



**Ninth Report of
KSV Restructuring Inc.
as CCAA Monitor 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.**

November 21, 2024

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COURT FILE NO.: CV-24-00713245-00CL

**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.**

**NINTH REPORT OF KSV RESTRUCTURING INC. AS
MONITOR**

NOVEMBER 21, 2024

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on January 23, 2024 (the "Initial Order"), 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") 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").
2. The Applicants together with certain non-Applicant related entities, including SIDRWC Inc. o/a SID Developments ("SID Developments"), SID Management Inc. ("SID Management") and 2707793 Ontario Inc. o/a SID Renos ("SID Renos" and together with SID Developments and SID Management, the "SID Companies"), are part of a group of companies (collectively, the "Company") involved in the acquisition, renovation and leasing of distressed residential real estate in undervalued markets throughout Ontario (the "Business").
3. In the Applicants' materials filed in support of the Initial Order, they provided that the principal purpose for commencing these CCAA proceedings was to create a stabilized environment to enable the Applicants to preserve and maximize value for their stakeholders and provide the stability and liquidity necessary to complete value accretive renovations to their portfolio of residential homes (the "Portfolio"), including by securing debtor-in-possession ("DIP") financing, in order to pursue a comprehensive refinancing or restructuring transaction and implement a consensual plan of compromise or arrangement while continuing operations in the ordinary course of business.

4. Pursuant to the Initial Order, the Court, among other things:
 - a) granted a stay of proceedings until February 2, 2024 (the “Stay Period”) in respect of the Applicants, the Monitor, the Business and the Applicants’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “Applicants’ Property”) and three of the Applicants’ directors and officers, being Aruba Butt, Dylan Suitor and Ryan Molony (the “Additional Stay Parties”);
 - b) appointed Chaitons LLP (“Chaitons”) as representative counsel (the “Secured Lender Representative Counsel”) to all of the Applicants’ secured creditors (the “Secured Lenders”) and unsecured promissory noteholders (the “Unsecured Lenders”) and approved a mechanism by which a committee of up to six parties would be formed to instruct Secured Lender Representative Counsel (the “Secured Lender Representatives”); and
 - c) granted a charge (the “Administration Charge”) in the amount of \$750,000 on the Applicants’ Property to secure the fees and disbursements of the Monitor and its legal counsel, Cassels Brock & Blackwell LLP (“Cassels”), the Applicants’ legal counsel, Bennett Jones LLP (“Bennett Jones”), and Secured Lender Representative Counsel.
5. On January 31, 2024, the Court granted an amended Initial Order which, among other things:
 - a) extended the Stay Period to February 16, 2024;
 - b) approved the Applicants’ ability to borrow under a DIP credit facility (the “DIP Facility”) pursuant to a DIP Agreement dated January 26, 2024 (the “DIP Agreement”) between the Applicants and Harbour Mortgage Corp. (the “DIP Lender”) and granted a charge in favour of the DIP Lender in the maximum amount of \$4 million (plus interest, fees and expenses) to secure the Applicants’ obligations under the DIP Agreement and DIP Facility (the “DIP Lender’s Charge”);
 - c) increased the maximum amount of the Administration Charge from \$750,000 to \$1 million; and
 - d) authorized the Applicants to pay certain amounts owing to suppliers for goods and services supplied to the Applicants prior to the date of the Initial Order, subject to the consent of the Monitor.
6. Pursuant to an Amended and Restated Initial Order granted on February 15, 2024 (the “ARIO”), the Court, among other things:
 - a) extended the Stay Period to March 28, 2024;
 - b) increased the maximum amount of the Administration Charge to \$1.5 million;
 - c) increased the maximum amount of the DIP Facility and the DIP Lender’s Charge to \$12 million (plus interest, fees and costs);

- d) amended the scope of Secured Lender Representative Counsel's mandate by removing the Unsecured Lenders such that the group of creditors represented by Secured Lender Representative Counsel includes only the Secured Lenders; and
 - e) directed and empowered the Monitor to (i) conduct an investigation into the use of funds borrowed by the Applicants, prefiling transactions conducted by the Applicants and/or their principals (the "Principals") and affiliates, and such other matters as may be requested by the Secured Lender Representatives and agreed by the Monitor, in each case, to the extent such investigation relates to the Applicants' Property, the Business or such other matters as may be relevant to the proceedings herein as determined by the Monitor (the "Investigation"), and (ii) report to the Secured Lender Representatives and the Court on the findings of such Investigation as the Monitor deems necessary and appropriate.
7. Pursuant to a Second Amended and Restated Initial Order granted on March 28, 2024 (the "Second ARIO"), a copy of which is attached as Appendix "A", the Court, among other things:
- a) extended the Stay Period to April 30, 2024; and
 - b) appointed Goldman Sloan Nash & Haber LLP ("GSNH") as representative counsel (the "Unsecured Lender Representative Counsel") to the Applicants' Unsecured Lenders other than (i) The Lion's Share Group Inc.¹ ("Lion's Share") and (ii) any other unsecured lenders directly or indirectly controlled by, or under common control or otherwise affiliated with, Lion's Share or its principal, Claire Drage.
8. On April 12, 2024, the Court granted an order (the "SISP Approval Order"), which, among other things:
- a) extended the Stay Period to June 24, 2024;
 - b) approved a sale and investment solicitation process ("SISP"); and
 - c) approved the Applicants' engagement of Howards Capital Corp. ("HCC") and CBRE Limited ("CBRE" and jointly with HCC, the "SISP Advisors").
9. On June 25, 2024, the Court granted two orders (the "Expanded Powers Order" and the "Ancillary Order"), which, among other things:
- a) expanded the Monitor's powers over the Applicants, including removing the Principals' decision-making authority over the Applicants, as more fully discussed in Section 1.1 below;

¹ On March 16, 2024, Lion's Share filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*. The Fuller Landau Group Inc. ("Fuller Landau") was appointed as proposal trustee. On April 3, 2024, Lion's Share was placed into receivership and bankruptcy proceedings. Fuller Landau is the receiver and licensed insolvency trustee administering Lion's Share's receivership and bankruptcy proceedings (in such capacities, the "Lion's Share Representative").

- b) provided a process for the Monitor to transition the Applicants' property and other management service providers from the SID Companies as determined necessary by the Monitor;
- c) extended the Stay Period to July 31, 2024;
- d) extended the stay of proceedings in respect of the Additional Stay Parties pursuant to paragraph 14 of the Second ARIO during the Transition Period (as defined in the Expanded Powers Order) to be automatically terminated upon the issuance of the Monitor's Transition Period Termination Certificate (as defined in the Expanded Powers Order);
- e) provided that, until the issuance of the Monitor's Transition Period Termination Certificate, no proceeding shall be commenced against or in respect of any of the SID Companies, or their respective employees, advisors or representatives, or affecting their respective business or property, except with the prior written consent of the Monitor and the SID Companies, or with leave of this Court;
- f) provided that none of the Applicants, the SID Companies and/or their respective principals and affiliates shall be required to take any further steps in connection with, or respond to any requests made pursuant to, paragraph 41(k) of the ARIO, but without derogating from any other obligations of any Person under the Second ARIO; and
- g) provided that, during the Transition Period, each of the Additional Stay Parties shall provide the Monitor with notice of the earlier of (i) seven (7) business days prior to any closing date and (ii) the listing date, for the sale of any real property owned, directly or indirectly, by the applicable Additional Stay Party, subject to certain express exceptions.

Copies of the Expanded Powers Order and the Ancillary Order are attached as Appendix "B".

10. On July 31, 2024, the Court granted an order, which, among other things:

- a) extended the Stay Period to August 31, 2024; and
- b) approved a form of Property Management Agreement (the "PMA") with Richmond Advisory Services Inc. ("Richmond"), pursuant to which the property management services for the Portfolio would be transitioned from the SID Companies to Richmond. The PMA was finalized on August 8, 2024 and the transition process is in process, as discussed in Section 5.1 below.

11. On August 30, 2024, the Court granted an order, which, among other things:

- a) extended the Stay Period to October 31, 2024;

- b) approved a form of restructuring term sheet (the “Restructuring Term Sheet”) and authorized the Monitor to carry out its obligations under the Restructuring Term Sheet, including, without limitation, facilitating the negotiation and settlement of the transactions contemplated therein and finalizing all documentation reasonably necessary to carry out such transactions, provided that nothing in such order approved any specific transaction or agreement contemplated by the Restructuring Term Sheet, all of which remained subject to further approval by the Court;
- c) increased the maximum amount of the Existing DIP Facility and the DIP Lender’s Charge to \$15 million (plus interest, fees and costs); and
- d) approved the fees and disbursements of the Monitor and its counsel through July 31, 2024.

A copy of the August 30, 2024 Order is attached as Appendix “C”.

- 12. Pursuant to an order dated October 7, 2024 (the “Suitor Interim Receivership Order”), TDB Restructuring Limited was appointed as interim receiver over Mr. Suitor’s property, assets and undertaking. The Suitor Interim Receivership Order was sought by the Lion’s Share Representative in a separate proceeding in connection with its pending bankruptcy application against Mr. Suitor, which is scheduled to be heard on February 25, 2025.
- 13. On October 30, 2024, the Court granted an order, which extended the Stay Period to November 30, 2024. A copy of the October 30, 2024 Order and Justice Osborne’s endorsement is attached as Appendix “D”.

1.1 Investigation

- 1. On June 11, 2024, the Monitor served on the Service List a redacted version of its Fourth Report to Court (the “Fourth Report”), which summarized the results of the Investigation.
- 2. The Investigation identified, among other things:
 - a) questionable transfers from the Applicants to the Principals, affiliated entities and third parties without any apparent benefit to the Business;
 - b) questionable dividend payments or repayment of amounts identified as shareholder loans;
 - c) a pervasive lack of proper record keeping, particularly for a business with assets and liabilities with a book value in the hundreds of millions of dollars; and
 - d) a myriad of other deficient business practices.

3. On June 14, 2024, Secured Lender Representative Counsel brought a motion, supported by the Monitor, the Unsecured Lender Representative Counsel and the Lion's Share Representative, seeking the Expanded Powers Order in order to expand the Monitor's powers in respect of the Applicants and removing the Principals' decision-making authority. The Applicants initially objected to the motion, but subsequently consented to the Expanded Powers Order and the Ancillary Order.

1.2 Purposes of this Report

1. The purposes of this report ("Report") are to:
 - a) provide an update on the status of these CCAA proceedings;
 - b) outline the next steps in these proceedings, being the Monitor's intention to seek Court approval of 323 credit bid transactions and a replacement DIP financing facility required to repay the balance of the existing DIP Facility not paid from the cash portion of the credit bid transactions and to finance the orderly liquidation process for the properties that remain in the Portfolio following closing of the credit bid transactions, should they be approved by the Court;
 - c) summarize the Applicants' cash flow forecast (the "Cash Flow Forecast") for the period December 1, 2024 to December 31, 2024;
 - d) summarize the status of the transition of the property management function from the SID Companies to Richmond; and
 - e) recommend that the Court issue an order extending the Stay Period to December 31, 2024.

1.3 Restrictions

1. In preparing this Report, the Monitor has relied upon the unaudited financial information of the Applicants, the Applicants' books and records and discussions with representatives of the Applicants.
2. KSV has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, KSV expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. An examination of the Cash Flow Forecast as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. KSV expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.

1.4 Currency

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

2.0 Background

1. The Applicants are Canadian privately-held corporations that are the principal owners of the Company's rental units and the residential properties on which they are situated.
2. The Applicants have disclosed ownership in 407 residential properties (collectively, the "Properties") comprising 631 rental units, of which 446 are tenanted, as well as a non-operating golf course. The Properties are located in tertiary markets in Ontario, including Timmins, Sault Ste. Marie, Sudbury, Kirkland Lake, Capreol, Temiskaming Shores and Val Caron. A summary of the Properties disclosed by the Applicants is provided below.

Location	Number of Occupied Units	Number of Unoccupied Units	Total
Timmins	219	71	290
Sault Ste. Marie	131	69	200
Sudbury	59	19	78
Other	37	26	63
Total	446	185	631

3. The Applicants' principal stakeholders are their first and second mortgagees, which are owed approximately \$81.5 million and \$8.6 million, respectively, plus interest and costs which continue to accrue. The Applicants previously advised the Monitor that they believe the amount owing to the Unsecured Lenders is significantly less than the amount initially provided by Ms. Drage, being approximately \$54.2 million. The Applicants' creditor listings reflect obligations owing to Lion's Share totalling approximately \$39.2 million.
4. Court materials filed in these proceedings, including the Affidavits of Robert Clark and the Monitor's reports, set out detailed information with respect to the Applicants' Business, property and creditor composition. All Court materials are available on the Monitor's website at the following link: <https://www.ksvadvisory.com/experience/case/sid> (the "Case Website").

3.0 Update on Proceedings

1. On October 30, 2024, the Monitor sought and obtained an extension of the Stay Period until November 30, 2024. The Monitor was working to finalize the required financing and other arrangements to be in a position to seek Court approval of the 323 credit bid transactions and related relief prior to November 30, 2024.

2. Since that time, the Monitor has worked with counsel² to the 323 credit bidders and prospective DIP lenders in an effort to finalize these matters and then serve the Court materials with sufficient notice prior to a previously scheduled Court date of November 26, 2024.
3. However, notwithstanding the Monitor's efforts to finalize all aspects of the transactions that would be subject to Court approval to complete the 323 credit bid transactions and replace the existing DIP Facility, there are certain outstanding issues at this time that need to be resolved before Court approval can be sought. Contributing to the complexity of the situation is that partial discharges are not contemplated by the DIP Facility. Accordingly, the Monitor is working to negotiate and document a process whereby each of the 323 credit bid transactions and the replacement DIP financing can all close simultaneously.
4. On November 20, 2024, the Monitor sent an update (the "November 20th Notice") to all Lenders and posted the notice on its Case Website. A copy of the November 20th Notice is attached as Appendix "E".
5. As set out in the November 20th Notice, the Monitor remains intent on seeking Court approval of these credit bid transactions and replacing the existing DIP Facility as soon as possible.

4.0 Cash Flow Forecast

1. As at the date of this Report, the Applicants have fully drawn on the \$15 million available under the Existing DIP Facility. The following table provides a summary of the uses of the DIP funding through November 15, 2024.

(unaudited; C\$000s)	
Receipts	
DIP funding	15,000
Other receipts	1,206
	<u>16,206</u>
Disbursements	
Professional fees	7,126
Property taxes	3,484
Other	1,853
DIP Facility costs and interest	1,506
Advances to Applicants' bank accounts	1,414
Insurance	316
Total Disbursements	<u>15,699</u>
Balance in Monitor's Trust Account	<u>507</u>

² Approximately 200 of the mortgagees which exercised their credit bid rights under the Restructuring Term Sheet are represented by one law firm. The balance are represented by other law firms, which has contributed to the time required to finalize all of the credit bid agreements and related schedules.

2. Explanations of certain line items in the table above are as follows:
 - a) the purpose of the table is to reflect the Applicants' uses of the DIP funding over the course of these proceedings. As all DIP funding has been advanced to the Monitor's trust account, activity in the Applicants' bank accounts is not reflected in the table above; however, the Monitor has taken control over the Applicants' bank accounts in accordance with the Expanded Powers Order. As at the date of this Report, there is approximately \$325,000 in the Applicants' bank accounts (in addition to approximately \$507,000 in the Monitor's trust account, which excludes any deposits received from credit bidders);
 - b) professional fees include the fees of the Applicants' counsel, the Monitor and its counsel, the DIP Lender's counsel, the Secured Lender Representative Counsel, the Unsecured Lender Representative Counsel and the SISP Advisors; and
 - c) amounts reflected as advances to the Applicants' bank accounts have largely been used to fund renovations, utilities, repairs and maintenance and other operating expenses incurred over the course of these proceedings.
3. The Monitor has prepared the Cash Flow Forecast for the period December 1, 2024 to December 31, 2024. The Cash Flow Forecast is attached as Appendix "F".
4. Subject to the underlying assumptions, the Cash Flow Forecast reflects there is sufficient funding available to the Applicants to continue to operate in these proceedings through to the proposed stay extension date of December 31, 2024.
5. The Monitor's statutory report on the Cash Flow Forecast is attached as Appendix "G". The Monitor has not sought the statutory report on the Cash Flow Forecast to be executed by the Applicants given the Expanded Powers Order.

5.0 Stay Extension

1. The Stay Period currently expires on November 30, 2024. The Monitor, on behalf of the Applicants, is seeking an extension of the Stay Period until December 31, 2024.
2. The Monitor recommends the extension for the following reasons:
 - a) the Honourable Justice Steele's endorsement issued in these proceedings dated July 31, 2024, included the following: "*In the context of a "super-Monitor" in CCAA proceedings, the monitor is held to the good faith standard.*" As "super" Monitor in these CCAA proceedings, the Monitor believes it is discharging its duties and obligations under the CCAA, the Expanded Powers Order and other orders made in these CCAA proceedings in good faith and with due diligence;
 - b) no creditor will be prejudiced if the extension is granted;
 - c) based on the Cash Flow Forecast, there is projected to be funding available to fund operations and the costs of these proceedings during the extension period; and

- d) an extension of the Stay Period will provide the Monitor further time to finalize financing and other arrangements in order to seek the Credit Bid Vesting Order (as defined in the Restructuring Term Sheet), replacement DIP financing and related relief in respect of the go-forward management and liquidation of the remaining Portfolio. Although the Monitor and applicable stakeholders have made substantial progress in this regard since the prior Court attendance on October 30, 2024, additional time is required to finalize the outstanding transactional and financing issues.

5.1 Additional Stay Parties

1. Pursuant to the Expanded Powers Order and the Ancillary order, the stay of proceedings remains in place in favour of the Additional Stay Parties and in favour of the SID Companies (and their employees, representatives and advisors) until the Monitor files the Monitor's Transition Period Termination Certificate. The Monitor will file this certificate upon completion of the transition of the property management function from the SID Companies to Richmond.
2. As at the date of this Report, the transition of the property management function is nearing completion. The Monitor recently advised the SID Companies that it intends to file the Monitor's Transition Period Termination Certificate on or around November 30, 2024, at which time the stay of proceedings in favour of the Additional Stay Parties and the SID Companies will be terminated. The SID Companies advised that it may require until December 15, 2024 to complete the transition. The Monitor has encouraged the SID Companies to continue to work expeditiously to complete the transition process.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Court grant an extension of the Stay Period to December 31, 2024.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR
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. AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	THURSDAY, THE 28 TH
)	
JUSTICE KIMMEL)	DAY OF MARCH, 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")

SECOND AMENDED AND RESTATED INITIAL ORDER
(Amending Initial Order Dated January 23, 2024, as Amended and Restated on February
15, 2024)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for a Second Amended and Restated Initial Order was heard this day by judicial videoconference via Zoom.

ON READING the affidavits of Robert Clark sworn January 23, 2024 and the Exhibits thereto, January 28, 2024 and the Exhibits thereto (the "**First Clark Affidavit**"), March 24, 2024 and the Exhibits thereto, and March 27, 2024 and the Exhibits thereto, the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") as the proposed monitor dated January 23, 2024, the First Report of KSV as the Court-appointed monitor of the Applicants (in such capacity, 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 Amended Initial Order of this Court dated January 31, 2024, and the Amended and Restated Initial Order of this Court dated February 15, 2024, and on being advised that the secured creditors who are likely to

be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, the Secured Lender Representative Counsel (as defined below), the Unsecured Lender Representative Counsel (as defined below), counsel to the DIP Lender (as defined below), and such other counsel that were present, no else appearing although duly served as appears from the affidavits of service of Joshua Foster, filed, and on reading the consent of KSV to act as the Monitor,

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 Application 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 shall have the meaning ascribed to them in the First Clark Affidavit.

3. **THIS COURT ORDERS** that, with the exception of paragraphs 30-38, references in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date the Initial Order of this Court was granted in these proceedings, being January 23, 2024 (the "**Initial Order**").

APPLICATION

4. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

5. **THIS COURT ORDERS** that each of the Applicants shall have the authority to file and may, subject to further Order of this Court, file with the Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

6. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licences, undertakings and properties of every nature

and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement and the Definitive Documents (each as defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order with the prior written consent of the Monitor, in consultation with the Secured Lender Representatives (as defined below):

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits (including, without limitation, employee medical, dental, vision, insurance and similar benefit plans or arrangements), vacation pay and employee expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing and servicing expenses;
- (b) amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order, with the Monitor considering, among other factors, whether (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicants and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Property or the Business, (iii) making such payment is required to address environmental or regulatory concerns, and (iv) the supplier or service provider is required to continue to provide goods or services to the Applicants after the date of this Order, including pursuant to the terms of this Order; and

- (c) the fees and disbursements of any Assistants retained or employed by any of the Applicants in respect of these proceedings, at their standard rates and charges.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement and the Definitive Documents, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, in each case, with the prior written consent of the Monitor, in consultation with the Secured Lender Representatives, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied or to be supplied to any of the Applicants on or following the date of this Order.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

10. **THIS COURT ORDERS** that, except as specifically permitted herein and in the DIP Agreement and the Definitive Documents, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

11. **THIS COURT ORDERS** that notwithstanding any other provision of this Order and for greater certainty, the Applicants shall not make any payments or incur any liabilities, including without limitation drawing on the credit facility provided under the DIP Agreement, without the prior written consent of the Monitor.

RESTRUCTURING

12. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents, have the right to:

- (a) dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$1,500,000 in the aggregate, in each case, with the prior written consent of the Monitor; and
- (b) pursue all avenues of refinancing, restructuring, selling or reorganizing its Business or Property, in whole or part, with the oversight and involvement of the Monitor and subject to prior approval of this Court being obtained before any material refinancing, restructuring, sale or reorganization,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

NO PROCEEDINGS AGAINST THE APPLICANTS, THE BUSINESS OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including April 30, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or their respective employees, advisors, counsel and other representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants, or their respective employees, advisors, counsel and other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicants and the Monitor.

14. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Aruba Butt, Dylan Sutor and/or Ryan Molony (collectively, the "**Additional Stay Parties**"), or against or in respect of any of the Additional Stay Parties' current or future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, and including all proceeds thereof (collectively, the "**Additional Stay Parties' Property**") with respect to any guarantee, contribution or indemnity obligation, liability or claim in respect of or that relates to any agreement involving any of the Applicants or the obligations, liabilities and claims of and against any of the Applicants (collectively, the "**Related Claims**"), except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Additional Stay Parties or the Additional Stay Parties' Property in respect of the Related Claims are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicants and the Monitor.

15. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of the Additional Stay Parties or the Additional

Stay Parties' Property in respect of the Related Claims that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the Applicants or the Monitor, or their respective employees, advisors and other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any Applicant to carry on any business which such Applicant is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll and benefit services, accounting services, temporary labour and staffing services, warehouse and logistics services, security services, insurance, transportation services, maintenance services, construction services, utility or other services to the Business or

any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply or license of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that each of the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

NO PRE-FILING VERSUS POST-FILING SET-OFF

20. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that (i) are or may become due to any of the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from any of the Applicants in respect of obligations arising on or after the date of this Order, or (ii) are or may become due from any of the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to any of the Applicants in respect of obligations arising on or after the date of this Order, in each case without the prior written consent of the applicable Applicant and the Monitor or further Order of this Court.

APPOINTMENT OF SECURED LENDER REPRESENTATIVE COUNSEL

21. **THIS COURT ORDERS** that Chaitons LLP (the "**Secured Lender Representative Counsel**") is hereby appointed as representative counsel for all of the secured lenders of the

Applicants (collectively, the "**Secured Lenders**"), including, without limitation, all of the Secured Lenders that have RRSPs or other registered accounts administered by Olympia Trust Company, in these proceedings, any proceeding under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") or in any other proceeding respecting the insolvency of the Applicants that may be brought before this Court (collectively, the "**Insolvency Proceedings**"), for any issues affecting the Secured Lenders in the Insolvency Proceedings, including, without limitation, with respect to the settlement or compromise of any rights, entitlements or claims of the Secured Lenders.

22. **THIS COURT ORDERS** that the Secured Lender Representative Counsel shall be entitled but not required to commence the process of identifying no more than six (6) Secured Lenders to be nominated as Court-appointed representatives (collectively, the "**Secured Lender Representatives**") as soon as practicable following the date hereof. The Secured Lender Representatives, if and once appointed, shall represent the Secured Lenders other than any Secured Opt-Out Lender (as defined below), if any, in the Insolvency Proceedings and advise, and where appropriate instruct, the Secured Lender Representative Counsel, including, without limitation, for the purpose of settling or compromising claims of the Secured Lenders in the Insolvency Proceedings. The Secured Lender Representative Counsel may rely upon the advice, information and instructions received from the Secured Lender Representatives, if any, in carrying out its mandate without further communications or instructions from the Secured Lenders, except as may be recommended by the Secured Lender Representative Counsel or ordered by this Court.

23. **THIS COURT ORDERS** that, with the exception of any Secured Opt-Out Lender, (i) the Secured Lender Representative Counsel and the Secured Lender Representatives, if any, shall represent all of the Secured Lenders in the Insolvency Proceedings, and (ii) the Secured Lenders shall be bound by the actions of the Secured Lender Representative Counsel and the Secured Lender Representatives, if any, in the Insolvency Proceedings.

24. **THIS COURT ORDERS** that, subject to confidentiality arrangements acceptable to the Applicants and the Monitor, the Applicants, The Windrose Group Inc. and Lift Capital Incorporated shall provide the following information to the Secured Lender Representative Counsel (collectively, the "**Secured Lender Information**"), in each case, without charge: (i) the

names, last known address, last known email addresses (if any) and entitlements of all of the Secured Lenders (excluding any Secured Opt-Out Lender that has delivered a Secured Opt-Out Notice (as defined below) prior to the delivery of the Secured Lender Information), in each case, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or Lift Capital Incorporated, to be used solely for the purposes of the Insolvency Proceedings; and (ii) upon request of the Secured Lender Representative Counsel, such documents and data as may be reasonably relevant to the issues affecting the Secured Lenders in the Insolvency Proceedings, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or Lift Capital Incorporated. In providing the Secured Lender Information, these parties are not required to obtain the express consent of any Secured Lender authorizing the disclosure of the Secured Lender Information to the Secured Lender Representative Counsel for the purposes of the Insolvency Proceedings, and further, in accordance with clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended (the "**PIPEDA**") each of these parties is authorized and permitted to disclose the Secured Lender Information to the Secured Lender Representative Counsel for the purposes of the Insolvency Proceedings, without the knowledge or consent of the Secured Lenders.

25. **THIS COURT ORDERS** that notice of the appointment of Secured Lender Representative Counsel shall be provided by: (i) the Secured Lender Representative Counsel sending a letter to the Secured Lenders at the addresses provided pursuant to paragraph 24 of this Order, advising of such appointment as soon as practicable following the date hereof; (ii) the inclusion of the details of such appointment in the CCAA Notice (as defined below); and (iii) the posting of notice of such appointment on the Monitor's Website (as defined below).

26. **THIS COURT ORDERS** that any Secured Lender who does not wish to be represented by the Secured Lender Representative Counsel and the Secured Lender Representatives, if any, in the Insolvency Proceedings shall, within thirty (30) days of the date hereof, notify the Monitor and the Secured Lender Representative Counsel in writing that such Secured Lender is opting out of representation by the Secured Lender Representative Counsel and the Secured Lender Representatives, if any, by delivering to the Monitor and the Secured Lender Representative Counsel an opt-out notice in the form attached as Schedule "A" hereto (each, a "**Secured Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Secured Lender Representative Counsel or the Secured Lender Representatives, if any, and shall represent itself

or themselves, as the case may be, or be represented by any counsel that such Secured Lender may retain at its or their, as the case may be, sole expense (each such Secured Lender that delivers a Secured Opt-Out Notice in compliance with the terms of this paragraph, a "**Secured Opt-Out Lender**"). The Monitor shall deliver copies of all Secured Opt-Out Notices received to the Applicants as soon as reasonably practicable.

27. **THIS COURT ORDERS** that all reasonable and documented fees and disbursements as may have been incurred by the Secured Lender Representative Counsel prior to the date of this Order or which shall be incurred by the Secured Lender Representative Counsel shall be paid by the Applicants on a bi-weekly basis, forthwith upon the rendering of accounts to the Applicants. Any disagreement regarding such fees and disbursements may be remitted to this Court for determination.

28. **THIS COURT ORDERS** that no action or Proceeding may be commenced against the Secured Lender Representative Counsel or the Secured Lender Representatives, if any, in such capacities and/or in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days' notice to the Secured Lender Representative Counsel or the Secured Lender Representatives, as applicable, the Applicants and the Monitor.

29. **THIS COURT ORDERS** that the Secured Lender Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. The Secured Lender Representative Counsel and the Secured Lender Representatives, if any, shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order save and except for any gross negligence or wilful misconduct on their part.

APPOINTMENT OF UNSECURED LENDER REPRESENTATIVE COUNSEL

30. **THIS COURT ORDERS** that Goldman Sloan Nash & Harber LLP (the "**Unsecured Lender Representative Counsel**") is hereby appointed as representative counsel for all of the unsecured lenders of the Applicants other than (i) The Lion's Share Group Inc. and (ii) any other unsecured lenders directly or indirectly controlled by, or under common control or otherwise affiliated with, The Lion's Share Group Inc. or its principal, Claire Drage (collectively, the

"Unsecured Lenders"), including, without limitation, all of the Unsecured Lenders that have RRSPs or other registered accounts administered by Olympia Trust Company, in the Insolvency Proceedings, for any issues affecting the Unsecured Lenders in the Insolvency Proceedings, including, without limitation, with respect to the settlement or compromise of any rights, entitlements or claims of the Unsecured Lenders.

31. **THIS COURT ORDERS** that the Unsecured Lender Representative Counsel shall be entitled but not required to commence the process of identifying no more than six (6) Unsecured Lenders to be nominated as Court-appointed representatives (collectively, the "**Unsecured Lender Representatives**") as soon as practicable following the date hereof. The Unsecured Lender Representatives, if and once appointed, shall represent the Unsecured Lenders other than any Unsecured Opt-Out Lender (as defined below), if any, in the Insolvency Proceedings and advise, and where appropriate instruct, the Unsecured Lender Representative Counsel, including, without limitation, for the purpose of settling or compromising claims of the Unsecured Lenders in the Insolvency Proceedings. The Unsecured Lender Representative Counsel may rely upon the advice, information and instructions received from the Unsecured Lender Representatives, if any, in carrying out its mandate without further communications or instructions from the Unsecured Lenders, except as may be recommended by the Unsecured Lender Representative Counsel or ordered by this Court.

32. **THIS COURT ORDERS** that, with the exception of any Unsecured Opt-Out Lender, (i) the Unsecured Lender Representative Counsel and the Unsecured Lender Representatives, if any, shall represent all of the Unsecured Lenders in the Insolvency Proceedings, and (ii) the Unsecured Lenders shall be bound by the actions of the Unsecured Lender Representative Counsel and the Unsecured Lender Representatives, if any, in the Insolvency Proceedings.

33. **THIS COURT ORDERS** that, subject to confidentiality arrangements acceptable to the Applicants and the Monitor, the Applicants, The Windrose Group Inc. and The Lion's Share Group Inc. shall provide the following information to the Unsecured Lender Representative Counsel (collectively, the "**Unsecured Lender Information**"), in each case, without charge: (i) the names, last known address, last known email addresses (if any) and entitlements of all of the Unsecured Lenders (excluding any Unsecured Opt-Out Lender that has delivered an Unsecured Opt-Out Notice (as defined below) prior to the delivery of the Unsecured Lender Information), in

each case, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or The Lion's Share Group Inc., to be used solely for the purposes of the Insolvency Proceedings; and (ii) upon request of the Unsecured Lender Representative Counsel, such documents and data as may be reasonably relevant to the issues affecting the Unsecured Lenders in the Insolvency Proceedings, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or The Lion's Share Group Inc. In providing the Unsecured Lender Information, these parties are not required to obtain the express consent of any Unsecured Lender authorizing the disclosure of the Unsecured Lender Information to the Unsecured Lender Representative Counsel for the purposes of the Insolvency Proceedings, and further, in accordance with clause 7(3)(c) of the PIPEDA, each of these parties is authorized and permitted to disclose the Unsecured Lender Information to the Unsecured Lender Representative Counsel for the purposes of the Insolvency Proceedings, without the knowledge or consent of the Unsecured Lenders.

34. **THIS COURT ORDERS** that notice of the appointment of Unsecured Lender Representative Counsel shall be provided by: (i) the Unsecured Lender Representative Counsel sending a letter to the Unsecured Lenders at the addresses provided pursuant to paragraph 33 of this Order, advising of such appointment as soon as practicable following the date hereof; and (ii) the posting of notice of such appointment on the Monitor's Website.

35. **THIS COURT ORDERS** that any Unsecured Lender who does not wish to be represented by the Unsecured Lender Representative Counsel and the Unsecured Lender Representatives, if any, in the Insolvency Proceedings shall, within thirty (30) days of the date hereof, notify the Monitor and the Unsecured Lender Representative Counsel in writing that such Unsecured Lender is opting out of representation by the Unsecured Lender Representative Counsel and the Unsecured Lender Representatives, if any, by delivering to the Monitor and the Unsecured Lender Representative Counsel an opt-out notice in the form attached as Schedule "B" hereto (each, an "**Unsecured Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Unsecured Lender Representative Counsel or the Unsecured Lender Representatives, if any, and shall represent itself or themselves, as the case may be, or be represented by any counsel that such Unsecured Lender may retain at its or their, as the case may be, sole expense (each such Unsecured Lender that delivers an Unsecured Opt-Out Notice in compliance with the terms of this paragraph, an "**Unsecured Opt-Out Lender**"). The Monitor

shall deliver copies of all Unsecured Opt-Out Notices received to the Applicants as soon as reasonably practicable.

36. **THIS COURT ORDERS** that all reasonable and documented fees and disbursements as may have been incurred by the Unsecured Lender Representative Counsel prior to the date of this Order or which shall be incurred by the Unsecured Lender Representative Counsel shall be paid by the Applicants on a bi-weekly basis, forthwith upon the rendering of accounts to the Applicants. Any disagreement regarding such fees and disbursements may be remitted to this Court for determination.

37. **THIS COURT ORDERS** that no action or Proceeding may be commenced against the Unsecured Lender Representative Counsel or the Unsecured Lender Representatives, if any, in such capacities and/or in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days' notice to the Unsecured Lender Representative Counsel or the Unsecured Lender Representatives, as applicable, the Applicants and the Monitor.

38. **THIS COURT ORDERS** that the Unsecured Lender Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. The Unsecured Lender Representative Counsel and the Unsecured Lender Representatives, if any, shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order save and except for any gross negligence or wilful misconduct on their part.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

39. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

APPOINTMENT OF MONITOR

40. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by any of the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

41. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court, the Secured Lender Representatives and/or the Unsecured Lender Representatives at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) liaise and consult with the Applicants, the Secured Lender Representatives and/or the Unsecured Lender Representatives, to the extent required, with respect to all matters relating to the Property, the Business, the Restructuring, and such other matters as may be relevant to these proceedings;
- (d) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender;
- (e) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed

with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis as agreed with the DIP Lender;

- (f) monitor all payments, obligations and transfers as between the Applicants and parties related thereto;
- (g) advise the Applicants in their development of the Plan (if any) and any amendments to the Plan;
- (h) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' meetings for voting on the Plan;
- (i) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Business and financial affairs or to perform its duties arising under this Order;
- (j) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (k) (i) conduct an investigation into the use of funds borrowed by the Applicants, pre-filing transactions conducted by the Applicants and/or their principals and affiliates, and such other matters as may be requested by the Secured Lender Representatives and agreed by the Monitor, in each case, to the extent such investigation relates to the Property, the Business or such other matters as may be relevant to the proceedings herein as determined by the Monitor, and (ii) report to the Secured Lender Representatives, the Unsecured Lender Representatives and the Court on the findings of such investigation as the Monitor deems necessary and appropriate; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

42. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

43. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act* or the *Ontario Occupational Health and Safety Act*, and regulations thereunder (collectively, "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

44. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants, including, without limitation, the DIP Lender, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

45. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees, advisors and other representatives acting in such capacities shall incur any liability or obligation

as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

46. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings on a bi-weekly basis or pursuant to such other arrangements agreed to between the Applicants and such parties and, in addition, the Monitor, and counsel to the Applicants are hereby authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

48. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicants' counsel, the Secured Lender Representative Counsel and the Unsecured Lender Representative Counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,500,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 55 and 57 hereof.

DIP FINANCING

49. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Harbour Mortgage Corp. or its permitted assignee (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other

general corporate purposes and capital expenditures, provided that the borrowings under such credit facility shall not exceed \$12,000,000, plus interest, fees and expenses, unless permitted by further Order of this Court.

50. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP agreement between the Applicants and the DIP Lender dated as of January 26, 2024 and attached to the First Clark Affidavit as Exhibit "F" (as may be amended and/or assigned from time to time, the "**DIP Agreement**").

51. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

52. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not exceed the amount of \$12,000,000, plus interest, fees and expenses, unless permitted by further Order of this Court, or secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 55 and 57 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days' notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement,

Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

54. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the DIP Lender, the DIP Lender 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 advances made under the DIP Agreement and the Definitive Documents.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

55. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge (together, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,500,000); and

Second – DIP Lender's Charge (to the maximum amount of \$12,000,000, plus interest, fees and expenses).

56. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

57. **THIS COURT ORDERS** that each of the Charges (as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other

security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment.

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

59. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any Applicant is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

60. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a charge in the applicable Applicant's interest in such real property lease.

SERVICE AND NOTICE

61. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the *Globe and Mail (National Edition)*, a notice containing the information prescribed under the CCAA (the "**CCAA Notice**"); and (ii) within ten (10) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with subsection 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of the individuals who are creditors publicly available.

62. **THIS COURT ORDERS** that The Guide Concerning Commercial List E-Service (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at: <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the "**Rules of Civil Procedure**"). Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <https://www.ksvadvisory.com/experience/case/sid> (the "**Monitor's Website**").

63. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor, and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown in the books and records of the Applicants and that any such service, distribution or notice shall be deemed to be received: (i) if sent by courier, on the next business day following the date of forwarding thereof; (ii) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered; and (iii) if sent by ordinary mail, on the third business day after mailing.

64. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

65. **THIS COURT ORDERS** that any interested party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these proceedings shall, subject to further order of this Court, provide the service list in these proceedings (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Eastern Time) on the date that is two (2) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

GENERAL

66. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on not less than seven (7)

business days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 55 and 57 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

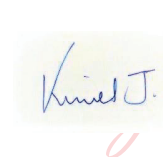
67. **THIS COURT ORDERS** that, notwithstanding paragraph 66 of this Order, each of the Applicants, the Monitor, the Secured Lender Representative Counsel or the Unsecured Lender Representative Counsel may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder or in the interpretation of this Order.

68. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

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

70. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

71. **THIS COURT ORDERS** that the Initial Order, as amended and restated on February 15, 2024, is hereby amended and restated pursuant to this Order, and 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.



Digitally signed
by Jessica
Kimmel
Date: 2024.03.28
15:13:50 -04'00'

SCHEDULE "A"
FORM OF SECURED LENDER OPT-OUT NOTICE

To: Chaitons LLP, in its capacity as
Court-appointed Lender
Representative Counsel
5000 Yonge Street, 10th Floor
North York, ON M2N 7E9
Attention: George Benchetrit
Email: george@chaitons.com

with a copy to:

Bennett Jones LLP
Applicants' Counsel
3400 One First Canadian Place
Toronto, ON M5X 1A4
Attention: Joshua Foster
Email: fosterj@bennettjones.com

KSV Restructuring Inc., in its capacity as
Court-appointed Monitor
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4
Attention: Christian Vit
Email: cvit@ksvadvisory.com

with a copy to:

Cassels Brock & Blackwell LLP
Monitor's Counsel
Suite 3200, Bay Adelaide Centre – North
Tower
40 Temperance Street
Toronto, ON M5H 0B4
Attention: Ryan Jacobs and Joseph Bellissimo
Email:
rjacobs@cassels.com/jbellissimo@cassels.com

I, in my individual capacity or in my capacity as an authorized representative of the undersigned, as applicable (in either capacity, the "**Opt-Out Lender**"), hereby provide written notice that the Opt-Out Lender does not wish to be represented by Chaitons LLP, representative counsel (the "**Lender Representative Counsel**") for all of the secured lenders 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**") in any proceeding respecting the insolvency of the Applicants (the "**Insolvency Proceedings**"). By opting out of this representation, the Opt-Out Lender hereby acknowledges and understands that if it wishes to take part in the Insolvency Proceedings, then it must do so as an independent party. Further, the Opt-Out Lender hereby acknowledges and understands that it is responsible for its own legal representation or for retaining its own legal counsel should it choose to do so, and that it would be personally liable for the costs of its own legal representation.

The Opt-Out Lender hereby acknowledges and understands that a copy of this Opt-Out Notice will be provided to the Applicants.

Witness

Signature of Opt-Out Lender or its
authorized representative

Name of individual or authorized
representative of the Opt-Out Lender:

Name of Opt-Out Lender
(if not a natural person):

Address:

Telephone:

**TO OPT OUT, THIS FORM MUST BE COMPLETED AND RECEIVED AT THE
ABOVE ADDRESS ON OR BEFORE FEBRUARY 22, 2024.**

SCHEDULE "B"
FORM OF UNSECURED LENDER OPT-OUT NOTICE

To: Goldman Sloan Nash & Harber LLP,
in its capacity as Court-appointed
Lender Representative Counsel
480 University Ave, Suite 1600
Toronto, ON M5G 1V6
Attention: Mario Forte
Email: forte@gsnh.com

KSV Restructuring Inc., in its capacity as
Court-appointed Monitor
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4
Attention: Christian Vit
Email: cvit@ksvadvisory.com

with a copy to:

with a copy to:

Bennett Jones LLP
Applicants' Counsel
3400 One First Canadian Place
Toronto, ON M5X 1A4
Attention: Joshua Foster
Email: fosterj@bennettjones.com

Cassels Brock & Blackwell LLP
Monitor's Counsel
Suite 3200, Bay Adelaide Centre – North
Tower
40 Temperance Street
Toronto, ON M5H 0B4
Attention: Ryan Jacobs and Joseph Bellissimo
Email:
rjacobs@cassels.com/jbellissimo@cassels.com

I, in my individual capacity or in my capacity as an authorized representative of the undersigned, as applicable (in either capacity, the "**Opt-Out Lender**"), hereby provide written notice that the Opt-Out Lender does not wish to be represented by Goldman Sloan Nash & Harber LLP, representative counsel (the "**Lender Representative Counsel**") for certain of the unsecured lenders 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**") in any proceeding respecting the insolvency of the Applicants (the "**Insolvency Proceedings**"). By opting out of this representation, the Opt-Out Lender hereby acknowledges and understands that if it wishes to take part in the Insolvency Proceedings, then it must do so as an independent party. Further, the Opt-Out Lender hereby acknowledges and understands that it is responsible for its own legal representation or for retaining its own legal counsel should it choose to do so, and that it would be personally liable for the costs of its own legal representation.

The Opt-Out Lender hereby acknowledges and understands that a copy of this Opt-Out Notice will be provided to the Applicants.

Witness

Signature of Opt-Out Lender or its
authorized representative

Name of individual or authorized
representative of the Opt-Out Lender:

Name of Opt-Out Lender
(if not a natural person):

Address:

Telephone:

**TO OPT OUT, THIS FORM MUST BE COMPLETED AND RECEIVED AT THE
ABOVE ADDRESS ON OR BEFORE APRIL 27, 2024.**

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

SECOND AMENDED AND RESTATED
INITIAL ORDER

BENNETT JONES LLP

3400 One First Canadian Place

P.O. Box 130

Toronto, Ontario M5X 1A4

Sean Zweig (LSO# 57307I)

Tel: (416) 777-6254

Email: zweigs@bennettjones.com

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

Appendix “B”

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

THE HONOURABLE

)

TUESDAY, THE 25TH

)

JUSTICE OSBORNE

)

DAY OF JUNE, 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”)**

**ORDER
(Expansion of Monitor’s Powers)**

THIS MOTION, made by the secured lenders of the Applicants, by their representative counsel, Chaitons LLP (“**Secured Lender Representative Counsel**”), appointed pursuant to the Initial Order of this Court dated January 23, 2024, as subsequently amended and restated by Orders dated February 15, 2024 and March 28, 2024 (as amended and restated, the “**SARIO**”), for an order expanding the powers of KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) and related relief, was heard this day by judicial videoconference via Zoom.

ON READING the Fourth Report of the Monitor dated June 11, 2024, the Fifth Report of the Monitor dated June 17, 2024, the Supplement to the Fifth Report of the Monitor dated June 23, 2024, the Affidavit of Robert Clark sworn June 20, 2024, the Affidavit of Sofia Pino sworn June 14, 2024, the Affidavit of Paul Searle sworn June 14, 2024, the Affidavit of Andrew Adams sworn June 14, 2024, the Ancillary Order of this Court dated June 25, 2024, and such other materials that

were filed, and on being advised that each of the affected parties consents to the granting of this Order, and on hearing the submissions of Secured Lender Representative Counsel, counsel to the Applicants, Unsecured Lender Representative Counsel, counsel to the Monitor, counsel to The Fuller Landau Group Inc. in its capacity as court-appointed receiver and trustee in bankruptcy of The Lion's Share Group Inc., counsel to the DIP Lender, and such other counsel that were present, no one else appearing although duly served as appears from the affidavits of service, 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 defined herein shall have the meanings ascribed to them in the SARIO.

EXPANSION OF MONITOR'S POWERS

3. THIS COURT ORDERS that in addition to the powers and duties of the Monitor set out in the SARIO, any other Order of this Court granted in this CCAA Proceeding, the CCAA and applicable law, and without altering in any way the obligations of the Applicants in this CCAA Proceeding, the Monitor is hereby empowered and authorized, but not required, to exercise any powers which may be properly exercised by a board of directors or any officers of the Applicants to cause the Applicants, to, including without limitation:

- (a) exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories, and the placement of such insurance coverage as may be necessary or desirable;

- (c) manage, operate, and carry on the business of the Applicants, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Applicants, including, subject to paragraph 5 hereof, terminating any and all agreements between the Applicants and any of the SID Companies (as defined below) on twenty-one (21) days' written notice by the Monitor to the applicable SID Companies;
- (d) instruct consultants, appraisers, agents, experts, auditors, accountants, managers, property managers, counsel and any other advisors currently engaged or retained by the Applicants;
- (e) engage any other consultants, appraisers, agents, experts, auditors, accountants, managers, property managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including without limitation those conferred by this Order;
- (f) receive and collect all monies and accounts now owed or hereafter owing to the Applicants and to exercise all remedies of the Applicants in collecting such monies;
- (g) settle, extend or compromise any indebtedness owing to the Applicants, including determining whether a court-ordered claims process is required;
- (h) execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, in the name and on behalf of the Applicants;
- (i) initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Applicants and/or the Property, and to settle or compromise any such proceedings;
- (j) market any or all of the Property or pursue other alternative transactions in respect of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof, negotiating such terms and conditions of sale or other

transactions as the Monitor in its discretion may deem appropriate, including, but not limited to transactions in connection with the Sale and Investment Solicitation Process approved pursuant to the SISP Approval Order issued in this proceeding on April 12, 2024, as deemed appropriate by the Monitor;

- (k) report to, meet with and discuss with such affected Persons as the Monitor deems appropriate on all matters relating to the Property and this proceeding, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;
- (l) apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof;
- (m) exercise any shareholder, partnership, joint venture or other rights which the Applicants may have; and
- (n) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Monitor takes any such actions or steps, it shall be exclusively authorized and empowered to do so on behalf of the Applicants, to the exclusion of all other Persons, including the Applicants' directors, officers, employees and/or other representatives (including but not limited to Aruba Butt, Ryan Molony, Robert Clark and Dylan Suitor), and without interference from any other Person.

4. THIS COURT ORDERS that notwithstanding the SARIO, Bennett Jones LLP ("**Bennett Jones**") shall not be entitled to payment of any legal fees by the Applicants in connection with any services provided to, or for the benefit of, the Applicants or the principals of the Applicants (including any Additional Stay Parties) following the date of this Order, nor shall such fees be subject to the Administration Charge.

5. THIS COURT ORDERS that, without limiting the foregoing or the SARIO, each of SIDRWC Inc. o/a SID Developments, SID Management Inc. and 2707793 Ontario Inc. o/a SID Renos (collectively, the "**SID Companies**") shall, for a minimum period to be agreed upon

between the Monitor and the SID Companies, each acting reasonably, until the effective date of the termination by the Monitor of the applicable agreements between the Applicants and the SID Companies, or until further Order of this Court (the earlier of such periods being hereinafter the **“Transition Period”**):

- (a) continue to perform the services provided by them to the Applicants notwithstanding the transition of such services, in whole or in part to one or more alternative service providers, and continue to be remunerated, in accordance with their existing contracts, agreements and/or arrangements described in paragraphs 46-49 of the Affidavit of Robert Clark sworn January 23, 2024, with the Applicants, as may be required by the Monitor and in doing so shall exclusively report to and take direction from the Monitor on behalf of the Applicants, provided that the SID Companies shall not be required to pay for any costs or expenses whatsoever on the Applicants’ behalf without reimbursement;
- (b) forthwith remit any monies collected by them on behalf of the Applicants to the Monitor, including without limitation all rent collected on behalf of the Applicants, provided that the SID Companies shall not be required to pay for any costs or expenses whatsoever on the Applicants’ behalf without reimbursement;
- (c) subject to paragraph 7, as may be requested by the Monitor, cooperate with the Monitor in the provision of the transition services set out in Schedule “A” hereto and any other transition services as may be agreed to in writing by the Monitor and the SID Companies (collectively, the **“Transition Services”**) provided by the SID Companies to alternative service providers determined by the Monitor; and
- (d) refrain from incurring any obligations, or making any commitments, on behalf of any of the Applicants, including with respect to any ongoing or future renovations of the Applicants’ Property, without the prior written consent of the Monitor.

6. THIS COURT ORDERS that the Monitor shall serve on the Service List and the SID Companies, and post on the Monitor’s Website a certificate confirming the end of the Transition Period (the **“Monitor’s Transition Period Termination Certificate”**).

7. THIS COURT ORDERS that, during the Transition Period, the SID Companies shall be paid their reasonable fees and disbursements, in each case, at rates to be agreed to in writing by the Monitor and the SID Companies, each acting reasonably, in connection with the provision of the Transition Services. The Applicants are hereby authorized and directed to pay the accounts of the SID Companies in connection with the Transition Services on a monthly basis or pursuant to such other arrangements agreed to between the Monitor and the SID Companies.

8. THIS COURT ORDERS that the SID Companies, 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 the Transition Services requested by the Monitor, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the SID Companies or the Monitor, as applicable, as determined by this Court in a final order that is not subject to appeal or review.

9. 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 SID Companies and each of their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons are hereby authorized and permitted to disclose and transfer personal information of identifiable individuals to the Monitor but only to the extent desirable or required to negotiate or attempt to complete the Transition Services.

10. THIS COURT ORDERS that the banks and/or financial institutions which maintain each of the Applicants' bank accounts are directed to recognize and permit the Monitor and its representatives to complete any and all transactions on behalf of the Applicants and for such purpose, the Monitor and its representatives are empowered and shall be permitted to execute documents for, or on behalf of and in the name of the Applicants, and shall be empowered and permitted to add and remove persons having signing authority with respect to the accounts of the Applicants. The financial institutions maintaining such accounts shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken in accordance with the instructions of the Monitor for and on behalf of the

Applicants, and/or as to the use or application of funds transferred, paid, collected or otherwise dealt with in accordance with such instructions and such financial institutions shall be authorized to act in accordance with and in reliance upon such instructions without any liability in respect thereof to any person.

11. THIS COURT ORDERS that, notwithstanding anything contained in this Order, the Monitor is not, and shall not be or be deemed to be, a director, officer or employee of any of the Applicants.

12. THIS COURT ORDERS that, without limiting the provisions of the SARIO, the Applicants shall remain in possession and control of their respective Property and the Monitor shall not take, or be deemed to have taken, possession or control of such Property, or any part thereof.

13. THIS COURT ORDERS that the Monitor shall not be liable for any employee-related liabilities of the Applicants, if any, other than amounts the Monitor may specifically agree in writing to pay. Nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee-related liabilities of the Applicants, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts.

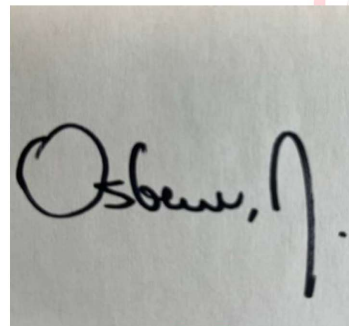
14. THIS COURT ORDERS that: (i) in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor and its legal counsel shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the SARIO and any other Order of this Court, and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in carrying out of the provisions of this Order and exercising any powers granted to it hereunder; and (ii) the Monitor shall incur no liability or obligation as a result of exercising any powers granted to it hereunder, save and except for any gross negligence or wilful misconduct on its part.

15. THIS COURT ORDERS that nothing in this Order shall constitute or be deemed to constitute the Monitor as receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of the Applicants within the meaning of any relevant

legislation and that any distributions to creditors of the Applicants by the Monitor will be deemed to have been made by the Applicants.

16. THIS COURT ORDERS that the powers and authority granted to the Monitor by virtue of this Order shall, if exercised in any case, be paramount to the power and authority of the Applicants with respect to such matters and, in the event of a conflict between the terms of this Order and those of the SARIO or any other Order of this Court, the provisions of this Order shall govern.

17. THIS COURT ORDERS that nothing contained in this Order or in the Ancillary Order shall affect the claims for costs against any Person in respect of this Order and the Ancillary Order, including, without limitation the claims against the Principals described in the Factum of the Secured Lenders. Any such claims shall be determined via a schedule to be fixed at a case conference to be convened as soon as reasonably practicable among any such Persons and their respective counsel.

A rectangular stamp containing a handwritten signature in black ink. The signature appears to be "Osborne, J." with a stylized flourish at the end.

2024.06.

27

17:43:23

-04'00'

SCHEDULE “A”

TRANSITION SERVICES

- (a) The keys to each of the units, labelled by unit, shall be provided to the Monitor.
- (b) Copies of all available existing lease agreements shall be provided to the Monitor.
- (c) The Applicants' tenants' names, email addresses, phone numbers, and identification, to the extent available, shall be provided to the Monitor.
- (d) A list of all of the Applicants' tenants' methods of payment, including all pre-authorized payment methods, shall be provided to the Monitor.
- (e) Information concerning and the details of all government assistance programs directly deposited on behalf of the Applicants' tenants shall be provided to the Monitor, which shall include, to the extent available, the name of each tenant, the name of each case worker, the name of the applicable assistance program, and the amount of monthly program assistance.
- (f) All current ledgers shall be provided to the Monitor, including 12-month historical tenant ledgers and tenant outstanding balances for both the Applicants' former and current tenants.
- (g) A list of all issued N1s and N2s, if applicable, shall be provided to the Monitor.
- (h) All current LTB Filling Numbers (tenant and landlord) shall be provided to the Monitor, including the contact information for each issuing law firm or paralegal, a list of all N4s and the applicable maturity dates, copies of all LTB notices of hearings and copies of all LTB judgements (including, eviction orders, payment plans, and section 78 orders).
- (i) The account numbers and bills per property owned by the Applicants for all utility providers shall be provided to the Monitor.
- (j) A list of all rented equipment per property owned by the Applicants shall be provided to the Monitor, including the unit address, item, term and applicable service provider.
- (k) All tax roll information per property owned by the Applicants shall be provided to the Monitor.
- (l) All outstanding minimum (or property) standards orders issued by local municipalities in respect of the Applicants' properties shall be provided to the Monitor.
- (m) Copies of all open contracts or work orders with vendors in respect of the Applicants' properties shall be provided to the Monitor.

- (n) Access to any key lockboxes on unit premises owned by the Applicants shall be provided to the Monitor.
- (o) All unit inspection reports in respect of the Applicants' properties shall be provided to the Monitor, including fire safety inspections, where applicable, for all units.
- (p) Copies of all active service agreements in respect of the Applicants' properties shall be provided to the Monitor.
- (q) All information pertaining to the Applicants' properties contained on property management software utilized by SID Management or SID Renos will be transferred to the Monitor.
- (r) All tenant application information in respect of the Applicants' properties shall be provided to the Monitor.
- (s) All former lease agreements for any of the Applicants' tenants in unresolved LTB hearings shall be provided to the Monitor, including all such former tenant names, email addresses, phone numbers, and copies of identification.
- (t) All of the Applicants' corporate and mailing addresses shall be changed to an address designated by the Monitor, including in respect of insurance and property taxes.
- (u) All of the Applicants' tenants that have been sent to collections (current and former) and the applicable collection agency shall be identified for the Monitor.
- (v) All marketing material for the Applicants' existing units shall be provided to the Monitor.
- (w) All existing outstanding workorders from the Applicants' tenants shall be provided to the Monitor.
- (x) Copies of all building permits and residential permits in respect of the Applicants and/or their properties shall be provided to the Monitor.
- (y) A list of all trades that performed work in the last year that remain under warranty shall be provided to the Monitor, including the name of the applicable vendors, the work performed, and a copy of the applicable warranties.
- (z) Any surveys in respect of the Applicants' properties shall be provided to the Monitor.
- (aa) All insurance certificates in respect of the Applicants' properties and an insurance loss run shall be provided to the Monitor.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	TUESDAY, THE 25 TH
)	
JUSTICE OSBORNE)	DAY OF JUNE, 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")

ANCILLARY ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") was heard this day by judicial videoconference via Zoom.

ON READING the Fourth Report of the Monitor dated June 11, 2024 (the "**Fourth Report**"), the Fifth Report of the Monitor dated June 17, 2024 (the "**Fifth Report**"), the Supplement to the Fifth Report of the Monitor dated June 23, 2024, the Affidavit of Robert Clark sworn June 20, 2024, the Expansion of Monitor's Powers Order of this Court dated June 25, 2024 (the "**Expansion of Powers Order**"), and such other materials that were filed, and on being advised that each of the affected parties consents to the granting of this Order, 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 one else appearing although duly served as appears from the affidavits of service, 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 terms used but not defined in this Order shall have the meaning given to them in the Fifth Report, the ARIO (as defined below) or the Expansion of Powers Order, as applicable.

STAY OF PROCEEDINGS

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including July 31, 2024.
4. **THIS COURT ORDERS** that the stay of proceedings in respect of the Additional Stay Parties pursuant to paragraph 14 of the Second Amended and Restated Initial Order dated March 28, 2024 (the “ARIO”) be and is hereby extended during the Transition Period and shall be automatically terminated upon the issuance of the Monitor’s Transition Period Termination Certificate.
5. **THIS COURT ORDERS** that until the issuance of the Monitor’s Transition Period Termination Certificate, no Proceeding shall be commenced against or in respect of any of the SID Companies, or their respective employees, advisors or representatives, or affecting their respective business or property, except with the prior written consent of the Monitor and the SID Companies, or with leave of this Court.

INVESTIGATION

6. **THIS COURT ORDERS** that none of the Applicants, the SID Companies and/or their respective principals and affiliates shall be required to take any further steps in connection with, or respond to any requests made pursuant to, paragraph 41(k) of the ARIO. Other than with respect to paragraph 41(k), nothing in this paragraph 6 shall derogate from the obligations of any Person under the ARIO.

7. **THIS COURT ORDERS** that, during the Transition Period, each of the Additional Stay Parties shall provide the Monitor with notice of the earlier of (i) seven (7) business days' prior to any closing date and (ii) the listing date, for the sale of any real property owned, directly or indirectly, by the applicable Additional Stay Party, provided that nothing in this paragraph 7 shall apply to such listings or sales previously identified for the Monitor and set out in the letter dated June 19, 2024 attached to the Affidavit of Robert Clark sworn June 20, 2024 as Exhibit "T".

APPROVAL OF MONITOR'S FIFTH REPORT AND ACTIVITIES

8. **THIS COURT ORDERS** that the Fifth 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.

GENERAL

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

10. **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.

**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

ANCILLARY ORDER

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre - North Tower
40 Temperance Street
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Tel: 416.818.3300
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Tel: 416.860.6572
jbellissimo@cassels.com

Lawyers for the Monitor

Appendix “C”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	FRIDAY, THE 30 TH
)	
JUSTICE CAVANAGH)	DAY OF AUGUST, 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")

ORDER
(RESTRUCTURING TERM SHEET AND DIP AMENDMENT)

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") was heard this day by judicial videoconference via Zoom.

ON READING the Seventh Report of the Monitor dated August 23, 2024 (the "**Seventh Report**"), the affidavit of Noah Goldstein sworn August 23, 2024 and the exhibits thereto, the affidavit of Ryan Jacobs sworn August 23, 2024 and the exhibits thereto, and such other materials that were filed, and on hearing the submissions of 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 Stephanie Fernandes dated August 23, 2024, 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 terms used but not defined in this Order shall have the meaning given to them in the Seventh Report.

STAY OF PROCEEDINGS

3. **THIS COURT ORDERS** that the Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated March 28, 2024 (the “**SARIO**”)) be and is hereby extended until and including October 31, 2024.

APPROVAL OF THE TERM SHEET

4. **THIS COURT ORDERS** that the restructuring term sheet (the “**Term Sheet**”), substantially in the form attached at Appendix “C” to the Seventh Report, be and is hereby approved, and that the Monitor is hereby authorized and directed to carry out its obligations under the Term Sheet, including, without limitation, facilitating the negotiation and settlement of the transactions contemplated therein and finalizing all documentation reasonably necessary to carry out such transactions, provided that nothing in this Order shall constitute an approval of any specific transaction or agreement contemplated by the Term Sheet, all of which shall be subject to further approval by this Court.

APPROVAL OF THE DIP AMENDMENT AGREEMENT

5. **THIS COURT ORDERS** that the DIP Amendment Agreement dated August 23, 2024 substantially in the form attached as Appendix “F” to the Seventh Report (the “**DIP Amendment Agreement**”), increasing the amount of the facility by \$3 million, plus interest, fees and expenses, be and is hereby approved, and that the Monitor is hereby authorized and directed, on behalf of the Applicants in accordance with the Expanded Powers Order, to enter into and perform the Applicants’ obligations under the DIP Amendment Agreement.

6. **THIS COURT ORDERS** that paragraphs 49, 52 and 55 of the SARIO be hereby amended to replace each reference to “\$12,000,000” with “\$15,000,000”.

APPROVAL OF THE MONITOR’S SEVENTH REPORT, ACTIVITIES AND FEES

7. **THIS COURT ORDERS** that the Seventh 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.

8. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, Cassels Brock & Blackwell LLP, as set out in the Seventh Report, be and are hereby approved.

GENERAL

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

10. **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.

**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

**ORDER
(RESTRUCTURING TERM SHEET AND DIP
AMENDMENT)**

CASSELS BROCK & BLACKWELL LLP
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Lawyers for the Monitor



Appendix “D”



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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	WEDNESDAY, THE 30 TH
)	
JUSTICE OSBORNE)	DAY OF OCTOBER, 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")

ORDER
(STAY EXTENSION)

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") was heard this day by judicial videoconference via Zoom.

ON READING the Eighth Report of the Monitor dated October 23, 2024 (the "**Eighth Report**"), and such other materials that were filed, and on hearing the submissions of 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 Stephanie Fernandes dated October 23, 2024, filed;

-2-

SERVICE AND DEFINITIONS

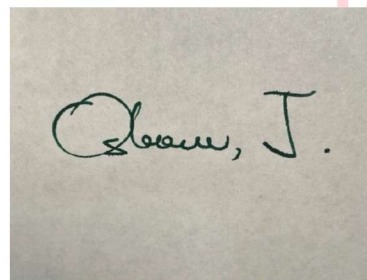
1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that terms used but not defined in this Order shall have the meaning given to them in the Eighth Report.

STAY OF PROCEEDINGS

3. **THIS COURT ORDERS** that the Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated March 28, 2024 (the “SARIO”)) be and is hereby extended until and including November 30, 2024.

GENERAL

4. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
5. **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.

A rectangular box containing a handwritten signature in dark ink, which appears to read "Osborne, J.". The signature is written in a cursive, somewhat stylized script.

Digitally signed
by Osborne J.
Date:
2024.10.30
17:12:29 -04'00'

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.

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

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST PROCEEDING COMMENCED AT TORONTO	
ORDER (STAY EXTENSION)	
Cassels Brock & Blackwell LLP Suite 3200, Bay Adelaide Centre - North Tower 40 Temperance Street Toronto, ON M5H 0B4 Ryan Jacobs LSO #:59510J Tel: 416.860.6465 rjacobs@cassels.com Shayne Kukulowicz LSO#:30729S Tel: 416.860.6463 skukulowicz@cassels.com Joseph J. Bellissimo LSO#: #46555R Tel: 416.860.6572 jbelissimo@cassels.com <i>Lawyers for the Monitor, KSV Restructuring Inc.</i>	



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00713245-00CL

DATE: October 30, 2024

NO. ON LIST: 1

**TITLE OF PROCEEDING: IN THE MATTER OF A COMPROMISE OR ARRANGEMENT OF
BALBOA INC. et al.**

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Joseph Bellissimo Stephanie Fernandes	Counsel for the Monitor – KSV Restructuring Inc.	jbellissimo@cassels.com
David Sieradzki	Monitor – KSV Restructuring Inc.	dseiradkzi@ksvadvisory.com

For Defendant, Respondent, Responding Party:


Name of Person Appearing	Name of Party	Contact Info
George Benchetrit David Im	Secured Lender Representative Counsel	george@chaitons.com dim@chaitons.com
Lauren Archibald	Receiver of The Lion's Share Group	Lauren.archibald@nortonrosefulbright.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE OSBORNE

- [1] The Court-appointed Monitor seeks an order extending the stay of proceedings to and including November 30, 2024.
- [2] The Monitor relies upon the Eighth Report dated October 23, 2024, together with Appendices thereto.
- [3] The Service List was served over a week ago. The motion is unopposed.
- [4] Defined terms in this Endorsement have the meaning given to them in the motion materials and/or earlier Endorsements I have made in this proceeding, unless otherwise stated.
- [5] Most recently, on June 25, 2024, I granted the Expanded Powers Order which, among other things, authorize the Monitor due to exercise the power of a board of directors or officers of the Applicants for various specified purposes, including the implementation of a process to transition the property and other management service providers of the Applicants.
- [6] On August 30, 2024, I approved the Restructuring Term Sheet and authorize the Monitor to negotiate and settle the transactions contemplated therein. It established deadlines of September 20, 2024 for first mortgagees and September 30, 2024 for second mortgagees, to submit credit bids for their respective properties.
- [7] In total, the Monitor received 323 credit bids, each accompanied by the required deposit. If approval is granted for those transactions - as will be sought in the coming weeks - 84 properties will remain portfolio.
- [8] Given the number of credit bids received and the economics of the remaining portfolio, the Monitor is working with stakeholders, including the DIP lender and Court-appointed representative counsel, to finalize the path forward.
- [9] I am satisfied that the stay extension is required to provide sufficient time to finalize financing and other arrangements in order that the Monitor would be in a position to seek the Credit Bid Vesting Order and related relief in respect of the go-forward management and liquidation of the remaining portfolio.
- [10] Such a stay extension is authorized by section 11.02(2) of the CCAA where the court is satisfied circumstances exist which make such an order appropriate, and the applicants have acted and are continuing to act in good faith and with due diligence.
- [11] I am further satisfied that the monitor is held to the good faith standard where it is acting pursuant to enhanced powers as what has been colloquially referred to as a "super monitor": *Forme Development Group Inc., Re*, CV-18-608313-00 CL, Endorsement dated February 20, 2020, and *Re Balboa Inc.*, CV-24-00713245-00 CL, Endorsement dated July 31, 2024.
- [12] The test in section 11.02 is met. The stay extension is granted.
- [13] Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.

 Osbourne, J.

Appendix “E”



ksv advisory inc.

220 Bay Street, Suite 1300

Toronto, Ontario, M5J 2W4

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ksvadvisory.com

November 20, 2024

Re: 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”)

The purpose of this notice is to provide the Applicants’ secured and unsecured creditors with an update on the Monitor’s intended next steps in these proceedings. In a notice dated October 23, 2024, the Monitor advised that it would be seeking approval of 323 credit bid transactions and related relief at a motion scheduled to be heard on November 26, 2024.

While the Monitor is continuing its efforts to finalize all aspects of the transactions that would be subject to court approval to complete the 323 credit bid transactions and replace the existing DIP facility, there are certain outstanding issues that remain to be resolved before court approval can be obtained. The Monitor remains intent on seeking court approval of these credit bid transactions and replacement of the existing DIP facility as soon as possible. The Monitor will seek an extension of the CCAA proceedings prior to the end of November, and will issue a notice to creditors as soon as it is in a position to confirm timing for a motion for approval of the credit bid transactions and related relief.

Court materials in these proceedings will continue to be made available on the Monitor’s website (<https://www.ksvadvisory.com/experience/case/SID>).

Yours truly,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS COURT-APPOINTED MONITOR 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.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “F”

(Unaudited; \$CAD in 000's)

		Week Ending					2 day period	
	Note	1-Dec-24	8-Dec-24	15-Dec-24	22-Dec-24	29-Dec-24	31-Dec-24	Total
<i>Receipts</i>								
Net rent collections	2	-	-	-	-	-	350	350
<i>Total Receipts</i>		-	-	-	-	-	350	350
<i>Disbursements</i>								
Repairs & Maintenance		(11)	(11)	(11)	(11)	(11)	(11)	(66)
Utilities		-	(30)	-	(30)	-	(30)	(90)
Insurance	3	-	-	-	-	(62)	-	(62)
Property Management Fees		-	-	-	-	-	(85)	(85)
Other		(5)	(5)	(5)	(5)	(5)	(5)	(30)
<i>Total Disbursements</i>		(16)	(46)	(16)	(46)	(78)	(131)	(333)
<i>Other Disbursements</i>								
Professional fees	4	-	(100)	-	-	-	(100)	(200)
<i>Total Other Disbursements</i>		-	(100)	-	-	-	(100)	(200)
<i>Net Cash Flow</i>		(16)	(146)	(16)	(46)	(78)	119	(183)
Opening Cash Balance		765	749	603	587	541	463	765
Net Cash Flow		(16)	(146)	(16)	(46)	(78)	119	(183)
Closing Cash Balance		749	603	587	541	463	582	582
DIP Facility balance		15,000	15,000	15,000	15,000	15,000	15,000	15,000

Notes to Projected Statement of Cash Flows

For the Period Ending December 31, 2024

(Unaudited; \$CAD)

Purpose and General Assumptions

1. The purpose of the projection is to present a cash flow forecast 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. (the "Applicants") for the period December 1, 2024 to December 31, 2024 (the "Period") in respect of the proceedings under the *Companies' Creditors Arrangement Act* ("CCAA").

The cash flow projection has been prepared based on hypothetical and most probable assumptions.

Hypothetical

2. Represents rents collected from tenants, net of certain property management fees.

Most Probable

3. Represents payments required to maintain the existing insurance policies over the portfolio.
4. Represents payments of certain accrued and unpaid professional fees throughout the projection period.

Appendix “G”

**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.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash-flow 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") as of the 21st day November, 2024, consisting of a weekly projected cash flow statement for the period December 1, 2024 to December 31, 2024 ("Cash Flow") has been prepared by the management of the Applicants for the purpose described in Note 1, using probable and hypothetical assumptions set out in the notes to the Cash Flow.

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

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

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

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon in preparing this report.

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

Dated at Toronto this 21st day of November, 2024.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR
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.
AND NOT IN ITS PERSONAL CAPACITY**