

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

Applicants

**AFFIDAVIT OF JOSHUA FOSTER
(Sworn April 11, 2024)**

I, Joshua Foster, of the city of Oakville, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am an associate at the law firm of Bennett Jones LLP, counsel for the Applicants in the above-noted proceeding (the "**CCAA Proceedings**"). As such, I have personal knowledge of the matters to which I hereinafter depose in this affidavit. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all cases, believe it to be true.

2. On April 8, 2024, I served the parties listed in the service list established in the CCAA Proceedings with the Applicants' motion record (the "**Motion Record**") in connection with a motion returnable before the Honourable Justice Cavanagh on April 12, 2024. The Affidavit of Robert Clark sworn April 8, 2024 (the "**Clark Affidavit**") was included at Tab 2 of the Motion

Record. All capitalized terms used and not otherwise defined herein have the meaning ascribed to them in the Clark Affidavit.

3. Attached hereto as **Exhibit "A"** is a substantially final copy of the engagement agreement to be entered into between Howards Capital Corp. and the Applicants referred to in the Clark Affidavit. Attached hereto as **Exhibit "B"** is a substantially final, redacted copy of the engagement agreement to be entered into between CBRE Limited and the Applicants referred to in the Clark Affidavit (the "**CBRE Engagement Agreement**"). An unredacted copy of the CBRE Engagement Agreement, to be filed under seal, is attached hereto as confidential **Exhibit "C"**.

4. Attached hereto as **Exhibits "D"** and **"E"**, respectively, is a revised copy of the SISP (the "**Revised SISP**") and a redline between the Revised SISP and the SISP included in the Motion Record.

5. Attached hereto as **Exhibits "F"** and **"G"**, respectively, is a revised copy of the SISP Approval Order (the "**Revised Order**") and a redline between the Revised Order and the SISP Approval Order included in the Motion Record.

SWORN REMOTELY by Joshua Foster stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 11th, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



THOMAS GRAY

Commissioner for Taking Affidavits
(or as may be)



JOSHUA FOSTER

THIS IS **EXHIBIT "A"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.



THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

ENGAGEMENT AGREEMENT

(this "Agreement")

BY AND AMONG: **Those entities listed in Schedule "A" (collectively, the "Debtor Companies" and each, a "Debtor Company")**

AND: **Howards Capital Corp. ("HC")**

RECITALS:

A. HC and certain of the Debtor Companies were party to an amended and restated financial advisor engagement letter dated September 27, 2023, which was effective as of August 5, 2023 and was terminated effective as of January 23, 2024 (the "**Original Engagement Letter**"), pursuant to which HC agreed to perform certain advisory services for the counterparties thereto, including certain of the Debtor Companies.

B. On January 23, 2024, the Debtor Companies were granted an initial order (as amended, and amended and restated from time to time, the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**" and the proceedings thereunder, the "**CCAA Proceedings**") by the Ontario Superior Court of Justice (Commercial List) (the "**Court**").

C. The Initial Order, among other things, appointed KSV Restructuring Inc. as the Monitor in the Debtor Companies' proceedings under the CCAA (in such capacity, the "**Monitor**"), appointed Chaitons LLP as representative counsel (in such capacity, the "**Secured Lender Representative Counsel**") for all of the Secured Lenders in the Insolvency Proceedings (each as defined in the Initial Order), and appointed Goldman Sloan Nash & Harber LLP as representative counsel (in such capacity, the "**Unsecured Lender Representative Counsel**") for all of the Unsecured Lenders (as defined in the Initial Order) in the Insolvency Proceedings.

D. The Debtor Companies intend to return to Court on or before April 12 (the "**Approval Hearing**") to seek an order of the Court, among other things, (i) approving a sale, refinancing and investment solicitation process substantially in the form attached hereto as Schedule "B" (the "**SISP**"), (ii) authorizing the Debtor Companies to engage HC as an advisor to the Debtor Companies pursuant to the terms of this Agreement, (iii) authorizing the Debtor Companies to engage CBRE Limited as an advisor to the Debtor Companies pursuant to the terms of an engagement agreement dated April [●], 2024, and (iii) authorizing and directing the Monitor, the Debtor Companies, HC and CBRE Limited, to carry out the SISP pursuant its terms and the terms of the Approval Order and for those parties to perform their respective obligations thereunder (the "**SISP Approval Order**").

NOW THEREFORE in consideration of the premises and the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. **TERM.** The term of this Agreement shall commence on the date (the "**Effective Date**") that the Court grants the SISP Approval Order and approves this Agreement in form and substance acceptable to HC and the Debtor Companies (provided that any modifications to the this Agreement shall require the consent of the Monitor or further order of the Court) and shall continue, unless otherwise terminated pursuant to the terms hereof, until the earlier of: (i) the closing of an Investment (as defined below); (ii) the implementation of a Refinancing (as defined

below); (iii) the termination of the SISP; and (iv) the termination of the CCAA Proceedings (such earlier occurrence, the "**Completion**").

2. **DUTIES.**

(a) **General.** HC shall provide the Services (as defined below) to the Monitor, in consultation with the Debtor Companies, to support the implementation of the SISP, in accordance with this Agreement, the SISP and the SISP Approval Order.

(b) **Appointment as SISP Advisor.** Effective upon receipt of the SISP Approval Order, HC is hereby retained by the Debtor Companies as an advisor to assist the Monitor, in consultation with the Debtor Companies, in the solicitation of any Investment or Refinancing in the SISP (in such capacity, the "**SISP Advisor**"). HC shall cause Howard Steinberg, HC's principal ("**Steinberg**"), to devote his working time, skills and competence as circumstances require to the role of SISP Advisor. HC shall primarily perform the Services remotely, but subject to Section 3(d), Steinberg may attend at the Debtor Companies' premises as may be required from time to time to the extent necessary for HC's performance of the Services. The Debtor Companies acknowledge and agree that HC and Steinberg may engage in other commitments and business activities (some of which are in the residential real estate sector and include outside directorships) during the term of this Agreement, provided that such activities do not interfere with the effective performance of the Services of HC hereunder.

(c) **Reporting Relationships.** HC and Steinberg shall report to and take instructions from the Monitor, in consultation with the Debtor Companies, in respect of the provision of the Services.

(d) **Consultant Expenses.** The Services will be provided on behalf of HC by Steinberg and other consultants, agents and/or advisors retained by HC (collectively, "**Consultants**", which for greater certainty does not include Steinberg) as HC may determine is both necessary and appropriate in consultation with and with the prior written consent of the Debtor Companies and the Monitor. The Debtor Companies agree, subject to approval in advance by the Debtor Companies and the Monitor, to pay for all reasonable fees and reasonable out-of-pocket expenses of HC associated with the Consultants (the "**Consultant Expenses**") in addition to the Monthly Fee and Expenses (each as defined below) within one (1) month of HC submitting to the Debtor Companies and Monitor detailed invoices therefor. The work to be performed by the Consultants shall not be duplicative of that performed by Steinberg, the other employees of HC, the employees, assistants or contractors of the Debtor Companies, CBRE Limited or the Monitor. The need for and use of the Consultants, if any, shall be reviewed by HC with the Debtor Companies and the Monitor on a periodic basis. Subject to the foregoing, HC shall be solely liable for all fees and expenses of the Consultants and shall indemnify and hold harmless the Debtor Companies against any claims made by or on behalf of any of the Consultants against any Debtor Company relating to any claim for unpaid fees and expenses, wages, overtime, vacation pay, or any other claim under employment standards legislation, including reasonable notice of termination or payment in lieu thereof. For greater certainty, other than the obligation of the Debtor Companies to pay Consultant Expenses to HC pursuant to this Section 2(d), in no event shall the Debtor Companies be responsible for any obligations relating to the Consultants and the performance by the Consultants of the Services.

(e) **Standard of Performance.** HC shall, and shall cause Steinberg and each of the Consultants to, provide the Services, including all ancillary services, in good faith. HC shall ensure that the Services are performed diligently and in accordance with professional standards of an appointment of this nature. In carrying out the Services, HC shall, and shall cause Steinberg and the Consultants to, at all times act in a manner which is in the best interests of the Debtor Companies and their stakeholders and otherwise in accordance with the terms of this Agreement, the SISP and the SISP Approval Order. HC represents and warrants to the Debtor Companies that: (i) HC holds a harmonized sales tax ("**HST**") registration number (773457262RC0001) and that it shall be responsible for deducting and remitting HST on the Monthly Fee to the appropriate taxing authority; (ii) HC is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada); and (iii) Steinberg and each of the Consultants is lawfully entitled to work in Canada.

(f) **Specific Duties.** HC shall, and shall cause Steinberg and each of the Consultants to, provide the following services to the Monitor, in consultation with the Debtor Companies, solely in connection with the SISP and in accordance with the terms of this Agreement, the SISP and the SISP Approval Order (collectively, the "**Services**"). The Services shall include without limitation:

- acting as SISP Advisor on the terms contemplated under this Agreement, the SISP and the SISP Approval Order;
- assisting the Monitor in implementing and conducting the SISP solely in respect of any Investment or Refinancing, in accordance with the terms of this Agreement, the SISP and the SISP Approval Order;
- consulting with the Monitor, the Debtor Companies, the Lender Representative Counsel, the Unsecured Lender Representative Counsel, the Fuller Landau Group Inc., in its capacity as the Court-appointed receiver of The Lion's Share Group Inc. (in such capacity, the "**Lion's Share Receiver**"), and CBRE Limited in respect of the SISP and in accordance with its terms;
- advising the Monitor, in consultation with the Debtor Companies, with respect to the analysis, structuring and/or negotiation of any and all Investment or Refinancing transactions;
- advising the Monitor, in consultation with the Debtor Companies, with respect to the financial, governance and other terms of any and all Investment or Refinancing transactions, including in structuring any financing or lending arrangements in connection therewith;
- preparing, or assisting in the development of, financial models, data and presentations associated with any and all Investment or Refinancing transactions;
- with the prior written consent of the Monitor, engaging with one or more local agents to assist in marketing and negotiating one or more Investment or Refinancing transactions;
- if requested by the Monitor, providing advice with regard to refinancing the Debtor Companies' obligations and funded indebtedness in the context of one or more Investment or Refinancing transactions;

- if requested by the Monitor, dealing, negotiating and communicating with creditors, potential bidders, and other stakeholders, as necessary, regarding one or more Investment or Refinancing transactions;
- assisting with the preparation of filings, applications or similar materials that may be necessary or desirable in connection with the SISP; and
- providing such other advisory services as are requested both by the Debtor Companies and Monitor, and mutually agreed.

Except as contemplated by this Agreement, HC may not subcontract performance of the Services and agrees and acknowledges that Steinberg shall be primarily responsible for providing the Services on behalf of HC. Steinberg's primary provision of the Services is a material term of this Agreement. HC further acknowledges and agrees that Steinberg and any Consultants will be instructed to engage directly with the Monitor in connection with the provision of Services and will only engage with the Applicants (or any of their officers, directors, employees or advisors) with the prior consent of the Monitor or as otherwise provided for in this Agreement, the SISP and the SISP Approval Order and subject in all respects to Section 13 of the SISP.

3. **CONSIDERATION FOR SISP ADVISOR SERVICES.**

Subject to receipt of the SISP Approval Order, the Debtor Companies shall provide the following consideration to HC for Services rendered hereunder:

- (a) **Monthly Fee.** CAD\$30,000 (plus applicable taxes) per month, in each case payable monthly in advance less any withholdings required by law, for HC's Services, pro-rated for the number of days for which HC is SISP Advisor in respect of the first and last months of its appointment ("**Monthly Fee**" or "**Monthly Fees**").
- (b) **Completion Fee.** A completion fee (the "**Completion Fee**") of:
 - (i) in the event of an investment in all, or substantially all, of the Debtor Companies' shares or business (an "**Investment**"), an amount equal to 1% of the Net Investment Proceeds;¹
 - (ii) in the event of a refinancing of all, or substantially all, of the Debtor Companies' indebtedness (a "**Refinancing**") in a transaction that does not include the sale of a material portion of the Debtor Companies' shares, business or assets, an amount equal to 1% of the Net Refinanced Indebtedness up to a maximum of CAD\$1.5 million;² or

¹ "**Net Investment Proceeds**" means the aggregate proceeds invested, net of: (a) the Debtor Companies' and Monitor's reasonable legal fees and expenses, accountants' fees and expenses, and any other reasonable advisory fees and expenses incurred by the Debtor Companies (including the fees and expenses of Secured Lender Representative Counsel and Unsecured Lender Representative Counsel) in connection with the investment; and (b) other reasonable customary fees and expenses actually incurred by the Debtor Companies in connection with the investment.

² "**Net Refinanced Indebtedness**" means the aggregate availability under any new credit facility, whether or not actually advanced, net of: (a) the Debtor Companies' and Monitor's reasonable legal fees and expenses, accountants' fees and expenses, and any other reasonable advisory fees and expenses incurred by the Debtor Companies (including the fees and expenses of Secured Lender Representative Counsel

- (iii) in the event of a combination of any of (i) an Investment or (ii) a Refinancing: an amount equal to (A) 1% of the Net Investment Proceeds; and (B) 1% of the Net Refinanced Indebtedness, up to a maximum of CAD\$1.5 million, provided that, for the purposes of this Agreement, an Investment and a Refinancing shall not include a transaction effectuated in connection with a credit bid submitted by any of the Debtor Companies' existing secured lenders, including the DIP Lender.

(c) The Completion Fee, less any withholdings required by law, shall be paid upon the closing of an Investment and/or Refinancing, as applicable; provided, however, that each Monthly Fee, to the extent previously paid, shall be credited against the Completion Fee payable to reduce the total amount of the Complete Fee paid to HC. The obligation of the Debtor Companies to pay the Completion Fee in accordance with the terms hereof shall survive for a period of nine months following termination of this Agreement by the Debtor Companies. Notwithstanding the foregoing or any other provision of this Agreement, HC shall not be entitled to any Completion Fee if HC terminates this Agreement.

(d) **Expenses.** The Debtor Companies shall reimburse HC for all reasonable documented out-of-pocket expenses incurred by it (including any applicable taxes) in connection with the Services (the "**Expenses**") upon submission of invoices therefor (including without limitation travel). Any Expenses greater than CAD\$1,000 to be incurred in any month, including, for greater certainty, travel (which for certainty must be economy class) or other expenses incurred by HC with respect to Steinberg or the Consultants, must be pre-approved by the Debtor Companies and the Monitor. In addition to the Monthly Fee, HC shall submit an itemized invoice (with backup receipts) for the Expenses plus applicable taxes within two (2) months of the Expenses having been incurred. For the avoidance of doubt, this Section 3(d) shall not apply to any claims for expense reimbursement made pursuant to the Indemnity Provisions attached hereto as Schedule "C", which expense reimbursement claims shall be governed by the terms of that Schedule.

(e) **No Benefits, etc.** None of HC, Steinberg or the Consultants shall be entitled to any payment or benefit except as expressly set forth in this Agreement, including, without limitation, any health and welfare benefits, insurance benefits, pension or retirement benefits or vacation entitlements or pay in lieu thereof.

4. **INFORMATION.** The Debtor Companies will use their commercially reasonable efforts to ensure that HC has access to such accurate and complete information regarding the Debtor Companies as HC requires in order to perform the Services hereunder. HC shall be entitled to rely upon such information and shall be under no obligation to verify independently any such information so provided. HC shall also be under no obligation to investigate any changes in any such information occurring after the date it was provided to HC. In the event that HC believes it does not have the necessary information or cooperation from the Debtor Companies required to provide the Services, it shall promptly inform the Debtor Companies and the Monitor of such situation.

5. **ADDITIONAL SERVICES.** If HC is requested to perform services in addition to the Services described herein, including, without limitation, arranging, negotiating and/or facilitating a restructuring of any of the Debtor Companies' indebtedness, then the terms and conditions

and Unsecured Lender Representative Counsel) in connection with the refinancing; and (b) other reasonable customary fees and expenses actually incurred by the Debtor Companies in connection with the refinancing.

relating to such additional services will be outlined in a separate agreement and the fees for such services will be in addition to the fees payable hereunder and will be negotiated separately and in good faith among HC, the Applicants and the Monitor, and shall be subject to Court approval.

6. **COURT APPROVAL.** At the Approval Hearing, the Debtor Companies shall seek Court approval of this Agreement pursuant to the SISP Approval Order, which SISP Approval Order may be incorporated in any other order to be sought by the Debtor Companies in the CCAA Proceedings. The SISP Approval Order shall:

(a) provide that neither of HC nor Steinberg shall incur any liability or obligation as a result of the provision of the Services except as may result from the gross negligence or wilful misconduct of such person; and

(b) provide that HC and Steinberg shall enjoy the benefit of a stay of proceedings granted in the CCAA Proceedings in the form proposed in the Approval Order; and

(c) provide that the obligations of the Debtor Companies arising under this Agreement are not obligations which may be compromised within the CCAA Proceedings.

7. **TERMINATION.** Any of the parties hereto may terminate this Agreement for any reason, with the prior written consent of the Monitor, at any time prior to Completion upon not less than 30 days' prior written notice to the other parties. In addition to the foregoing, the Debtor Companies, with the prior written consent of the Monitor, may terminate this Agreement for any reason with immediate effect by providing written notice to HC and payment to HC of one Monthly Fee installment in lieu of prior written notice. In the event of any termination by the Debtor Companies in accordance with this Section 7: (i) HC shall be entitled to receive any prorated Monthly Fee and reimbursement of all Expenses and Consultant Expenses up to the effective termination date; and (ii) HC shall be entitled to the Completion Fee in accordance with Section 3(c) hereof.

8. **CONFIDENTIALITY.** HC recognizes that the Services to be performed by it hereunder are special, unique and extraordinary in that, by reason of the Services it shall provide hereunder, it will acquire Confidential Information (as defined in the Confidentiality Agreements (as defined below)) and trade secrets concerning the operation of the Debtor Companies, the use or disclosure of which could cause the Debtor Companies substantial losses and damages which could not be readily calculated and for which no remedy at law may be adequate. Accordingly, HC agrees and acknowledges that HC and each of its personnel and agents (including Steinberg) shall continue to be bound by the terms of the confidentiality agreements, dated August 5, 2023 and January 24, 2024 among HC and the counterparties thereto (together, the "**Confidentiality Agreements**"), except as such terms are explicitly amended or varied by this Section 8. For the avoidance of doubt, the parties hereto hereby agree and acknowledge that references to the "Engagement Letter" and "Engagement" in the Confidentiality Agreements shall include this Agreement and the engagement contemplated herein, respectively.

Notwithstanding anything to the contrary in the Confidentiality Agreements, in the event that HC or any of its representatives, by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena or other similar processes, are requested or become legally compelled to disclose any of the Confidential Information, HC agrees that it or its representatives, or both, as the case may be, will, to the extent permitted at law and practicable in the circumstances, provide the Debtor Companies and the Monitor with prompt written notice of such request or requirement so that the Debtor Companies may seek a protective order or

other appropriate remedy. If such protective order or other remedy is not obtained, HC or its representatives, as the case may be, who are requested to disclose the Confidential Information may furnish that portion of the Confidential Information which, it is legally compelled to disclose; provided, however, that HC or its representatives requested to disclose the Confidential Information shall use their commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information so disclosed. It is acknowledged and agreed that in the circumstances described by this paragraph, the Debtor Companies shall reimburse HC for all reasonable legal fees incurred by it, which fees shall not be subject to the cap set out in Section 3(d).

Upon the Debtor Companies' request, for any reason, HC and its representatives will promptly deliver to the Debtor Companies all documents and other materials (and all copies and extracts thereof) constituting Confidential Information without retaining a copy or extract thereof; provided, however, that HC may retain copies of the Confidential Information (i) that is stored on HC's information technology backup and disaster recovery systems until the ordinary course deletion thereof, (ii) that is maintained for compliance purposes, or (iii) to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information. If the Debtor Companies request or give prior written consent, HC or its representatives shall destroy all documents or other materials constituting Confidential Information in their possession, including in electronic form (subject to the exception in the preceding sentence) with any such destruction confirmed by them in writing to the Debtor Companies. Whether or not there is a return or destruction of the Confidential Information, HC and its representatives will continue to be bound by their obligations of confidentiality and other obligations hereunder.

9. GENERAL PROVISIONS

(a) **Independent Contractor.** Nothing contained in this Agreement shall be construed as creating a relationship between the Debtor Companies or the Monitor, on the one hand, and HC (including, for greater certainty, Steinberg or any of the Consultants), on the other hand, other than that of an independent contractor. HC and any of its directors, officers, employees, agents or other representatives, including Steinberg and the Consultants, shall not be deemed a partner, employee, joint venturer or agent of the Debtor Companies or the Monitor by virtue of this Agreement. No Debtor Company shall be responsible for any employee deductions or contributions which an employer would be required to effect if any of HC's employees, agents or other representatives (including the Consultants) were employees of any Debtor Company.

(b) **Intellectual Property.** The Debtor Companies are and shall be the sole and exclusive owner of all right, title and interest throughout the world in and to all the results and proceeds of the Services performed under this Agreement, including but not limited to all reports prepared by HC and its representatives for the Debtor Companies and all notes, analyses, compilations, studies, summaries and other materials prepared by HC in connection with the performance of the Services (collectively, "**Deliverables**"), including all patents, copyrights, trademarks, trade secrets and other intellectual property rights (collectively "**Intellectual Property Rights**") therein. HC irrevocably assigns to the Debtor Companies all rights, title and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein. HC irrevocably and unconditionally waives all moral rights that HC may now have or may have in the future relating to the Deliverables. Upon the request of the Debtor Companies, HC shall promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, as may be necessary to assist the Debtor Companies to prosecute, register, perfect, record or enforce its Intellectual Property Rights in any Deliverables.

(c) **Notices.** Any notice hereunder by any party to the others shall be given in writing by personal delivery, or certified mail, return receipt requested, or by email transmission, in any case delivered to the applicable address set forth below:

(i) To any Debtor Company:

394 Appleby Line
Burlington, ON L7L 2X8

Attention: Robert Clark
Email: robbywclark@gmail.com

With a copy that shall not constitute notice to:

KSV Restructuring Inc., as the Monitor
150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9
Canada

Attention: Noah Goldstein / David Sieradzki
Email: ngoldstein@ksvadvisory.com / dsieradzki@ksvadvisory.com

With a copy that shall not constitute notice to:

Bennett Jones LLP
First Canadian Place
100 King St. W.
Suite 3400
Toronto, ON M5X 1A4

Attention: Sean Zweig / Josh Foster
Email: zweigs@bennettjones.com / fosterj@bennettjones.com

and

Cassels Brock & Blackwell LLP
Bay Adelaide Centre – North Tower
40 Temperance Street
Suite 3200
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Shayne Kukulowicz / Joseph Bellissimo
Email: riacobs@cassels.com / skukulowicz@cassels.com / jbellossimo@cassels.com

(ii) To HC:

Howards Capital Corp.
4482 Hayes Road
Kelowna BC V1W 5A7

Attention: Howard Steinberg

Tel: (778) 363-9925

Email: howard@howardscapital.com

or to such other persons or other addresses as one party may specify to the others in writing.

(d) **Amendment; Waiver.** No provision of this Agreement may be amended, modified, waived or discharged unless such amendment, modification, waiver or discharge is agreed to in writing, signed by the parties and in the case of the Debtor Companies, consented to by the Monitor. No waiver by any party hereto, at any time, of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

(e) **Assignment.** HC may assign this Agreement or any of its rights and obligations hereunder to an entity in which Steinberg is the sole owner with the prior written consent of the Debtor Companies and the Monitor. The Debtor Companies may assign this Agreement or any of their rights and obligations hereunder with the prior written consent of HC and the Monitor. Any unapproved assignment made in contravention of this section shall be null and void and have no legal effect.

(f) **Severability.** The parties have carefully reviewed the provisions of this Agreement and agree that they are fair and equitable. However, in light of the possibility of differing interpretations of law and changes in circumstances, the parties agree that if any one or more of the provisions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall, to the extent permitted by law, remain in full force and effect and shall in no way be affected, impaired or invalidated.

(g) **Governing Law/Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal law of Canada applicable therein. The parties hereby irrevocably attorn to the exclusive jurisdiction of the Court with respect to any dispute arising under or in connection with this Agreement.

(h) **Entire Agreement.** This Agreement and the Confidentiality Agreements contain the entire agreement of the Debtor Companies and HC with respect to the subject matter hereof, and supersedes all prior agreements, understandings and arrangements, oral and written between the parties either jointly or individually, with respect to the subject matter hereof, including the Original Engagement Letter. For the avoidance of doubt, the parties hereby confirm and agree that there shall be no duplication of compensation, payment or reimbursement to HC whatsoever as between the Original Engagement Letter and this Agreement.

(i) **Survival.** The following provisions will survive the termination of this Agreement indefinitely: Sections 7, 8 and 9. The obligation to pay the Completion Fee shall survive in accordance with the terms of Section 3(c) and Section 7 hereof.

(j) **Counterparts.** This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same document.

(k) **Headings.** The headings of this Agreement are for convenience and reference only and shall not be considered in construing the provisions hereof.

(l) **Currency.** All financial references in this Agreement are to Canadian dollars unless otherwise indicated.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this [●]th day of April, 2024.

HOWARDS CAPITAL CORP.

Per: _____
Name: Howard Steinberg
Title:

DSPLN INC.

Per: _____
Name: Aruba Butt
Title: Director

BALBOA INC.

Per: _____
Name: Aruba Butt
Title: Director

THE PINK FLAMINGO INC.

Per: _____
Name: Aruba Butt
Title: Director

MULTIVILLE INC.

Per: _____
Name: Ryan Molony
Title: Director

HAPPY GILMORE INC.

Per: _____
Name: Ryan Molony
Title: Director

INTERLUDE INC.

Per: _____
Name: Dylan Suitor
Title: Director

THE MULLIGAN INC.

Per: _____
Name: Aruba Butt
Title: Director

NEAT NESTS INC.

Per: _____
Name: Dylan Suitor
Title: Director

HOMETOWN HOUSING INC

Per: _____
Name: Dylan Suitor
Title: Director

HORSES IN THE BACK INC.

Per: _____
Name: Dylan Suitor
Title: Director

JOINT CAPTAIN REAL ESTATE INC.

Per: _____
Name: Aruba Butt
Title: Director

SCHEDULE "A"

DEBTOR COMPANIES

- DSPLN Inc.
- Balboa Inc.
- The Pink Flamingo Inc.
- Multiville Inc.
- Happy Gilmore Inc.
- Interlude Inc.
- The Mulligan Inc.
- Neat Nests Inc.
- Hometown Housing Inc.
- Horses In The Back Inc.
- Joint Captain Real Estate Inc.

SCHEDULE "B"
SISP

See attached.

SCHEDULE "C"

INDEMNITY PROVISIONS

- A. To the extent of the Completion Fee payable under the agreement to which this Indemnity is attached as Schedule "C" (the "**Agreement**"), the Debtor Companies agree to indemnify and hold harmless each of HC and its principal, Steinberg (each, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**"), from all claims, disputes, litigation and judgments, and to pay all costs and solicitors' fees, disbursements and applicable taxes incurred by any of the Indemnified Parties in connection therewith, arising from any incorrect information supplied by the Debtor Companies, or from any material fact known by the Debtor Companies concerning the Debtor Companies, their business, assets and/or indebtedness which the Debtor Companies fail to disclose to the Indemnified Parties; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from such Indemnified Party's gross negligence or willful misconduct. The Debtor Companies also agree that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Debtor Companies for or in connection with the engagement of HC, except to the extent any such liability for losses, claims, damages, liabilities or expenses are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from such Indemnified Party's gross negligence or willful misconduct. The Debtor Companies further agree that they will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceeding) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.
- B. These indemnification provisions shall be in addition to any liability which the Debtor Companies may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the Agreement, as a result of or in connection with the Agreement or HC's and its personnel's role under the Agreement, HC is required to produce any of its personnel (including former employees) for examination, discovery, deposition or other written, recorded or oral presentation, or HC or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, the Debtor Companies will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable, documented fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.
- C. If any action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party will notify the Debtor Companies with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify the Debtor Companies will not relieve the Debtor Companies from their obligations hereunder. The Debtor Companies shall promptly pay

expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding or investigation or otherwise. Each Indemnified Party hereby undertakes, and the Debtor Companies hereby accept its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against the Debtor Companies, the Debtor Companies may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents the Debtor Companies, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and the Debtor Companies, such counsel is unable to represent both the Indemnified Party and the Debtor Companies, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and the Debtor Companies shall promptly advance its expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. The Debtor Companies will be liable for any settlement of any claim against an Indemnified Party made with the Debtor Companies' written consent, which consent shall not be unreasonably withheld.

- D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof provide for indemnification, then the relative fault of the Debtor Companies, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.
- E. Neither termination of the Agreement nor the filing of a petition or application under the *Companies' Creditors Arrangement Act (Canada)* or the *Bankruptcy and Insolvency Act (Canada)* (nor the conversion of an existing case to a different form of proceeding, including a receivership) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.
- F. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or by-laws of the Debtor Companies, any policy of insurance, any other agreements, any vote of shareholders or disinterested directors of the Debtor Companies, any applicable law or otherwise.

THIS IS **EXHIBIT "B"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to be 'TG', is written above a horizontal line.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

THIS SALE ADVISOR ENGAGEMENT AGREEMENT dated April [●], 2024 (this “**Agreement**”)

BETWEEN:

BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

(collectively, the “**Owner**”)

-and-

CBRE LIMITED (the “**Brokerage**”)

WHEREAS the Owner is the legal owner of the properties listed in Schedule “A” (the “**Properties**” and collectively as a portfolio, the “**Portfolio**”);

AND WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on January 23, 2024 (as amended and amended and restated from time to time, the “**Initial Order**”) the Owners were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and KSV Restructuring Inc. was appointed monitor of the Applicants (in such capacity, the “**Monitor**”);

AND WHEREAS the Initial Order also appointed Chaitons LLP as representative counsel (in such capacity, the “**Secured Lender Representative Counsel**”) for all of the Secured Lenders in the Insolvency Proceedings (each as defined in the Initial Order), and appointed Goldman Sloan Nash & Harber LLP as representative counsel (in such capacity, the “**Unsecured Lender Representative Counsel**”) for all of the Unsecured Lenders (as defined in the Initial Order) in the Insolvency Proceedings;

AND WHEREAS, the Owner intends to seek an order (the “**Approval Order**”), among other things, approving (i) this Agreement and (ii) a sale, refinancing and investment solicitation process substantially in the form attached at Schedule “B” (the “**SISP**”) to be conducted by the Monitor with the assistance of the Brokerage and Howards Capital Corp. (“**HCC**”), and in consultation with the Owner;

AND WHEREAS, subject to the granting of the Approval Order, the Owner wants to retain the Brokerage to serve as co-SISP Advisor (as defined in the SISP) for the solicitation of offers for sale of the Portfolio or the Properties in accordance with the terms of the SISP (“**Sale Transactions**”) and provide the Services as outlined and defined in Article 8 below;

AND WHEREAS the agent(s) designated by the Brokerage to represent the Owner and act as the SISP Advisor for the solicitation of offers for sale of the Portfolio shall consist of Barbara Bardos, Casey Gallagher, Venkat Ramadoss and Taylor Clements (the “**Designated Agents**”);

NOW THEREFORE in consideration of the Services to be provided as co-SISP Advisor and the solicitation of one or more Sale Transactions involving the Portfolio or the Properties by the Brokerage, the Owner and the Brokerage hereby agree as follows:

ARTICLE 1 RECITALS

1.1 The above recitals are true and accurate in all respects.

ARTICLE 2 TERM

2.1 The term of this agreement commences upon the granting of the Approval Order approving this Agreement and the SISP (anticipated to be on or about April 12, 2024) and shall continue, unless otherwise terminated pursuant to the terms hereof, until the earlier of: (i) midnight on December 31, 2024; and (ii) the termination of the SISP (the “**Term**”).

ARTICLE 3 THE BROKERAGE RENUMERATION

3.1 The Owner agrees to pay the Brokerage a work fee and commission structure described in Schedule “C” (the “**Work Fee**” and the “**Commission**”). The gross sale price shall include any and all consideration received or receivable in connection with a sale of the Portfolio or any of the Properties, in whatever form; provided, however, that no Commission will be payable upon any sale consummated in connection with a credit bid submitted by any of the Owner’s secured lenders. Commissions shall be paid and deemed earned if and only if a closing occurs pursuant to a contract of sale executed and delivered by the Owner and approved by the Court (“**Closing**”).

3.3 The Commission shall be earned by the Brokerage in the event that, during the Term, the Owner enters into a binding agreement of purchase and sale for any of the Properties or the Portfolio with a purchaser procured by the Brokerage, the Owner or from any other source whatsoever.

3.4 Subject to section 4.1, the Commission shall be payable immediately upon the Closing of the agreement of purchase and sale referred to in section 3.3 above notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.

3.5 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owner.

3.6 The Brokerage acknowledges and agrees that, pursuant to the SISP, the Owner will also be retaining HCC to act as co-SISP Advisor solely in respect of any refinancing or other strategic investment transaction(s) in the Property and that no Commission will be earned or payable to the Brokerage as a result of a transaction or transactions within the mandate of HCC as SISP Advisor.

ARTICLE 4 HOLDOVER

4.1 The Owner further agrees to pay the Brokerage the Commission if, within 180 hundred and eighty (180) calendar days after the expiration of the Term, the Property is sold to, or the Owner enters into an agreement of purchase and sale for the Property with, or negotiations continue, resume or commence and thereafter continue leading to the execution of a binding agreement of purchase and sale for the Property, regardless of when the transaction closes, with any person or entity (including his/her/its successors, assigns or affiliates) with whom the Brokerage has negotiated (either directly or through another agent) or to whom the Property was introduced or submitted by the Brokerage, prior to the expiration of the Term; with or without the involvement of the Brokerage. Provided further that in the event of such sale after the expiration of the Term and if the Owner shall become liable to the Brokerage for Commission in accordance with this provision, the amount payable to the Brokerage shall be reduced by such amount payable to another agent or brokerage in respect of such sale and its closing. The Brokerage is authorized to continue negotiations with such persons or entities. The Brokerage agrees to submit a list of such persons or entities to the Owner within ten (10) business days following the expiration of the Term, which list has been approved by the Monitor, acting reasonably, in consultation with the Owner.

ARTICLE 5 EXCLUSIVE SALE ADVISOR ROLE

- 5.1 The Owner warrants to the Brokerage that, as at the date of execution of this Agreement, the Owner is not a party to a valid listing agreement with any other real estate brokerage with respect to the sale of the Portfolio. Subject to the terms of the SISP, the Owner shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Portfolio.
- 5.2 The Owner agrees to (i) cooperate with the Brokerage in its provision of the Services under this Agreement to the extent not inconsistent with the Owner's obligations under the SISP, the Approval Order, to HCC or under applicable law, and (ii) refer as soon as reasonably practicable to the Brokerage all inquiries of anyone interested in the purchase of the Properties or Portfolio. All negotiations for the sale of the Properties or Portfolio during the Term are to be through the Brokerage.
- 5.3 The Owner acknowledges that CBRE or the Designated Agents have provided the Owner with written information explaining among other things, their relationships, including information on Owner Representation, by providing a copy of the RECO Information Guide – Commercial.

ARTICLE 6 DESIGNATED REPRESENTATION

- 6.1 The Owner understands and agrees that CBRE may represent both the Owner and the prospective purchaser, and one or both the Owner and prospective purchaser may be represented by a designated agent(s) of CBRE. The Owner hereby consents to such multiple representation and agrees that CBRE may designate other CBRE agents, other than the Designated Agent(s), to represent prospective purchasers interested in the Property; provided that, the Designated Agents shall not act adverse in interest to the Owner during the Term.

ARTICLE 7 INDEMNITIES

- 7.1 To the extent of the Commission payable hereunder, the Owner agrees to indemnify and hold the Brokerage harmless from all claims, disputes, litigation and judgments, and to pay all costs and solicitors' fees, disbursements and applicable taxes incurred by the Brokerage in connection therewith, arising from any incorrect information supplied by the Owner, or from any material fact known by the Owner concerning the Portfolio which the Owner fails to disclose to the Brokerage.
- 7.2 To the extent of the Commission payable hereunder, the Brokerage agrees to indemnify and hold the Owner harmless from all claims, disputes, litigation, and judgments, and to pay all costs and solicitors' fees, disbursements and applicable taxes incurred by the Owner in connection therewith, arising from any established willful misconduct or gross negligence on the part of the Brokerage in providing the real estate brokerage services hereunder.
- 7.3 CBRE and each of the Designated Agents hereby declare that they are insured pursuant to the requirements under the *Trust in Real Estate Services Act, 2002* (TRESA).

ARTICLE 8 SCOPE OF SERVICES

8.1 The Brokerage acknowledges and agrees to the terms of the SISP and agrees that all marketing and solicitation efforts conducted by the Brokerage shall be undertaken in accordance with the terms of the SISP and in good faith to maximize the value of the Properties and/or the Portfolio. The Brokerage further acknowledges and agrees that it shall report to and take instruction from the Monitor, in consultation with the Owner, in accordance with the terms of the SISP, and shall not commit the Owner to any transaction for the sale of the Portfolio or any Properties without the express prior written consent of the Monitor and the Owner.

8.2 The Brokerage shall act as advisor pursuant to the terms of the SISP and shall, and shall cause the Designated Agents to, perform such financial and real estate advisory services (collectively, the “**Services**”) as are required by the Monitor, in consultation with the Owner, therein, including the following:

- a) Assisting the Monitor in implementing and conducting the SISP solely in respect of any Sale Transactions involving the Portfolio or the Properties, in accordance with its terms and in consultation with the Owner;
- b) Consulting with the Monitor, the Owner, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion’s Share Representative (as defined in the SISP) in respect of the SISP and in accordance with its terms;
- c) Performing financial analysis and valuation work on the Portfolio and the Properties;
- d) Assembling and packaging due diligence materials prior to and following marketing launch;
- e) Preparing marketing materials for use in promoting the Portfolio and the Properties;
- f) In consultation with the Monitor and the Owner, developing an appropriate marketing and disposition strategy for the Portfolio or the Properties;
- g) Advising the Monitor and the Owner of the various steps in achieving the sale of the Portfolio or any Properties;
- h) With the prior consent of the Monitor and in consultation with the Owner, engaging with one or more local agents to assist in marketing and negotiating one or more Sale Transactions;
- i) Executing a marketing program for the Portfolio and provide weekly written up-dates to the Monitor and the Owner as to the status of all marketing initiatives;
- j) Managing, on a day-to-day basis the disposition program, including marketing, coordination of due diligence, assisting the Monitor and third parties, facilitating tours and information requests, and other duties as required;
- k) Advising the Monitor and, subject to section 13 of the SISP, the Owner, with respect to any LOI (as defined in the SISP) pertaining to the sale of the Portfolio or any Properties;
- l) Assisting the Monitor and the Owner in negotiations, structuring and documentation of the transaction with the purchaser(s) until Closing; and
- m) Providing such other advice or services as may reasonably be required by the Monitor in order to carry out responsibilities.

8.3 Except as contemplated by this Agreement, the Brokerage may subcontract performance of the Services upon mutual agreement with the Monitor and the Owner. The Designated Agents shall be primarily responsible for providing the Services on behalf of the Brokerage. The Brokerage shall, and shall cause the Designated Agents to, provide the Services in good faith and shall ensure that the Services are performed diligently and in accordance with all applicable professional standards and obligations.

8.4 The Brokerage shall be solely responsible for all reasonable marketing costs and expenses.

8.5 For greater certainty and notwithstanding section 8.1, the Brokerage is not authorized to sign any agreement or document as agent for the Owner and all proposed offers for sale and agreement for sale shall be submitted to the Monitor and the Owner for its consideration in accordance with the SISP.

ARTICLE 9 CONFIDENTIALITY

9.1 The Brokerage recognizes that the Services to be performed by it hereunder are special, unique and extraordinary in that, by reason of the Services it shall provide hereunder, it will acquire Confidential Information (as defined below) concerning the operation of the Owner, the use and disclosure of which could cause the Owner substantial losses and damages which could not be readily calculated and for which no remedy at law may be adequate.

9.2 Subject to section 9.3, the Brokerage and the Designated Agents hereby agree to use the Confidential Information solely for the purposes of the engagement contemplated by this Agreement (the “**Permitted Purpose**”) and not directly or indirectly for any other purpose, that the Confidential Information will be kept strictly confidential and that the Brokerage and the Designated Agents will not disclose any of the Confidential Information in any manner whatsoever, provided, however, that (i) the Brokerage and the Designated Agents may make disclosure of such information with the Owner’s prior written consent, (ii) the Brokerage and the Designated Agents may make disclosure to parties that have executed and delivered a non-disclosure agreement in favour of the Owner, in form and substance acceptable to the Owner and the Monitor, and who have a legitimate interest in receiving the Confidential Information for the purposes of undertaking due diligence in connection with the SISP, and (iii) information may be disclosed to the Brokerage, the Designated Agents and their respective representatives who need to know such information for the Permitted Purpose, provided that, for the avoidance of doubt, such Representatives are informed of the confidential nature of the Confidential Information, are directed to hold the Confidential Information in the strictest confidence and agree to act in accordance with the terms and conditions of this section 9.2. The Brokerage shall be responsible for any breach of this section 9.2 by the Brokerage, the Designated Agents or any of their respective representatives and the Brokerage shall take all commercially reasonable measures to restrain the prohibited or unauthorized disclosure or use of the Confidential Information. The Brokerage will, in the event of a breach of this section 9.2 or any disclosure of the Confidential Information by the Brokerage, the Designated Agents or any their respective representatives, other than as permitted by Article 9 of this Agreement, through accident, inadvertence or otherwise, notify the Owner and the Monitor of the nature of the breach promptly upon your discovery of the breach or disclosure.

9.3 In the event that the Brokerage, the Designated Agents or any of their respective representatives, by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena or other similar processes, are requested or become legally compelled to disclose any of the Confidential Information, the Brokerage agrees that it or its representatives, or both, as the case may be, will, to the extent permitted at law and practicable in the circumstances, provide the Owner and the Monitor with prompt written notice of such request or requirement so that the Owner may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, the Brokerage, the Designated Agents or their respective representatives, as the case may be, who are requested to disclose the Confidential Information may furnish that portion of the Confidential Information which, it is legally compelled to disclose; provided, however, that the Brokerage, the Designated Agents or their respective representatives requested to disclose the Confidential Information shall use their commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information so disclosed. It is acknowledged and agreed that in the circumstances described by this section 9.3, the Owner shall reimburse the Brokerage for all reasonable legal fees incurred by it.

9.4 Upon the Owner's request, for any reason, the Brokerage, the Designated Agents and their respective representatives will promptly deliver to the Owner all documents and other materials (and all copies and extracts thereof) constituting Confidential Information without retaining a copy or extract thereof; provided, however, that the Brokerage may retain copies of the Confidential Information (i) that is stored on the Brokerage's information technology backup and disaster recovery systems until the ordinary course deletion thereof, (ii) that is maintained for compliance purposes, or (iii) to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information. If the Owner requests or gives prior written consent, the Brokerage, the Designated Agents and their respective representatives shall destroy all documents or other materials constituting Confidential Information in their possession, including in electronic form (subject to the exception in the preceding sentence) with any such destruction confirmed by them in writing to the Owner. Whether or not there is a return or destruction of the Confidential Information, the Brokerage, the Designated Agents and their respective representatives will continue to be bound by their obligations of confidentiality and other obligations under Article 9 of this Agreement.

9.5 As used in this Agreement, the term "**Confidential Information**" shall mean and include any and all information in whatever form or medium (including information which may be transmitted orally, visually, graphically, electronically or by any other means), of a confidential or proprietary nature (whether or not designated or marked as confidential and proprietary) provided by or on behalf of the Owner to the Brokerage, the Designated Agents or their respective representatives and pertaining or relating to the Owner and all derivative materials such as notes, analyses, compilations, studies, interpretations or other documents prepared by the Brokerage, the Designated Agents or their respective representatives which contain, reflect or are based upon, in whole or in part, such confidential and proprietary information; provided, however, that Confidential Information does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure directly or indirectly by the Brokerage, the Designated Agents or their respective representatives in violation of this Agreement, (ii) was within the Brokerage's or the Designated Agent's possession prior to it being furnished to the Brokerage or the Designated Agents by or on behalf of the Owner, provided that the source of such information was not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Owner or any other party with respect to such information, or (iii) becomes available to the Brokerage or the Designated Agents on a non-confidential basis from a source other than the Owner or any of its representatives, provided that such source is not bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, the Owner or any other party with respect to such information.

ARTICLE 10 TERMINATION

10.1 Any of the parties hereto may terminate this Agreement for any reason, with the prior written consent of the Monitor, at any time prior to the expiration of the Term upon not less than 30 days' prior written notice to the other parties. Notwithstanding any other provision of this Agreement, the Brokerage shall not be entitled to any Commission if the Brokerage terminates this Agreement.

ARTICLE 11 GENERAL PROVISIONS

11.1 *Authority.* The Owner declares and certifies that it is the owner of the Portfolio and that, subject to approval of the Court, it has the authority to enter into and execute this Agreement; and this Agreement, once executed by the Owner and approved by the Court, shall be legally binding upon the Owner. The Owner shall have no obligations under this Agreement unless and until approved by the Court.

- 11.2 *Independent Contractor.* Nothing contained in this Agreement shall be construed as creating a relationship between the Owners or the Monitor and the Brokerage other than that of independent contractor. The Brokerage and any of its directors, officers, employees, agents or other representatives, including the Designated Agents, shall not be deemed a partner, employee, joint venturer or agent of the Owner or the Monitor by virtue of this Agreement.
- 11.3 *Entire Agreement.* This Agreement constitutes the entire agreement between the Owner and the Brokerage, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 11.4 *Amendment.* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Owner and the Brokerage, with the prior written consent of the Monitor.
- 11.5 *Severability.* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 11.6 *Interpretation.* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 11.7 *Jurisdiction.* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owner and the Brokerage hereby attorn to the jurisdiction of the Court with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.
- 11.8 *Survival.* Articles 9, 10 and 11 of this Agreement shall survive the termination of this Agreement indefinitely.
- 11.9 *Currency.* All financial references in this Agreement are to Canadian dollars unless otherwise indicated.
- 11.10 *Counterparts.* This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same document.

IN WITNESS WHEREOF the Owner and Brokerage agree to the terms and conditions as set out herein;
and have executed this Agreement as of the date first written above.

CBRE LIMITED

Per: _____
Name:
Title:

DSPLN INC.

Per: _____
Name: Aruba Butt
Title: Director

BALBOA INC.

Per: _____
Name: Aruba Butt
Title: Director

THE PINK FLAMINGO INC.

Per: _____
Name: Aruba Butt
Title: Director

MULTIVILLE INC.

Per: _____
Name: Ryan Molony
Title: Director

HAPPY GILMORE INC.

Per: _____
Name: Ryan Molony
Title: Director

INTERLUDE INC.

Per: _____
Name: Dylan Sutor
Title: Director

THE MULLIGAN INC.

Per: _____
Name: Aruba Butt
Title: Director

NEAT NESTS INC.

Per: _____
Name: Dylan Sutor
Title: Director

HOMETOWN HOUSING INC

Per: _____
Name: Dylan Sutor
Title: Director

HORSES IN THE BACK INC.

Per: _____
Name: Dylan Sutor
Title: Director

JOINT CAPTAIN REAL ESTATE INC.

Per: _____

Name: Aruba Butt

Title: Director

Schedule "A"
The Portfolio

See attached.

Schedule "B"
SISP

See attached.

Schedule "C"

The Owner agrees to pay the Brokerage a Work Fee and Commission as follows:

- The Owner will pay the Brokerage a Work Fee of \$100,000 plus HST within 10 Business Days of approval of this Agreement by the Court;
- In the event the Portfolio sells to one purchaser in one uniform transaction, the fee payable will be 0.75% of the gross sale price of the Portfolio; and
- In the event the Properties comprising the Portfolio sell individually or in partial portfolio transactions, commissions will be calculated as follows:

| Balboa Portfolio | |
|------------------------|--|
| Partial Portfolio Sale | |
| Value Range | Fee |
| Individual Property | 5% (or equivalent standard MLS fee per market) ¹¹ |
| ██████████ | 4% |
| ██████████ | 3% |
| ██████████ | 2% |
| ██████████ | 1.5% |
| ██████████ | 1% |
| ██████ | 0.75% |

¹¹ Individual properties within the Portfolio that become listed on a local Multiple Listing Service ("MLS") and are sold with representation from cooperating brokerages will be subject to the relevant MLS listing agreement. Cooperating fees may apply.

THIS IS **EXHIBIT "C"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

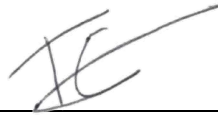
A handwritten signature in black ink, appearing to be 'T. Gray', is written above a horizontal line.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

CONFIDENTIAL
EXHIBIT “C”

THIS IS **EXHIBIT "D"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

SALE, REFINANCING AND INVESTMENT SOLICITATION PROCESS FOR THE PROPERTY OR BUSINESS OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

1. On January 23, 2024, Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., The Mulligan Inc., Horses In The Back Inc., Neat Nests Inc. and Joint Captain Real Estate Inc. (collectively, the "**Applicants**") were granted an initial order (as amended, and amended and restated from time to time, the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Among other things, the Initial Order:
 - (a) appointed KSV Restructuring Inc. as the Monitor in the Applicants' proceedings under the CCAA (in such capacity, the "**Monitor**");
 - (b) approved the Applicants' ability to borrow under a debtor-in-possession credit facility pursuant to a DIP Agreement dated January 26, 2024 between the Applicants and Harbour Mortgage Corp. or its permitted assignee (the "**DIP Lender**");
 - (c) appointed Chaitons LLP as representative counsel (in such capacity, the "**Secured Lender Representative Counsel**") for all of the Secured Lenders in the Insolvency Proceedings; and
 - (d) appointed Goldman Sloan Nash & Harber LLP as representative counsel (in such capacity, the "**Unsecured Lender Representative Counsel**") for all of the Unsecured Lenders in the Insolvency Proceedings.
2. On April 12, 2024 the Court granted an order (the "**SISP Approval Order**") that, among other things: (i) authorized the Applicants to implement and undertake a sale, refinancing and investment solicitation process ("**SISP**") in accordance with the terms hereof; and (ii) approved the Applicants' retention of the SISP Advisor (as defined below) in connection therewith.
3. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the Initial Order or the SISP Approval Order, as applicable. Copies of the Initial Order and the SISP Approval Order can be found at the following website maintained by the Monitor: <https://www.ksvadvisory.com/experience/case/SID> (the "**Monitor's Website**").

The Opportunity

4. This SISP sets out the manner in which the Monitor, with the assistance of the SISP Advisors (as defined below), and in consultation with the Applicants, shall solicit non-binding letters of intent ("**LOIs**" and each, a "**LOI**") for a refinancing, sale and/or other strategic investment or transaction involving the business, assets and/or equity of the Applicants (collectively, the "**Property**") or any part thereof from interested parties (the "**Opportunity**").
5. The SISP contemplates a two-stage process that involves the submission by interested parties of LOIs in Phase 1 and the submission of binding offers in Phase 2. This SISP currently only prescribes the process for the submission of LOIs in Phase 1. The parameters for the submission

and evaluation of binding offers in Phase 2 shall be determined and communicated to the applicable interested parties following the completion of Phase 1, as detailed below.

6. The SISP shall be conducted in all respects by the Monitor, supported by and with the assistance of the SISP Advisors and, subject to para 13, in consultation with the Applicants, Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and The Fuller Landau Group Inc. in its capacity as court-appointed receiver and trustee in bankruptcy of The Lion's Share Group Inc. (in such capacity, the "**Lion's Share Representative**"). In connection therewith, the Monitor with the assistance of the applicable SISP Advisors, and in consultation with the Applicants, may identify one or more subsets of the Property to be marketed pursuant to the SISP for a refinancing, sale or other strategic investment or transaction while concurrently marketing the remainder or whole of the Property for a refinancing, sale or other strategic investment or transaction. Interested parties may submit LOIs for any subset of the Property, whether or not such Property is specifically marketed by the applicable SISP Advisors.
7. Parties who wish to have their offers for the Property considered must participate in the SISP.

SISP Advisors

8. In connection with the SISP, the Applicants have retained: (i) Howards Capital Corp. to assist solely in respect of any refinancing of or other strategic investment in the Property, and (ii) CBRE Limited solely in respect of any sale transaction(s) in respect of the Property (in such capacities, collectively the "**SISP Advisors**"). At the appropriate stage of the SISP, the SISP Advisors, as applicable, with the consent of the Monitor and in consultation with the Applicants, are authorized to engage one or more local real estate agents or brokerages to market the Property or any subsets of the Property.

Milestones

9. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Monitor, with the prior consent of the Applicants, in consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, or as may otherwise be ordered by the Court:
 - (a) the SISP Advisors will each independently prepare and deliver to the Monitor a list of potential interested parties to be solicited (collectively, the "**Known Potential Bidders**") as soon as reasonably practicable after the granting of the SISP Approval Order and, in any event, by no later than April 26, 2024. The SISP Advisors shall include as Known Potential Bidders any parties suggested by the Monitor, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative;
 - (b) the SISP Advisors will commence the solicitation process to all Known Potential Bidders by no later than April 29, 2024, it being understood that the SISP Advisors shall be at liberty to provide marketing materials approved by the Monitor and commence discussions with interested parties (with the involvement of the Monitor) prior to such date;
 - (c) the Monitor, with the assistance of the Applicants and the SISP Advisors, shall establish a virtual data room (the "**VDR**") by no later than April 28, 2024; and

- (d) non-binding LOIs shall be submitted by no later than 5:00 p.m. (Toronto time) on June 10, 2024 (the "**LOI Deadline**").
10. The timing and certain other parameters for Phase 2 of the SISP shall be determined following a review of the non-binding LOIs submitted by the LOI Deadline as detailed in sections 15-18 below.

Solicitation of Interest

11. The Monitor, through the SISP Advisors, will:
- (a) disseminate marketing materials and a process letter (which letter shall, among other things, direct recipients to the Monitor's Website for a copy of this SISP) to all of the Known Potential Bidders, and any other party who contacts the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative, or who the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative become aware may have an interest in the Opportunity (collectively, "**Other Interested Parties**");
 - (b) solicit interest from all of the Known Potential Bidders and Other Interested Parties with a view to such parties entering into non-disclosure agreements in form and substance satisfactory to the Applicants and the Monitor (each an "**NDA**") (only Known Potential Bidders and Other Interested Parties that execute an NDA shall be deemed to be potential bidders in the SISP (each, a "**Potential Bidder**") and obtain access to the VDR);
 - (c) provide each Potential Bidder with: (i) a confidential information memorandum in respect of the Opportunity; and (ii) access to the VDR containing diligence information in respect of the Opportunity and such other diligence opportunities as the Monitor or SISP Advisors consider advisable or appropriate; and
 - (d) request that each Potential Bidder submit a non-binding LOI that meets the requirements set forth in Section 12 below by the LOI Deadline.

Phase 1

12. Any Potential Bidder who wishes to submit a non-binding LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Monitor, in consultation with the SISP Advisors and Applicants, may waive strict compliance with any one or more of the requirements specified below) (each such LOI, a "**Qualified LOI**"):
- (a) it sets forth the identity of the Potential Bidder, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the Potential Bidder's wherewithal to complete a refinancing, sale or other strategic investment or transaction pursuant to the SISP;
 - (b) it sets forth the principal terms of the proposed refinancing, sale or other strategic investment or transaction (the "**Transaction**"), including:
 - (i) the structure, financing and nature of the Transaction (refinancing, recapitalization, reorganization, sale, investment, etc.), including, without limitation, the sources of financing for the purchase price;

- (ii) whether all or a specifically identified subset of the Property will be subject to the Transaction (and if applicable, whether the specifically identified subset of the Property was marketed pursuant to the SISP or was separately identified by the Potential Bidder);
 - (iii) the purchase price or other consideration offered in connection with the Transaction, including any material assumed liabilities;
 - (iv) a description of any conditions or approvals required and any additional due diligence required for the Potential Bidder to make a final binding bid;
 - (v) all conditions to closing that the Potential Bidder may wish to impose on the closing of the Transaction;
 - (vi) whether the Potential Bidder requires any services from the Applicants' existing property manager;
 - (vii) any anticipated corporate, shareholder, internal or regulatory approvals required to close the Transaction and the anticipated timeframe for obtaining such approvals;
 - (viii) in the case of a restructuring, refinancing or hybrid Transaction, it identifies (A) the aggregate amount of the equity and debt investment, including liabilities to be assumed by the Potential Bidder (including the sources of such capital, preliminary evidence of the availability of such capital and the steps necessary and associated timing to obtain the capital and consummate the proposed Transaction and any related contingencies, as applicable) to be made in the Applicants, (B) the underlying assumptions regarding the *proforma* capital structure, and (C) the consideration to be allocated to the Applicants' stakeholders;
 - (ix) any other terms or conditions that the Potential Bidder believes are material to the Transaction; and
 - (x) any other information as may be reasonably requested by the Applicants, the SISP Advisors or the Monitor, in consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative; and
- (c) it is received by the Monitor by no later than the LOI Deadline at the email addresses specified on Schedule "A" hereto.
13. Forthwith following the LOI Deadline, the Monitor shall provide copies of all of the LOIs received to the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel, the Lion's Share Representative, and the DIP Lender, provided that the directors and officers of the Applicants (the "**D&Os**"), the Secured Lender Representatives, the Unsecured Lender Representatives, the Lion's Share Representative, and the DIP Lender, respectively, have previously executed an NDA (or are otherwise subject to confidentiality obligations) acceptable to the Applicants and the Monitor and provided written confirmation to the Monitor that they have not and will not directly or indirectly, acting individually or in concert, submit or actively participate as a bidder in an LOI or any other bid in the SISP. The D&Os, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel, the Lion's Share Representative and the DIP Lender shall not be entitled to consultation with respect to the

review of LOIs received by the LOI Deadline or the next steps to be taken in respect of any Qualified LOI in the event that any of the D&Os, the Secured Lender Representatives, the Unsecured Lender Representatives, the Lion's Share Representative, or the DIP Lender, respectively, fail to execute an NDA (or remain subject to confidentiality obligations with the Applicants) or elect to actively participate as a bidder in and/or submit an LOI or any other bid in the SISP. For greater certainty, a Potential Bidder's proposed retention of the Applicants' existing management, 2707793 Ontario Inc. o/a SID Renos and/or SID Management Inc. or any of their directors or officers, as reflected within an LOI, any other bid in the SISP or otherwise, shall not constitute the D&Os' direct or indirect involvement in the submission of or participation as a bidder in such LOI or bid in the SISP and shall not disqualify the D&Os from receiving or reviewing copies of the LOIs or from being consulted with respect to the LOIs or the next steps to be taken in respect of any Qualified LOI. For greater certainty, participation as a bidder for the purpose of this Section shall not include a credit bid of no more than a Secured Lender's individual claim (including principal, interest and any other obligations owing to such Secured Lender), plus any amounts owing in priority thereto, submitted by such Secured Lender pursuant to Section 23.

14. Notwithstanding any other provision of this SISP, the Monitor may take protective measures to limit access to LOIs or the identity of Potential Bidders to safeguard the integrity of the SISP.

Assessment of LOIs and Determination of Phase 2 Parameters

15. Subject to Section 13, the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative (collectively, the "**Reviewing Parties**") shall review the LOIs received, and the Monitor in consultation with the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, shall determine which of the LOIs, if any, constitute Qualified LOIs.
16. The Monitor (including through the SISP Advisors) may request clarification from any Potential Bidder that submitted an LOI.
17. Subject to Section 13, following the review and assessment contemplated under Section 15, the Reviewing Parties shall discuss what next steps should be taken in respect of the Qualified LOIs received (if any). Such steps may include, without limitation: (i) pursuing refinancing, sale or hybrid components of any Qualified LOI or collection of Qualified LOIs, including a recombination or reconstitution of subsets of the Property which may create the best opportunity to maximize value for all stakeholders; (ii) coordinating the aggregation of certain or all of the Qualified LOIs; (iii) remarketing certain or all of the Property; (iv) engaging one or more local real estate agents or brokerages to assist in marketing and selling certain or all of the Property; (v) the parameters that will govern the submission of binding offers in Phase 2 of the SISP; and (vi) any auction procedures to be implemented in connection with Phase 2 of the SISP.
18. If no Qualified LOIs have been received or the Monitor determines that no Qualified LOIs are likely to result in a binding offer for the benefit of the Applicants and their stakeholders, the Monitor, with the prior consent of the Applicants or by order of the Court, may terminate the SISP and in such case shall advise all Potential Bidders that submitted an LOI by the LOI Deadline of such termination.
19. Subject to Section 13, if the Reviewing Parties all agree on appropriate parameters for the submission and evaluation of binding offers in Phase 2, those parameters shall be communicated

by the SISP Advisors to parties that submitted Qualified LOIs in binding process letters acceptable to the Reviewing Parties (the "**Process Letters**").

20. The Process Letters may provide for different timing and commercial parameters in respect of different Qualified LOIs based on, among other things, the type of transaction, local market conditions and such other commercial parameters that would reasonably be expected to apply to such a Transaction in the circumstances. Such parameters must provide that any Transaction will be subject to approval by the Court and will be consummated on an "as is, where is" basis without surviving representations, warranties, covenants or indemnities of any kind, nature or description.
21. If the Reviewing Parties cannot agree on (i) whether the SISP should progress to Phase 2 or (ii) appropriate parameters for the submission and evaluation of binding offers in Phase 2, the Monitor shall forthwith bring a motion seeking the Court's advice and directions on same. Unless the Monitor and Applicants consent otherwise after consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, such motion shall be served and filed by the Monitor within 14 days following the LOI Deadline.

Miscellaneous

22. Any amendments to this SISP may only be made with the consent of all of the Reviewing Parties, or by further order of the Court.
23. Any Secured Lender of the Applicants, and the DIP Lender, each acting on its own behalf, shall have the right to credit bid their secured debt against the assets secured thereby up to the full face value of such Secured Lender's claims, including principal, interest and any other obligations owing to such Secured Lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Applicants in priority to its secured debt, including any obligations secured by the Charges and allocated to the applicable Property; and (ii) pay appropriate consideration for any assets of the Applicants which are contemplated to be acquired and that are not subject to such Secured Lender's security.
24. Notwithstanding any other provision of this SISP, the Lion's Share Representative shall be entitled to consult with and provide any information it receives to Aird & Berlis LLP, the court appointed representative counsel in The Lion's Share Group Inc.'s receivership proceedings (Court File No CV-24-00717669-00CL), provided that the Lion's Share Representative shall have entered into an NDA with Aird & Berlis LLP that is in form and substance satisfactory to the Applicants and the Monitor prior to sharing any confidential information.

SCHEDULE "A": E-MAIL ADDRESSES FOR DELIVERY OF BIDS

To the Monitor at:

KSV Restructuring Inc., as Monitor of
the Applicants
220 Bay Street
13th Floor, PO Box 20
Toronto, ON, M5J 2W4

Attention: Noah Goldstein / David Sieradzki / Christian Vit
Email: ngoldstein@ksvadvisory.com / dsieradzki@ksvadvisory.com / cvit@ksvadvisory.com

with a copy to counsel for the Monitor at:

Cassels Brock & Blackwell LLP
Suite 3200
Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Shayne Kukulowicz / Joseph Bellissimo
Email: rjacobs@cassels.com / skukulowicz@cassels.com / jbellissimo@cassels.com

THIS IS **EXHIBIT "E"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to read 'T. Gray', is positioned above a horizontal line.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

SALE, REFINANCING AND INVESTMENT SOLICITATION PROCESS FOR THE PROPERTY OR BUSINESS OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

1. On January 23, 2024, Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., The Mulligan Inc., Horses In The Back Inc., Neat Nests Inc. and Joint Captain Real Estate Inc. (collectively, the "**Applicants**") were granted an initial order (as amended, and amended and restated from time to time, the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Among other things, the Initial Order:
 - (a) appointed KSV Restructuring Inc. as the Monitor in the Applicants' proceedings under the CCAA (in such capacity, the "**Monitor**");
 - (b) approved the Applicants' ability to borrow under a debtor-in-possession credit facility pursuant to a DIP Agreement dated January 26, 2024 between the Applicants and Harbour Mortgage Corp. or its permitted assignee (the "**DIP Lender**");
 - (c) appointed Chaitons LLP as representative counsel (in such capacity, the "**Secured Lender Representative Counsel**") for all of the Secured Lenders in the Insolvency Proceedings; and
 - (d) appointed Goldman Sloan Nash & Harber LLP as representative counsel (in such capacity, the "**Unsecured Lender Representative Counsel**") for all of the Unsecured Lenders in the Insolvency Proceedings.
2. On April 12, 2024 the Court granted an order (the "**SISP Approval Order**") that, among other things: (i) authorized the Applicants to implement and undertake a sale, refinancing and investment solicitation process ("**SISP**") in accordance with the terms hereof; and (ii) approved the Applicants' retention of the SISP Advisor (as defined below) in connection therewith.
3. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the Initial Order or the SISP Approval Order, as applicable. Copies of the Initial Order and the SISP Approval Order can be found at the following website maintained by the Monitor: <https://www.ksvadvisory.com/experience/case/SID> (the "**Monitor's Website**").

The Opportunity

4. This SISP sets out the manner in which the Monitor, with the assistance of the SISP Advisors (as defined below), and in consultation with the Applicants, shall solicit non-binding letters of intent ("**LOIs**" and each, a "**LOI**") for a refinancing, sale and/or other strategic investment or transaction involving the business, assets and/or equity of the Applicants (collectively, the "**Property**") or any part thereof from interested parties (the "**Opportunity**").
5. The SISP contemplates a two-stage process that involves the submission by interested parties of LOIs in Phase 1 and the submission of binding offers in Phase 2. This SISP currently only prescribes the process for the submission of LOIs in Phase 1. The parameters for the submission

and evaluation of binding offers in Phase 2 shall be determined and communicated to the applicable interested parties following the completion of Phase 1, as detailed below.

6. The SISP shall be conducted in all respects by the Monitor, supported by and with the assistance of the SISP Advisors and, subject to para 13, in consultation with the Applicants, Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and The Fuller Landau Group Inc. in its capacity as court-appointed receiver and trustee in bankruptcy of The Lion's Share Group Inc. (in such capacity, the "**Lion's Share Representative**"). In connection therewith, the Monitor with the assistance of the applicable SISP Advisors, and in consultation with the Applicants, may identify one or more subsets of the Property to be marketed pursuant to the SISP for a refinancing, sale or other strategic investment or transaction while concurrently marketing the remainder or whole of the Property for a refinancing, sale or other strategic investment or transaction. Interested parties may submit LOIs for any subset of the Property, whether or not such Property is specifically marketed by the applicable SISP Advisors.
7. Parties who wish to have their offers for the Property considered must participate in the SISP.

SISP Advisors

8. In connection with the SISP, the Applicants have retained: (i) Howards Capital Corp. to assist solely in respect of any refinancing of or other strategic investment in the Property, and (ii) CBRE Limited solely in respect of any sale transaction(s) in respect of the Property (in such capacities, collectively the "**SISP Advisors**"). At the appropriate stage of the SISP, the SISP Advisors, as applicable, with the consent of the Monitor and in consultation with the Applicants, are authorized to engage one or more local real estate agents or brokerages to market the Property or any subsets of the Property.

Milestones

9. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Monitor, with the prior consent of the Applicants, in consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, or as may otherwise be ordered by the Court:
 - (a) the SISP Advisors will each independently prepare and deliver to the Monitor a list of potential interested parties to be solicited (collectively, the "**Known Potential Bidders**") as soon as reasonably practicable after the granting of the SISP Approval Order and, in any event, by no later than April 26, 2024. The SISP Advisors shall include as Known Potential Bidders any parties suggested by the Monitor, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative;
 - (b) the SISP Advisors will commence the solicitation process to all Known Potential Bidders by no later than April 29, 2024, it being understood that the SISP Advisors shall be at liberty to provide marketing materials approved by the Monitor and commence discussions with interested parties (with the involvement of the Monitor) prior to such date;
 - (c) the Monitor, with the assistance of the Applicants and the SISP Advisors, shall establish a virtual data room (the "**VDR**") by no later than April 28, 2024; and

- (d) non-binding LOIs shall be submitted by no later than 5:00 p.m. (Toronto time) on June 10, 2024 (the "**LOI Deadline**").
10. The timing and certain other parameters for Phase 2 of the SISP shall be determined following a review of the non-binding LOIs submitted by the LOI Deadline as detailed in sections 15-18 below.

Solicitation of Interest

11. The Monitor, through the SISP Advisors, will:
- (a) disseminate marketing materials and a process letter (which letter shall, among other things, direct recipients to the Monitor's Website for a copy of this SISP) to all of the Known Potential Bidders, and any other party who contacts the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative, or who the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel or the Lion's Share Representative become aware may have an interest in the Opportunity (collectively, "**Other Interested Parties**");
 - (b) solicit interest from all of the Known Potential Bidders and Other Interested Parties with a view to such parties entering into non-disclosure agreements in form and substance satisfactory to the Applicants and the Monitor (each an "**NDA**") (only Known Potential Bidders and Other Interested Parties that execute an NDA shall be deemed to be potential bidders in the SISP (each, a "**Potential Bidder**") and obtain access to the VDR);
 - (c) provide each Potential Bidder with: (i) a confidential information memorandum in respect of the Opportunity; and (ii) access to the VDR containing diligence information in respect of the Opportunity and such other diligence opportunities as the Monitor or SISP Advisors consider advisable or appropriate; and
 - (d) request that each Potential Bidder submit a non-binding LOI that meets the requirements set forth in Section 12 below by the LOI Deadline.

Phase 1

12. Any Potential Bidder who wishes to submit a non-binding LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Monitor, in consultation with the SISP Advisors and Applicants, may waive strict compliance with any one or more of the requirements specified below) (each such LOI, a "**Qualified LOI**"):
- (a) it sets forth the identity of the Potential Bidder, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the Potential Bidder's wherewithal to complete a refinancing, sale or other strategic investment or transaction pursuant to the SISP;
 - (b) it sets forth the principal terms of the proposed refinancing, sale or other strategic investment or transaction (the "**Transaction**"), including:
 - (i) the structure, financing and nature of the Transaction (refinancing, recapitalization, reorganization, sale, investment, etc.), including, without limitation, the sources of financing for the purchase price;

- (ii) whether all or a specifically identified subset of the Property will be subject to the Transaction (and if applicable, whether the specifically identified subset of the Property was marketed pursuant to the SISP or was separately identified by the Potential Bidder);
 - (iii) the purchase price or other consideration offered in connection with the Transaction, including any material assumed liabilities;
 - (iv) a description of any conditions or approvals required and any additional due diligence required for the Potential Bidder to make a final binding bid;
 - (v) all conditions to closing that the Potential Bidder may wish to impose on the closing of the Transaction;
 - (vi) whether the Potential Bidder requires any services from the Applicants' existing property manager;
 - (vii) any anticipated corporate, shareholder, internal or regulatory approvals required to close the Transaction and the anticipated timeframe for obtaining such approvals;
 - (viii) in the case of a restructuring, refinancing or hybrid Transaction, it identifies (A) the aggregate amount of the equity and debt investment, including liabilities to be assumed by the Potential Bidder (including the sources of such capital, preliminary evidence of the availability of such capital and the steps necessary and associated timing to obtain the capital and consummate the proposed Transaction and any related contingencies, as applicable) to be made in the Applicants, (B) the underlying assumptions regarding the *proforma* capital structure, and (C) the consideration to be allocated to the Applicants' stakeholders;
 - (ix) any other terms or conditions that the Potential Bidder believes are material to the Transaction; and
 - (x) any other information as may be reasonably requested by the Applicants, the SISP Advisors or the Monitor, in consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative; and
- (c) it is received by the Monitor by no later than the LOI Deadline at the email addresses specified on Schedule "A" hereto.
13. Forthwith following the LOI Deadline, the Monitor shall provide copies of all of the LOIs received to the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel ~~and~~ the Lion's Share Representative, and the DIP Lender, provided that the directors and officers of the Applicants (the "D&Os"), the Secured Lender Representatives, the Unsecured Lender Representatives ~~and~~ the Lion's Share Representative, and the DIP Lender, respectively, have previously executed an NDA (or are otherwise subject to confidentiality obligations) acceptable to the Applicants and the Monitor and provided written confirmation to the Monitor that they have not and will not directly or indirectly, acting individually or in concert, submit or actively participate as a bidder in an LOI or any other bid in the SISP. The D&Os, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel ~~and~~ the Lion's Share Representative and the DIP Lender shall not be entitled to consultation with respect

to the review of LOIs received by the LOI Deadline or the next steps to be taken in respect of any Qualified LOI in the event that any of the D&Os, the Secured Lender Representatives, the Unsecured Lender Representatives ~~or~~, the Lion's Share Representative, or the DIP Lender, respectively, fail to execute an NDA (or remain subject to confidentiality obligations with the Applicants) or elect to actively participate as a bidder in and/or submit an LOI or any other bid in the SISP. For greater certainty, a Potential Bidder's proposed retention of the Applicants' existing management, 2707793 Ontario Inc. o/a SID Renos and/or SID Management Inc. or any of their directors or officers, as reflected within an LOI, any other bid in the SISP or otherwise, shall not constitute the D&Os' direct or indirect involvement in the submission of or participation as a bidder in such LOI or bid in the SISP and shall not disqualify the D&Os from receiving or reviewing copies of the LOIs or from being consulted with respect to the LOIs or the next steps to be taken in respect of any Qualified LOI. For greater certainty, participation as a bidder for the purpose of this Section shall not include a credit bid of no more than a Secured Lender's individual claim (including principal, interest and any other obligations owing to such Secured Lender), plus any amounts owing in priority thereto, submitted by such Secured Lender pursuant to Section 23.

14. Notwithstanding any other provision of this SISP, the Monitor may take protective measures to limit access to LOIs or the identity of Potential Bidders to safeguard the integrity of the SISP.

Assessment of LOIs and Determination of Phase 2 Parameters

15. Subject to Section 13, the Monitor, the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative (collectively, the "**Reviewing Parties**") shall review the LOIs received, and the Monitor in consultation with the SISP Advisors, the Applicants, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, shall determine which of the LOIs, if any, constitute Qualified LOIs.
16. The Monitor (including through the SISP Advisors) may request clarification from any Potential Bidder that submitted an LOI.
17. Subject to Section 13, following the review and assessment contemplated under Section 15, the Reviewing Parties shall discuss what next steps should be taken in respect of the Qualified LOIs received (if any). Such steps may include, without limitation: (i) pursuing refinancing, sale or hybrid components of any Qualified LOI or collection of Qualified LOIs, including a recombination or reconstitution of subsets of the Property which may create the best opportunity to maximize value for all stakeholders; (ii) coordinating the aggregation of certain or all of the Qualified LOIs; (iii) remarketing certain or all of the Property; (iv) engaging one or more local real estate agents or brokerages to assist in marketing and selling certain or all of the Property; (v) the parameters that will govern the submission of binding offers in Phase 2 of the SISP; and (vi) any auction procedures to be implemented in connection with Phase 2 of the SISP.
18. If no Qualified LOIs have been received or the Monitor determines that no Qualified LOIs are likely to result in a binding offer for the benefit of the Applicants and their stakeholders, the Monitor, with the prior consent of the Applicants or by order of the Court, may terminate the SISP and in such case shall advise all Potential Bidders that submitted an LOI by the LOI Deadline of such termination.
19. Subject to Section 13, if the Reviewing Parties all agree on appropriate parameters for the submission and evaluation of binding offers in Phase 2, those parameters shall be communicated by

the SISP Advisors to parties that submitted Qualified LOIs in binding process letters acceptable to the Reviewing Parties (the "**Process Letters**").

20. The Process Letters may provide for different timing and commercial parameters in respect of different Qualified LOIs based on, among other things, the type of transaction, local market conditions and such other commercial parameters that would reasonably be expected to apply to such a Transaction in the circumstances. Such parameters must provide that any Transaction will be subject to approval by the Court and will be consummated on an "as is, where is" basis without surviving representations, warranties, covenants or indemnities of any kind, nature or description.
21. If the Reviewing Parties cannot agree on (i) whether the SISP should progress to Phase 2 or (ii) appropriate parameters for the submission and evaluation of binding offers in Phase 2, the Monitor shall forthwith bring a motion seeking the Court's advice and directions on same. Unless the Monitor and Applicants consent otherwise after consultation with the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the Lion's Share Representative, such motion shall be served and filed by the Monitor within 14 days following the LOI Deadline.

Miscellaneous

22. Any amendments to this SISP may only be made with the consent of all of the Reviewing Parties, or by further order of the Court.
23. Any Secured Lender of the Applicants, and the DIP Lender, each acting on its own behalf, shall have the right to credit bid their secured debt against the assets secured thereby up to the full face value of such Secured Lender's claims, including principal, interest and any other obligations owing to such Secured Lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Applicants in priority to its secured debt, including any obligations secured by the Charges and allocated to the applicable Property; and (ii) pay appropriate consideration for any assets of the Applicants which are contemplated to be acquired and that are not subject to such Secured Lender's security.
24. Notwithstanding any other provision of this SISP, the Lion's Share Representative shall be entitled to consult with and provide any information it receives to Aird & Berlis LLP, the court appointed representative counsel in The Lion's Share Group Inc.'s receivership proceedings (Court File No CV-24-00717669-00CL), provided that the Lion's Share Representative shall have entered into an NDA with Aird & Berlis LLP that is in form and substance satisfactory to the Applicants and the Monitor prior to sharing any confidential information.

SCHEDULE "A": E-MAIL ADDRESSES FOR DELIVERY OF BIDS

To the Monitor at:

KSV Restructuring Inc., as Monitor of
the Applicants
220 Bay Street
13th Floor, PO Box 20
Toronto, ON, M5J 2W4

Attention: Noah Goldstein / David Sieradzki / Christian Vit

Email: ngoldstein@ksvadvisory.com / dsieradzki@ksvadvisory.com / cvit@ksvadvisory.com

with a copy to counsel for the Monitor at:

Cassels Brock & Blackwell LLP
Suite 3200
Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Shayne Kukulowicz / Joseph Bellissimo

Email: rjacobs@cassels.com / skukulowicz@cassels.com / jbellossimo@cassels.com

Document comparison by Workshare 10.0 on Thursday, April 11, 2024 5:33:13 PM

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| Padding cell | |

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| Style changes | 0 |
| Format changes | 0 |
| Total changes | 12 |

THIS IS **EXHIBIT "F"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 12TH
)
JUSTICE CAVANAGH) DAY OF APRIL, 2024
)

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY
GILMORE INC., INTERLUDE INC., MULTIVILLE INC.,
THE PINK FLAMINGO INC., HOMETOWN HOUSING
INC., THE MULLIGAN INC., HORSES IN THE BACK INC.,
NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE
INC. (collectively the "Applicants", and each an "Applicant")**

SISP APPROVAL ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, extending the stay period, approving the Sale and Investment Solicitation Process attached hereto as Schedule "A" (the "**SISP**"), approving the engagement of the SISP Advisor (as defined below), and granting certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Clark sworn April 8, 2024 and the Exhibits thereto, the affidavit of Joshua Foster sworn April 11, 2024 and the Exhibits thereto (the "**Foster Affidavit**"), the Third Report of KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated April 9, 2024 (the "**Third Report**"), and such other materials that were filed, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel, counsel to the Lion's Share Representative, counsel

to the DIP Lender, and such other counsel that were present, no else appearing although duly served as appears from the affidavit of service of Joshua Foster, filed,

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP or the Second Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated March 28, 2024, as applicable.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including June 24, 2024.

APPROVAL OF THE SISP ADVISORS' ENGAGEMENTS

4. **THIS COURT ORDERS** that the Applicants are hereby authorized to engage Howards Capital Corp. ("**HCC**") and CBRE Limited ("**CBRE**") as advisors (together, the "**SISP Advisors**" and each, a "**SISP Advisor**") pursuant to an engagement agreement between the Applicants and HCC substantially in the form attached to the Foster Affidavit as Exhibit "A" (the "**HCC Engagement Agreement**"), and an engagement agreement between CBRE and the Applicants substantially in the form attached to the Foster Affidavit as Exhibit "B" (the "**CBRE Engagement Agreement**"), respectively. The Applicants are hereby authorized and directed to make the payments contemplated under the HCC Engagement Agreement and the CBRE Engagement Agreement (together, the "**Engagement Agreements**" and each, an "**Engagement Agreement**") when earned and payable in accordance with their respective terms and conditions.

5. **THIS COURT ORDERS** that the SISP Advisors and their respective controlling persons, shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either HCC's or CBRE's

engagement by the Applicants as SISP Advisors or any matter referred to in the Engagement Agreements, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the applicable SISP Advisor or its controlling person(s), in performing their obligations under the applicable Engagement Agreement.

6. **THIS COURT ORDERS** that no action or Proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the SISP Advisors and their respective controlling persons, and all rights and remedies of any Person against or in respect of them are hereby stayed and suspended, except with the written consent of the applicable SISP Advisor, or with leave of this Court on notice to the Applicants, the Monitor and the applicable SISP Advisor. Notice of any such motion seeking leave of this Court shall be served upon the Applicants, the Monitor and the applicable SISP Advisor at least seven (7) days prior to the return date of any such motion for leave.

7. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the applicable SISP Advisor, each of the SISP Advisors shall be treated as unaffected in any Plan filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the BIA, with respect to any of the Applicants' obligations under the applicable Engagement Agreement.

APPROVAL OF THE SISP

8. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with the terms of this Order) be and is hereby approved and the Applicants, the SISP Advisors and the Monitor, are authorized and directed to carry out the SISP in accordance with its terms and the terms of this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

9. **THIS COURT ORDERS** that the Applicants, the SISP Advisors and the Monitor and their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their

duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Applicants, the SISP Advisors or the Monitor, as applicable, as determined by this Court in a final order that is not subject to appeal or review.

10. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order or in the SISP, neither the SISP Advisors nor the Monitor shall take Possession of the Business or the Property or be deemed to take Possession of the Business or the Property, including pursuant to any provision of the Environmental Legislation.

PIPEDA

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions, the Applicants, the SISP Advisors, the Monitor and each of their respective advisors are hereby authorized and permitted to disclose and transfer to each Potential Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (each a "**Transaction**"). Each Potential Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Applicants, the SISP Advisors or the Monitor, as applicable, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Applicants, the SISP Advisors or the Monitor. Any successful bidder shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the applicable successful bid, shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, the SISP Advisors or the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants, the SISP Advisors or the Monitor.

APPROVAL OF THE MONITOR'S REPORTS, ACTIVITIES AND FEES

12. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated January 23, 2024, the First Report of the Monitor dated January 29, 2024, the Supplement to the First Report of the Monitor dated February 13, 2024, the Second Report of the Monitor dated March 26, 2024, the Third Report, and the activities of the Monitor referred to therein be and are hereby approved; provided, however, that only the Monitor, 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.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Third Report, be and are hereby approved.

SEALING

14. **THIS COURT ORDERS** that the unredacted copy of the CBRE Engagement Agreement attached as confidential Exhibit "C" to the Foster Affidavit is hereby sealed and shall not form part of the Court record, subject to further order of this Court.

GENERAL

15. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

16. **THIS COURT ORDERS** that the Applicants or the Monitor may apply to this Court to amend, vary or supplement this Order or for advice and directions with respect to the SISP at any time.

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any

foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

SCHEDULE "A"

SISP

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED**

Court File No.: CV-24-00713245-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC.,
MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE
MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT
CAPTAIN REAL ESTATE INC.**

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

Proceeding commenced at Toronto

SISP APPROVAL ORDER

BENNETT JONES LLP

3400 One First Canadian Place
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Sean Zweig (LSO# 57307I)

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Joshua Foster (LSO# 79447K)

Tel: (416) 777-7906

Email: fosterj@bennettjones.com

Thomas Gray (LSO# 82473H)

Tel: (416) 777-7924

Email: grayt@bennettjones.com

Lawyers for the Applicants

THIS IS **EXHIBIT "G"** REFERRED TO IN THE AFFIDAVIT
OF JOSHUA FOSTER, SWORN BEFORE ME THIS
11TH DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

THOMAS GRAY

A Commissioner for taking Affidavits
(or as may be)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

| | | |
|------------------|---|------------------------------|
| THE HONOURABLE |) | FRIDAY, THE 12 TH |
| |) | |
| JUSTICE CAVANAGH |) | DAY OF APRIL, 2024 |

IN THE MATTER OF THE *COMPANIES' CREDITORS*
***ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY
GILMORE INC., INTERLUDE INC., MULTIVILLE INC.,
THE PINK FLAMINGO INC., HOMETOWN HOUSING
INC., THE MULLIGAN INC., HORSES IN THE BACK INC.,
NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE
INC. (collectively the "Applicants", and each an "Applicant")

SISP APPROVAL ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, extending the stay period, approving the Sale and Investment Solicitation Process attached hereto as Schedule "A" (the "**SISP**"), approving the engagement of the SISP Advisor (as defined below), and granting certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Clark sworn April 8, 2024 and the Exhibits thereto, the affidavit of Joshua Foster sworn April [•][11](#), 2024 and the Exhibits thereto (the "**Foster Affidavit**"), the Third Report of KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated April [•][9](#), 2024 (the "**Third Report**"), and such other materials that were filed, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel, counsel to the Lion's Share Representative, counsel to the DIP Lender, and such other counsel that were present, no

else appearing although duly served as appears from the affidavit of service of Joshua Foster, filed,

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP or the Second Amended and Restated Initial Order of the Honourable Madam Justice Kimmel dated March 28, 2024, as applicable.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including June 24, 2024.

APPROVAL OF THE SISP ADVISORS' ENGAGEMENTS

4. **THIS COURT ORDERS** that the Applicants are hereby authorized to engage Howards Capital Corp. ("HCC") and CBRE Limited ("CBRE") as advisors (together, the "SISP Advisors" and each, a "SISP Advisor") pursuant to ~~thean~~ engagement agreement ~~dated April [●], 2024,~~ between the Applicants and HCC substantially in the form attached to the Foster Affidavit as Exhibit "~~●~~A" (the "HCC Engagement Agreement"), and ~~thean~~ engagement agreement ~~dated April [●], 2024,~~ between CBRE and the Applicants substantially in the form attached to the Foster Affidavit as Exhibit "~~●~~B" (the "CBRE Engagement Agreement"), respectively. The Applicants are hereby authorized and directed to make the payments contemplated under the HCC Engagement Agreement and the CBRE Engagement Agreement (together, the "Engagement Agreements" and each, an "Engagement Agreement") when earned and payable in accordance with their respective terms and conditions.

5. **THIS COURT ORDERS** that the SISP Advisors and their respective controlling persons, shall have no liability with respect to any and all losses, claims, damages or liabilities,

of any nature or kind, to any person in connection with or as a result of either HCC's or CBRE's engagement by the Applicants as SISP Advisors or any matter referred to in the Engagement Agreements, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the applicable SISP Advisor or its controlling person(s), in performing their obligations under the applicable Engagement Agreement.

6. **THIS COURT ORDERS** that no action or Proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the SISP Advisors and their respective controlling persons, and all rights and remedies of any Person against or in respect of them are hereby stayed and suspended, except with the written consent of the applicable SISP Advisor, or with leave of this Court on notice to the Applicants, the Monitor and the applicable SISP Advisor. Notice of any such motion seeking leave of this Court shall be served upon the Applicants, the Monitor and the applicable SISP Advisor at least seven (7) days prior to the return date of any such motion for leave.

7. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the applicable SISP Advisor, each of the SISP Advisors shall be treated as unaffected in any Plan filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the BIA, with respect to any of the Applicants' obligations under the applicable Engagement Agreement.

APPROVAL OF THE SISP

8. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with the terms of this Order) be and is hereby approved and the Applicants, the SISP Advisors and the Monitor, are authorized and directed to carry out the SISP in accordance with its terms and the terms of this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

9. **THIS COURT ORDERS** that the Applicants, the SISP Advisors and the Monitor and their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their

duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Applicants, the SISP Advisors or the Monitor, as applicable, as determined by this Court in a final order that is not subject to appeal or review.

10. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order or in the SISP, neither the SISP Advisors nor the Monitor shall take Possession of the Business or the Property or be deemed to take Possession of the Business or the Property, including pursuant to any provision of the Environmental Legislation.

PIPEDA

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions, the Applicants, the SISP Advisors, the Monitor and each of their respective advisors are hereby authorized and permitted to disclose and transfer to each Potential Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (each a "**Transaction**"). Each Potential Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Applicants, the SISP Advisors or the Monitor, as applicable, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Applicants, the SISP Advisors or the Monitor. Any successful bidder shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the applicable successful bid, shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, the SISP Advisors or the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants, the SISP Advisors or the Monitor.

APPROVAL OF THE MONITOR'S REPORTS, ACTIVITIES AND FEES

12. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated January 23, 2024, the First Report of the Monitor dated January 29, 2024, the Supplement to the First Report of the Monitor dated February 13, 2024, the Second Report of the Monitor dated March 26, 2024, the Third Report, and the activities of the Monitor referred to therein be and are hereby approved; provided, however, that only the Monitor, 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.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Third Report, be and are hereby approved.

SEALING

14. **THIS COURT ORDERS** that the unredacted copy of the CBRE Engagement Agreement attached as confidential Exhibit "●C" to the Foster Affidavit is hereby sealed and shall not form part of the Court record, subject to further order of this Court.

GENERAL

15. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

16. **THIS COURT ORDERS** that the Applicants or the Monitor may apply to this Court to amend, vary or supplement this Order or for advice and directions with respect to the SISF at any time.

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any

foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

SCHEDULE "A"

SISP

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED**

Court File No.: CV-24-00713245-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC.,
MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC.,
THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT
CAPTAIN REAL ESTATE INC.**

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

Proceeding commenced at Toronto

SISP APPROVAL ORDER

BENNETT JONES LLP

3400 One First Canadian Place

P.O. Box 130

Toronto, Ontario M5X 1A4

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Thomas Gray (LSO# 82473H)

Tel: (416) 777-7924

Email: grayt@bennettjones.com

Lawyers for the Applicants

Document comparison by Workshare 10.0 on Thursday, April 11, 2024 6:38:52 PM

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| Moved to | 0 |
| Style changes | 0 |
| Format changes | 0 |
| Total changes | 19 |

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED**

Court File No.: CV-24-00713245-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE
INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN
INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL
ESTATE INC.**

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

Proceeding commenced at Toronto

**AFFIDAVIT OF JOSHUA FOSTER
(Sworn April 11, 2024)**

BENNETT JONES LLP

3400 One First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Sean Zweig (LSO# 57307I)

Tel: (416) 777-6254

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Joshua Foster (LSO# 79447K)

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Email: fosterj@bennettjones.com

Thomas Gray (LSO# 82473H)

Tel: (416) 777-7924

Email: grayt@bennettjones.com

Lawyers for the Applicants