2. **THIS COURT ORDERS** that the bankruptcy application commenced by the Bankruptcy Applicants on September 9, 2020, bearing Court File No. BK-20-00208450-OT31 (the **Bankruptcy Application**) is hereby stayed.


SERVICE AND NOTICE

3. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the **Protocol**) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/insolvency-cases/case/2505243-ontario-limited>.

4. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable (including as a result of COVID-19), the Company and the Proposal Trustee is 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, facsimile transmission or electronic message to the Company's creditors or other interested parties at their respective addresses (including email addresses) as last shown on the records of the Company and that any such service or distribution by courier, personal delivery, facsimile transmission or electronic message 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.

GENERAL

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the 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 to 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.

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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
2505243 ONTARIO LIMITED OF THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO

Estate/Court File No.: 31-2675288

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

ORDER

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Lawyers for 25054243 Ontario Limited

Appendix “B”

2505243 Ontario Limited

Projected Statement of Cash Flow

For the period October 19, 2020 to December 8, 2020

(C\$; unaudited)

Note	Week Ending							2 Days Ending	Total
	25-Oct-20	01-Nov-20	08-Nov-20	15-Nov-20	22-Nov-20	29-Nov-20	06-Dec-20	08-Dec-20	
1									
<i>Total Receipts</i>	-	-	3,859	-	-	-	3,900	-	7,759
<i>Disbursements</i>									
Rent and overhead costs	-	-	-	-	-	-	-	-	-
Payroll costs and remittances	1,186	3,980	1,000	3,116	1,000	3,062	1,000	3,117	17,461
Contingency	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	12,000
<i>Total Operating Disbursements</i>	2,686	5,480	2,500	4,616	2,500	4,562	2,500	4,617	29,461
<i>Net Cash Flow before the Undernoted</i>	(2,686)	(5,480)	1,359	(4,616)	(2,500)	(4,562)	1,400	(4,617)	(21,702)
Professional fees	130,000	-	50,000	-	50,000	-	50,000	-	280,000
	(132,686)	(5,480)	(48,641)	(4,616)	(52,500)	(4,562)	(48,600)	(4,617)	(301,702)
DIP Facility advances	130,000	-	50,000	-	75,000	-	45,000	-	300,000
<i>Net Cash Flow</i>	(2,686)	(5,480)	1,359	(4,616)	22,500	(4,562)	(3,600)	(4,617)	(1,702)
Opening Cash Balance	29,282	26,596	21,116	22,475	17,859	40,359	35,797	32,197	29,282
Closing Cash Balance	26,596	21,116	22,475	17,859	40,359	35,797	32,197	27,580	27,580

The above financial projections are based on management's assumptions detailed in Appendix "1-1".
The note references correspond to the assumption numbers shown in Appendix "1-1".

The statement of projected cash-flow of 2505243 Ontario Limited has been prepared in accordance with the provisions of *The Bankruptcy and Insolvency Act* and should be read in conjunction with the Trustee's Report on Cash-flow Statement.

2505243 ONTARIO LIMITED

Per: _____

Date

OCT 17 / 20

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL
AND NOT IN ITS PERSONAL CAPACITY

Per: Bobby Kofman

October 17, 2020

Date

Notes to Projected Statement of Cash Flow

For the period October 19, 2020 to December 8, 2020

(C\$; unaudited)

Purpose and General Assumptions

1. The purpose of the projection is to present a forecast of the cash-flow of 2505243 Ontario Limited (the "Company") for the period October 19, 2020 to December 8, 2020 (the "Period") in respect of its NOI proceedings under the *Bankruptcy and Insolvency Act*.

The projected cash flow statement has been prepared based on hypothetical and most probable assumptions developed and prepared by the Company.

Hypothetical Assumptions

2. Represents a wage subsidy collectible under a program enacted by the Government of Canada in response to the Covid-19 pandemic.

Most Probable Assumptions

3. The Company shares administrative office space with related parties at another premises. The Company has never been billed for rent or overhead costs related to the shared space. No such costs are projected during the Period.
4. Represents payroll costs, source deduction remittances and WSIB remittances.
5. Represents the professional fees of the Proposal Trustee, the Proposal Trustee's legal counsel and the Company's legal counsel.
6. Represents funding required under the DIP Facility, subject to the approval of the Court.
7. Represents the Company's cash balance as at October 19, 2020.

**Report on Cash Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the BIA)**

The management of 2505243 Ontario Limited (the “Company”) has developed the assumptions and prepared the attached statement of projected cash flow of the Company for the period ending December 8, 2020.

The hypothetical and probable assumptions are suitably supported and consistent with the purpose of the projection and the plans of the Company and provide a reasonable basis for the projection. All such assumptions are disclosed in Notes 1 to 7.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note 1, using a set of hypothetical and probable assumptions set out in Notes 2 to 7. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, this 17th day of October, 2020.

2505243 Ontario Limited

Per: 

Appendix “C”

**Trustee's Report on Cash-flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)**

The attached statement of projected cash-flow of 2505243 Ontario Limited, as of the 17th day of October 2020, consisting of a monthly Cash Flow Statement for the period October 19, 2020 to December 8, 2020, has been prepared by the management of the insolvent person for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Notes 2-7.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

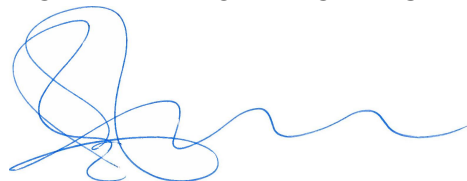
- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated this 17th day of October, 2020.

KSV RESTRUCTURING INC.
LICENSED INSOLVENCY TRUSTEE



Per: Robert Kofman

Appendix “D”

INTERIM DIP FINANCING TERM SHEET

Dated as of October 16, 2020

WHEREAS 2505243 Ontario Limited (the “**Borrower**”) has requested and the DIP Lender (as defined below) has agreed to provide financing to the Borrower during the pendency of the Borrower’s proceedings (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) which commenced upon the Borrower’s filing of a notice of intention (“**NOI**”) to make a proposal on September 24, 2020, such financing to be provided in accordance with the terms and conditions set out herein;

AND WHEREAS, the DIP Lender has agreed to provide financing in order to fund certain obligations of the Borrower during the NOI Proceedings;

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** 2505243 Ontario Limited
2. **DIP LENDER:** Peter and Paul’s Gifts Limited (the “**DIP Lender**”).
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this DIP Financing Term Sheet have the meanings given thereto in Schedule A hereto. Unless otherwise noted, all references to currency, “dollars” or “\$” shall be deemed to refer to Canadian dollars.
4. **DIP FACILITY;
DRAWDOWNS:** A senior secured debtor-in-possession, interim, non-revolving multiple draw credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$300,000 (the “**Facility Amount**”), subject to the terms and conditions contained herein.

The initial advance of the Facility Amount shall be funded to the Borrower within two (2) Business Days after the date on which the Funding Conditions (as defined below) have been satisfied or waived in accordance with Section 8, or such shorter period as the DIP Lender may agree in its sole discretion.
5. **INTEREST:** Interest shall be payable in cash on the aggregate of the outstanding principal amount of the Facility Amount from the date of the funding thereof at a rate equal to 5% per annum, compounded monthly and payable in full on the Maturity Date.

All interest and fees shall be computed on the basis of a year of 365 days, provided that whenever a rate of interest or fee hereunder is calculated on the basis of a year (the “**deemed year**”) that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee rate shall be expressed as a yearly rate by multiplying such rate of interest or fee by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

The parties shall comply with the following provisions to ensure that no receipt by the DIP Lender of any payments under this DIP Financing Term Sheet would result in a breach of section 347 of the *Criminal Code* (Canada):

- (a) If any provision of this DIP Financing Term Sheet would obligate the Borrower to make any payment to the DIP Lender of an amount that constitutes “interest”, as such term is defined in the *Criminal Code* (Canada) and referred to in this section as “**Criminal Code Interest**”, which would result in the receipt by the DIP Lender of Criminal Code Interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a “**Criminal Rate**”), then, notwithstanding such provision, that amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the DIP Lender of Criminal Code Interest at a Criminal Rate, and the adjustment shall be effected, to the extent necessary, as follows:
 - (i) *first*, by reducing the amount or rate of interest required to be paid to the DIP Lender; and
 - (ii) *thereafter*, by reducing any other amounts (other than costs and expenses) (if any) required to be paid to the DIP Lender which would constitute Criminal Code Interest.
- (b) Any amount or rate of Criminal Code Interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective

annual rate of interest over the term that any portion of the DIP Facility remains outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code Interest shall be pro-rated over the period commencing on the date of the advance of the Facility Amount and ending on the relevant Maturity Date (as may be extended by the DIP Lender from time to time under this DIP Financing Term Sheet).

6. COSTS AND EXPENSES

The Borrower will reimburse, without duplication, the DIP Lender for all reasonable and documented out-of-pocket expenses (including reasonable and documented legal fees and expenses of counsel for the DIP Lender) in connection with the NOI Proceedings and the on-going monitoring, administration and enforcement of the DIP Facility.

7. PURPOSE AND PERMITTED PAYMENTS:

The Borrower shall use proceeds of the DIP Facility solely for the following purposes, in each case in accordance with the DIP Order and the DIP Budget (subject to the Permitted Variance):

- (a) to pay (i) the reasonable and documented legal fees and expenses of the DIP Lender in accordance with Section 6 hereof, (ii) the reasonable and documented financial advisory fees and legal fees and expenses of the Borrower, and (iii) the reasonable and documented fees and expenses of the Proposal Trustee and its legal counsel;
- (b) to pay the fees and interest owing to the DIP Lender under this DIP Financing Term Sheet; and
- (c) to fund the Borrower's expenses as contemplated by the DIP Budget.

8. CONDITIONS PRECEDENT TO INITIAL FUNDING OF FACILITY AMOUNT:

The DIP Lender's agreement to fund the initial advance Facility Amount to the Borrower is subject to the satisfaction or waiver by the DIP Lender of the following conditions precedent (the "**Funding Conditions**"):

- (a) The DIP Lender (or its counsel) shall have had a reasonable opportunity to review advance copies of, and shall be reasonably satisfied with, all material documents to be filed in respect of the DIP Order;

- (b) The Court shall have entered the DIP Order substantially in the form reasonably acceptable to the DIP Lender (or its counsel), which shall include the grant by the Court of a charge in favour of the DIP Lender (the “**DIP Lender’s Charge**”) on the Collateral, securing all obligations owing by the Borrower to the DIP Lender hereunder including, without limitation, all principal, interest, and fees owing to the DIP Lender as set out herein (collectively, the “**DIP Financing Obligations**”) and providing, among other things, that the DIP Lender’s Charge shall have priority on the Collateral over all Liens, other than the Permitted Priority Liens, and such DIP Order shall not have been stayed, vacated or otherwise amended, restated or modified in any manner that adversely affects the DIP Lender, without the written consent of the DIP Lender;
- (c) The DIP Lender (or its counsel) shall be satisfied that the entering into of this DIP Financing Term Sheet, the granting of the DIP Lender’s Charge, the consummation of the transactions contemplated hereby has been approved by the Borrower;
- (d) The Borrower shall have executed and delivered this DIP Financing Term Sheet;
- (e) No Event of Default shall have occurred or will occur as a result of the requested advance;
- (f) There shall be no Liens ranking in priority to the DIP Lender’s Charge over the property and assets of the Borrower, other than the Permitted Priority Liens; and
- (g) All reasonable and documented expenses (including all reasonable and documented legal fees and expenses) of the DIP Lender incurred in connection with the DIP Facility and invoiced by no later than two (2) Business Days’ prior to the initial funding of the Facility Amount shall have been paid in full as and to the extent required under Section 6 (which expenses may be deducted from the advance of the Facility

Amount).

9. DIP FACILITY SECURITY: All obligations of the Borrower to the DIP Lender under or in connection with the DIP Facility shall be secured by the DIP Lender's Charge.

10. REPAYMENT: The DIP Facility shall be repayable in full on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured and a demand for repayment in writing having been made by the DIP Lender to the Borrower with a copy to the Proposal Trustee (and each of their respective counsel); (ii) the implementation of a proposal under the BIA, in which case the DIP Financing Obligations shall be treated in the manner contemplated thereunder; and (iii) March 24, 2021 (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the Borrower and the DIP Lender may agree, provided that any material amendments to the terms and conditions shall be also be subject to the prior written consent of the Proposal Trustee.

11. DIP BUDGET AND VARIANCE REPORTING: Attached as Schedule B hereto is a copy of the agreed initial DIP Budget as in effect on the date hereof, which the DIP Lender acknowledges and agrees has been reviewed and approved by the DIP Lender, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this DIP Financing Term Sheet until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 11.

The Borrower, with the assistance of the Proposal Trustee, shall update the DIP Budget from time to time coincident with the Borrower's Extension Motions and provide all updated DIP Budgets to the DIP Lender at least five (5) Business Days (or such shorter time as the DIP Lender may agree) in advance of filing such updated DIP Budget with the Court. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable provide written notice to the Borrower (and its legal counsel) and the Proposal Trustee as soon as reasonably thereafter after receipt stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has

delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect.

At any time, the latest DIP Budget accepted by the DIP Lender (or which has not been designated as not acceptable by the DIP Lender by written notice to the Borrower, as provided above), shall be the DIP Budget for the purpose of this DIP Financing Term Sheet.

Coincident with the Borrower's Extension Motions, the Borrower shall deliver to the DIP Lender's counsel, a variance calculation (the "**Variance Report**") setting forth (i) actual receipts and disbursements for the preceding extension period, and (ii) actual receipts and disbursements on a cumulative basis since the beginning of the period covered by the then-current DIP Budget, in each case as against the then-current DIP Budget, and setting forth all the variances, on an aggregate basis in comparison to the amounts set forth in respect thereof in the DIP Budget; each such Variance Report to be promptly discussed with the DIP Lender and its advisors upon request.

12. PREPAYMENTS:

The Borrower may, without premium or penalty, prepay any amounts outstanding under the DIP Facility at any time prior to the Maturity Date.

13. CURRENCY:

If any payment is received by the DIP Lender hereunder in a currency other than Canadian dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due in Canadian dollars (the "**Original Currency**") into another currency (the "**Other Currency**"), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Original Currency with the Other Currency after any premium and costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

14. REPRESENTATIONS AND WARRANTIES:

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this DIP Financing Term Sheet, that:

- (a) The transactions contemplated by this DIP Financing Term Sheet:

- (i) are within the corporate power of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) upon the granting of the DIP Order, shall constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) upon the granting of the DIP Order, do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the articles or by-laws of the Borrower or any Applicable Law.
- (b) The Collateral is free and clear of all Liens other than Permitted Liens and, upon the granting of the DIP Order, the DIP Lender's Charge.

15. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following, unless otherwise consented to or waived in writing by the DIP Lender, acting reasonably:

- (a) The Borrower shall serve its motion materials for the DIP Order on all material secured parties, if any, and shall include a request by the Borrower requesting that the Court order that the DIP Lender's Charge shall rank in priority to the Liens of any such secured parties, but excluding, in each case, any secured party holding a Permitted Priority Lien;
- (b) Use the proceeds of the DIP Facility only in accordance with Section 7 and in accordance with the restrictions set out herein and pursuant to the DIP Budget;
- (c) Comply with the provisions of the DIP Order and all other orders of the Court entered in connection with the NOI Proceedings (collectively, the "**Court Orders**" and each a "**Court Order**");

- (d) Promptly notify the DIP Lender of the occurrence of any Event of Default;
- (e) Comply in all material respects with Applicable Law, except to the extent not required to do so pursuant to the DIP Order or any other Court Order;
- (f) Take all actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating to the extent that it would materially affect the rights and interests of the DIP Lender or the Hotel X Claim;
- (g) Comply with the DIP Budget subject to the Permitted Variance;

16. NEGATIVE COVENANTS:

The Borrower covenants and agrees not to do, or cause not to be done, the following, other than with the prior written consent of the DIP Lender, acting reasonably:

- (a) Transfer, lease or dispose of all or any substantial part of its property, assets or undertaking outside of the ordinary course of business, except such asset sales or dispositions as are permitted pursuant to the DIP Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of pre-filing indebtedness, or in respect of any other pre-filing liabilities, other such amounts as are permitted to be paid pursuant to the DIP Order and provided that the aggregate amount of all such pre-filing amounts shall not exceed the amount set out in the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (A) the indebtedness existing as of the date hereof, (B) the DIP Financing Obligations and (C) as the DIP Lender and the Proposal Trustee may agree;
- (d) Make any distribution, dividend, return of capital or other distribution in respect of, or any redemption of, equity securities (in cash, securities or other property or otherwise);

- (e) Make any material investments or acquisitions whether direct or indirect, other than as reflected in the DIP Budget;
- (f) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (g) Amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change their corporate or capital structure (including their organizational documents); or
- (h) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction.

17. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this DIP Financing Term Sheet:

- (a) Failure by the Borrower to pay: (i) principal, interest or other amounts within three (3) Business Days of such amounts becoming due under this DIP Financing Term Sheet; or (ii) costs and expenses of the DIP Lender in accordance with Section 6 hereof within ten (10) Business Days of receiving an invoice therefor;
- (b) Failure by the Borrower to comply with its covenants as set out herein and such failure remains unremedied for ten (10) Business Days following receipt of notice thereof from the DIP Lender;
- (c) Any representation or warranty by the Borrower made in this DIP Financing Term Sheet is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) Issuance of a Court Order: (i) dismissing the NOI Proceedings or lifting the stay in the NOI Proceedings to permit the enforcement of any security against the Borrower or the Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order against or in

respect of the Borrower, in each case which order is not stayed pending appeal thereof, and other than in respect of a non-material asset not required for the operations of the Borrower's business; (ii) granting any other Lien in respect of the Collateral that is in priority to or pari passu with the DIP Lender's Charge other than as permitted pursuant to this DIP Financing Term Sheet (including, for greater certainty, any Permitted Priority Liens granted pursuant to a Court Order), or (iii) staying, reversing, vacating or otherwise modifying this DIP Financing Term Sheet or the DIP Lender's Charge, in each case unless otherwise consented to by the DIP Lender;

- (e) Unless consented to in writing by the DIP Lender, the expiry of the stay of proceedings under the BIA;
- (f) As at the date of any Variance Report, there shall exist a net negative variance from the DIP Budget in excess of 20% (the "**Permitted Variance**") on a cumulative basis since the beginning of the period covered by the then-current DIP Budget; or
- (g) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this DIP Financing Term Sheet.

18. REMEDIES:

Upon the occurrence of an Event of Default, the DIP Lender may, upon not less than seven (7) days' prior written notice to the Borrower and the Proposal Trustee, and otherwise subject to the provisions of the Court Orders, declare the DIP Financing Obligations to be immediately due and payable and may thereafter, exercise any and all of its rights and remedies against the Borrower or the Collateral under or pursuant to this DIP Financing Term Sheet and the DIP Lender's Charge, including, without limitation:

- (a) apply to a court for appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Borrower and for the appointment of a trustee in bankruptcy of the Borrower;

- (b) set-off or consolidate any amounts then owing by the DIP Lender to the Borrower against the obligations of any of the Borrower to the DIP Lender (in their capacities as such) hereunder; and
- (c) exercise all such other rights and remedies under Applicable Law.

**19. INDEMNITY AND
RELEASE:**

The Borrower agrees to indemnify and hold harmless the DIP Lender and its directors, officers, employees and agents (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages and liabilities of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person as a result of or arising out of or in any way related to the DIP Facility, this DIP Financing Term Sheet and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or wilful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction (y) relating to the DIP Lender’s failure to comply with or breach of their respective obligations under this DIP Financing Term Sheet, or (z) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential damages, loss of profits or punitive damages.

**20. DIP LENDER’S
APPROVALS:**

Any consent, agreement, amendment, approval, waiver or instruction of the DIP Lender to be delivered hereunder, may be delivered by any written instrument, including by way of electronic mail, by counsel on behalf of the DIP Lender.

21. FURTHER ASSURANCES:

The Borrower shall, at its expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents and things as the DIP Lender may reasonably request for the purpose of giving effect to this DIP Financing Term Sheet.

**22. ENTIRE AGREEMENT;
CONFLICT:**

This DIP Financing Term Sheet, including the schedules hereto, constitute the entire agreement between the parties relating to the subject matter hereof.

23. AMENDMENTS,

No waiver or delay on the part of the DIP Lender in

WAIVERS, ETC.:

exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing by the DIP Lender and delivered in accordance with the terms of this DIP Financing Term Sheet, and then such waiver shall be effective only in the specific instance and for the specific purpose given.

24. ASSIGNMENT:

The DIP Lender may, with the consent of the Borrower (which consent shall not be required during the existence of any Event of Default hereunder), assign this DIP Financing Term Sheet and its rights and obligations hereunder, in whole or in part, to any Person (subject in all cases to (i) providing the Proposal Trustee with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of such assigning DIP Lender hereunder and (ii) the assignee entering into an agreement with the Borrower, in form and substance reasonably acceptable to the Borrower and the Proposal Trustee, to confirm such assignment). Neither this DIP Financing Term Sheet nor any right or obligation hereunder may be assigned by the Borrower.

25. SEVERABILITY:

Any provision in this DIP Financing Term Sheet which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

26. NO THIRD PARTY BENEFICIARY:

No person, other than the Borrower, the DIP Lender and the Indemnified Parties, is entitled to rely upon this DIP Financing Term Sheet and the parties expressly agree that this DIP Financing Term Sheet does not confer rights upon any other party.

27. COUNTERPARTS AND ELECTRONIC SIGNATURES:

This DIP Financing Term Sheet may be executed in any number of counterparts and by facsimile or other electronic transmission including "pdf email", each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

28. NOTICES:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the such Person at its address set out on its signature page hereof. Any such notice, request or

other communication hereunder shall be concurrently sent to the Proposal Trustee and its counsel.

Any such notice shall be deemed to be given and received when received, unless received after 5:00pm (Toronto time) or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

29. GOVERNING LAW:

This DIP Financing Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[signature pages follow]

IN WITNESS HEREOF, the parties hereby execute this DIP Financing Term Sheet as at the date first above mentioned.

Address:

6260 Hwy 7, Unit 1
Vaughan, Ontario, L4H 4G3

Attention: Peter Eliopoulos
Email: peterandpauls@gmail.com

PETER AND PAUL'S GIFTS LIMITED

Per:



Name: Anna Eliopoulos
Title: President

I have authority to bind the corporation.

Address:

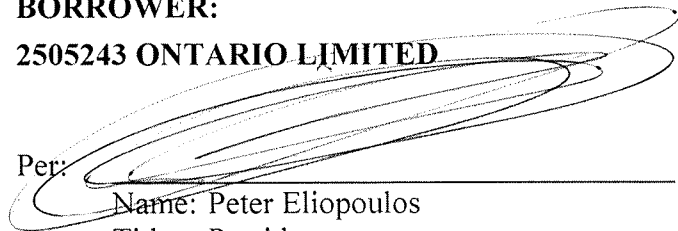
6260 Hwy 7, Unit 1
Vaughan, Ontario, L4H 4G3

Attention: Peter Eliopoulos
Email: peterandpauls@gmail.com

BORROWER:

2505243 ONTARIO LIMITED

Per:



Name: Peter Eliopoulos
Title: President

With a copy to:

Norton Rose Fulbright Canada LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, Ontario, M5K 1E7

Attention: Jennifer Stam
Email: jennifer.stam@nortonrosefulbright.com

I have authority to bind the corporation.

SCHEDULE A
DEFINED TERMS

“**Administration Charge**” means an administration charge in an aggregate amount not to exceed **\$100,000** which shall rank in priority to the DIP Lender’s Charge pursuant to the DIP Order.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Authority having the force of law and binding on such Person.

“**BIA**” has the meaning given thereto in the Recitals.

“**Borrower**” has the meaning given thereto in the Recitals.

“**Business Day**” means any day other than a Saturday, Sunday or any other day in which banks in Toronto, Ontario are not open for business.

“**Collateral**” means all of the Borrower’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof.

“**Court**” has the meaning given thereto in the Recitals.

“**Court Order**” and “**Court Orders**” have the meanings given thereto in Section 15(c).

“**Criminal Code Interest**” has meaning given thereto in Section 5.

“**Criminal Rate**” has meaning given thereto in Section 5.

“**DIP Budget**” means the financial projections prepared by the Borrower in connection with its October 20 Extension Motion, which shall be in form and substance reasonably acceptable to the DIP Lender, which financial projections may be amended from time to time in accordance with Section 11.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Financing Obligations**” has the meaning given thereto in Section 8.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 8(b).

“**DIP Order**” means an order of the Court granted pursuant to the BIA approving, among other things, the DIP Lender’s Charge.

“**Event of Default**” has the meaning given thereto in Section 17.

“**Extension Motions**” means the Borrower’s motions to seek an extension of the time in which it must file a proposal under the BIA.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means September 24, 2020.

“**Funding Conditions**” has the meaning given thereto in Section 8.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Hotel X Claim**” means (i) the action in the Ontario Superior Court of Justice, bearing Court File No. CV-20-644262, commenced by the Borrower against the operator of Hotel X, Princes Gates GP Inc., on July 2020, 2020, and/or (ii) an arbitration between the Borrower and Princes Gates GP Inc. regarding the same issues as pleaded in the Borrower’s statement of claim in the court action referenced above at (i).

“**Indemnified Persons**” has the meaning given thereto in Section 19.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts, deemed trusts (statutory or otherwise), encumbrances and security interests of every kind and nature whatsoever.

“**Maturity Date**” has the meaning given thereto in Section 10.

“**NOI Proceedings**” has the meaning given thereto in the Recitals.

“**Original Currency**” has the meaning given thereto in Section 13.

“**Other Currency**” has the meaning given thereto in Section 13.

“**Permitted Liens**” means (i) the DIP Lender’s Charge; (ii) any charges created under the DIP Order or other Court Order, in each case subsequent in priority to the DIP Lender’s Charge and approved by the DIP Lender, acting reasonably; (iii) validly perfected Liens existing prior to the date hereof; (iv) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, subject to the obligation to pay all such amounts as and when due; and (v) the Permitted Priority Liens.

“**Permitted Priority Liens**” means (i) the Administration Charge, and (ii) any amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims or governmental liens that have been validly perfected pursuant to the *Personal Property Security Act* (Ontario), solely to the extent such amounts are given priority by

Applicable Law and only to the extent that the priority of such amounts have not been subordinated to the DIP Lender's Charge granted by the Court.

"Permitted Variance" has the meaning given thereto in Section 17(f).

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, unlimited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Proposal Trustee" means KSV Restructuring Inc., in its capacity as proposal trustee of the Borrower in the NOI Proceedings.

"Variance Report" has the meaning given thereto in Section 11.

SCHEDULE B
INITIAL DIP BUDGET

See attached.