

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

B E T W E E N:

NATIONAL BANK OF CANADA

Applicant

- and -

**DROP TECHNOLOGIES INC. (FORMERLY KNOWN AS DROP LOYALTY INC.),
DROP TECHNOLOGIES USA INC., AND DROP TECHNOLOGIES HOLDINGS ULC**

Respondents

**APPLICATION UNDER SUBSECTIONS 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

FACTUM OF THE RECEIVER

December 7, 2025

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Receiver***

PART I – OVERVIEW

1. Drop Technologies Inc. (formerly known as Drop Loyalty Inc.), (“**Drop**”), Drop Technologies USA Inc. (“**Drop USA**”) and Drop Technologies Holdings ULC (“**Drop ULC**”, and together with Drop and Drop USA, the “**Debtors**”) operate a consumer loyalty rewards technology business (the “**Business**”). The Debtors have defaulted on the payment of their obligations to National Bank of Canada (“**NBC**”). NBC has brought an application to appoint KSV Restructuring Inc. (“**KSV**”) as receiver and manager over the assets, properties and undertakings of Drop and Drop ULC. The proposed receiver also seeks approval of a transaction pursuant to an approval and reverse vesting order (“**RVO**”).

PART II – FACTS

a) Background

2. Drop is a corporation organized under the laws of Canada. Drop ULC is a corporation organized under the laws of Alberta. The profile describes Drop Technologies Inc. as holding 100% of the voting shares of Drop ULC.¹ Derrick Fung (“**Derrick**”) is listed as a director of both Drop and Drop ULC.² Drop USA is a corporation organized in Delaware. Derrick is listed as president and director of Drop USA.³ Given the nature of the proposed transaction, it is not necessary to seek the appointment of a receiver over Drop USA. The Debtors operate a business, which is further described in the affidavit materials, that includes the following:

- (a) **Mobile App:** A mobile app that tracks consumers debit and credit card purchases and provides Drop points to consumers based on this spending. Drop points are either funded by external vendors/brands or by the Company itself. When consumers reach certain point thresholds, they are able to redeem points for rewards. Drop earns revenue from the sale of

¹ Karkoutlian Affidavit at para 5, and Exhibit “C”, Drop ULC Corporate Profile.

² Karkoutlian Affidavit at para 3, and Exhibit “A”, Drop Corporate Profile.

³ Karkoutlian Affidavit at para 4, and Exhibit “B”, Drop USA Annual Report.

"Drop points", which are points or reward units issued to their users on behalf of consumer merchants;

- (b) **Data revenue:** Drop collects debit and credit transactional data from its mobile application and through an arrangement with a US based consumer financial services company. This data collected provides visibility into consumer spending habits. It sells this data to various users, including hedge funds, investment banks, consulting firms and others. The data is sold as a service or piecemeal; and
- (c) **Channel partnerships:** Drop provides white label targeted Card Linked Offers ("CLO") services to customers of its channel partners (including financial institutions and/or credit card networks). Drop places campaigns with its channel partners who publish the CLOs to their clients. Drop earns a percentage commission on total merchant budget dollars spent through the marketing campaign which is shared with the channel partners.⁴

3. NBC understands that Drop has other business lines called "Cardify" and "Signals". Cardify describes itself as a leader in CLOs, while Signals describes itself as offering analytics on consumer spending trends.⁵ Pursuant to the IP Pledge (as defined below), the domain names "cardifyinternal.com" and "cardify.ai" are pledged to NBC.⁶

b) Loans to the Debtors and Related Security

4. Drop Loyalty Inc. originally entered into a Loan and Security Agreement (the "LSA") dated September 14, 2017, with Silicon Valley Bank ("SVB").⁷ The LSA was amended through several amendments; as amended, the "Loan Agreement".⁸

⁴ Karkoutlian Affidavit at paras 7-8, Exhibits "D" and "E", Screenshots from Drop's website and LinkedIn page.

⁵ Karkoutlian Affidavit at para 31, Exhibit "YY", Screenshots from Signals website.

⁶ Karkoutlian Affidavit at para 32.

⁷ Karkoutlian Affidavit at para 9, Exhibit "F", LSA.

⁸ These include a First Amendment to Loan and Security Agreement dated January 31, 2018; a Joinder and Second Amendment to Loan and Security Agreement dated September 13, 2019, in which Drop USA was added as a borrower to the LSA; a Third Amendment to Loan and Security Agreement dated December 8, 2020; a Waiver and Fourth Amendment to Loan and Security Agreement dated September 27, 2021; a Joinder and Fifth Amendment to Loan and Security Agreement dated January 12, 2022, in which Drop ULC was added as a borrower to the LSA; a letter amending agreement dated January 27, 2022 and a deferral agreement dated April 7, 2020; a Sixth Amendment to Loan and Security Agreement dated June 30, 2022; a Forbearance and Seventh Amendment to the Loan and Security Agreement dated May 8, 2024; an Eighth Amendment to the Loan and Security Agreement dated May 28, 2024; and a Ninth

5. In April 2023, NBC acquired SVB’s Canadian portfolio of loans. As part of this acquisition, NBC acquired the loans that SVB had made to the Debtors.⁹ Section 4.1 of the Loan Agreement grants a security interest in favour of NBC by each of the Debtors. As described below, the security interest was perfected by registration made under the *Personal Property Security Act* (Ontario) (the “PPSA”). NBC also obtained a pledge of the Debtors’ intellectual property (the “IP Pledge”). As described below, NBC amended its PPSA registration in Ontario, which initially excluded intellectual property from the collateral pledged by Drop. The registration was amended to include all of Drop’s Present and After-Acquired personal property.¹⁰

c) Summary of PPSA Searches and Other Creditors

i) PPSA Registrations made against Drop

6. The following is a summary of parties with registrations against Drop pursuant to the *Personal Property Security Act* (Ontario).

No.	Creditor	Reference File No.	Reg. Date	Collateral Classification
1.	Royal Bank of Canada	723317976	Dec. 12, 2016	A,O
2.	Silicon Valley Bank and assigned to National Bank of Canada	727789023	May 18, 2017	I, E, A, O, MV
3.	Silicon Valley Bank assigned to National Bank of Canada	735899418	January 24, 2018	I, E, A, O & MV
4.	Royal Bank of Canada	736427988	February 12, 2018	A & O
5.	Royal Bank of Canada	736601688	February 20, 2018	O
6.	Silicon Valley Bank	753839379	July 29, 2019	I, E, A, O, MV
7.	Silicon Valley Bank	778561506	Nov. 26, 2021	I,E,A,O, MV
8.	Kensington (Parallel) Venture Fund II, L.P.	506188899	June 7, 2024	I,E,A,O, MV

Amendment to the Loan and Security Agreement dated December 20, 2024. See Karkoutlian Affidavit, Exhibits “G”, “H”, “I”, “J”, “K”, “L”, “M”, “N”, “O” and “P”, Amendments to the LSA.

⁹ Karkoutlian Affidavit at para 11.

¹⁰ Karkoutlian Affidavit at para 13, Exhibits “Q” and “R”, Intellectual Property Pledge and Registration of Pledge.

No.	Creditor	Reference File No.	Reg. Date	Collateral Classification
9.	Drop Direct, LLC	506188872	June 7, 2024	I,E,A,O, MV
10.	Broader Media Holdings, LLC	506188845	June 7, 2024	I,E,A,O, MV
11.	Synchrony Financial	506188836	June 7, 2024	I,E,A,O, MV
12.	FF Sapphire Opportunity Fund II, LLC	506188818	June 7, 2024	I,E,A,O, MV
13.	Sierra Ventures XI, L.P.	506188791	June 7, 2024	I,E,A,O, MV
14.	Kensington Private Equity Fund	506188773	June 7, 2024	I,E,A,O, MV
15.	Rogue Insight Capital Ltd.	506188764	June 7, 2024	I,E,A,O, MV
16.	Royal Bank of Canada	506188755	June 7, 2024	I,E,A,O, MV
17.	Kensington Ventures Fund II, L.P.	506188746	June 7, 2024	I,E,A,O, MV
18.	New Enterprises Associates 16, L.P.	506188737	June 7, 2024	I,E,A,O, MV

7. In addition to the registrations above, there were only two registrations made against the former name of Drop, being Drop Loyalty Inc., in Ontario, being Royal Bank of Canada (“**RBC**”) and SVB.¹¹ With respect to the registration made by Royal Bank of Canada (“**RBC**”), SVB and RBC entered into a priority agreement in which SVB agreed to postpone its interest to the extent of any cash collateral held with RBC.¹²

8. SVB entered into subordination agreements with certain parties, being Rogue Insight Capital Ltd., New Enterprise Associates 16 L.P., Drop Direct, LLC, and HOF Capital CGI Fund (Cayman), LP.¹³ NBC is also aware of certain promissory notes entered into by Drop with Rogue Insight Capital Inc and Drop Direct LLC.¹⁴ SVB had also entered into a consent agreement dated June 22, 2023 in respect of certain subordinated debt.¹⁵ Further, for each of the registrants listed in the above chart, NBC entered into subordination agreements such that NBC has priority over each of the

¹¹ Karkoutlian Affidavit at para 21, Exhibit “PP”, PPSA Search against Drop Loyalty.

¹² Karkoutlian Affidavit at para 15, Exhibit “T”.

¹³ Karkoutlian Affidavit at para 16, Exhibits “V”, “W”, “X” and “Y”, Copies of Subordination Agreements.

¹⁴ Karkoutlian Affidavit at para 17, Exhibits “Z” and “AA”, Promissory Notes.

¹⁵ Karkoutlian Affidavit at para 17, Exhibit “BB”, Subordinated Debt Agreement.

creditors, including in respect of any intellectual property as defined in the IP Pledge.¹⁶ There are no registrations against Drop, or under the former name of Drop (being Drop Loyalty Inc.) under the *Personal Property Security Act* (Alberta).¹⁷ There are no Uniform Commercial Code filings against Drop or under the former name of Drop¹⁸ in New York or Delaware.¹⁹

ii) Drop ULC

9. NBC made a registration against Drop ULC under the *Personal Property Security Act* in both Ontario and Alberta. With respect to both registrations, the registration was made by SVB and then assigned to NBC.²⁰ There are no other registrations against Drop ULC in these jurisdictions.

iii) Writ Searches and Canada Revenue Agency

10. There are no writs registered against any of Drop USA, Drop ULC, or Drop in Ontario as of August 7, 2025.²¹ Drop signed a notice of assignment and direction, authorizing the Canada Revenue Agency to pay amounts from various tax refunds due to Drop, as detailed in the notice, to SVB.²²

D. Forbearance Period and Sales Process

11. Since May 2024, NBC has accommodated the Debtors by establishing a forbearance period pursuant to a forbearance agreement. The forbearance agreement terminated on April 1, 2025. The principal purpose of the forbearance agreement was to permit the Debtors a time period to carry out a sales and marketing process such that the Indebtedness could be repaid in full.²³ NBC and its

¹⁶ Karkoutlian Affidavit at para 18, Exhibits “CC”, “DD”, “EE”, “FF”, “GG”, “HH”, “II”, “JJ”, “KK”, “LL”, and “MM”, Copies of Subordination Agreements.

¹⁷ Karkoutlian Affidavit at para 19, Exhibit “NN”, PPSA Search.

¹⁸ The former name is Drop Loyalty Inc.

¹⁹ Karkoutlian Affidavit at para 20, Exhibit “OO”, New York and Delaware Searches.

²⁰ Karkoutlian Affidavit at paras 22-23, Exhibit “QQ” and “RR”, Alberta and Ontario searches.

²¹ Karkoutlian Affidavit at para 27, Exhibit “VV”, Writ Searches.

²² Karkoutlian Affidavit at para 28, Exhibit “WW”, Notice of Assignment and Direction.

²³ Karkoutlian Affidavit at para 33.

financial advisor, KSV Advisory Inc. (“**KSV**”), have engaged in numerous discussions with the Derrick and representatives of the Debtors’ Board of Directors concerning their proposed business plan, and the sales process.²⁴ The Debtors retained Raymond James Ltd. (“**Raymond James**”) as their investment banker for the purpose of marketing their business for sale. The sales process is further described below.

12. Throughout the forbearance period, NBC granted the Debtors several accommodations, including deferring all payments of principal and substantially all payments of interest, legal and professional fees.²⁵ However, the Debtors were required to comply with various reporting obligations, including providing NBC with a monthly variance report. The Debtors were consistently late in complying with their reporting obligations. Further, as part of their obligations under the forbearance agreement, the Debtors were required to move all of their bank accounts (other than a U.S. based account) to NBC. The Debtors have failed to do so.²⁶

E. Expiry of Forbearance Period, Demands and Difficulties

13. The forbearance period expired on April 1, 2025. On March 28, 2025, NBC forwarded a copy of the Tenth Amendment to the LSA (the “**Forbearance Agreement**”) to Derrick. NBC followed up with Derrick multiple times. The Debtors did not execute the Forbearance Agreement.²⁷

14. On May 9, 2025, NBC advised Derrick that due to the Debtors’ failure to complete a sale of the business, and given that there was no imminent closing of a sale transaction, that during the proposed further forbearance extension being discussed at the time, NBC would require the Debtors

²⁴ Karkoutlian Affidavit at para 34.

²⁵ Karkoutlian Affidavit at para 37.

²⁶ Karkoutlian Affidavit at para 38.

²⁷ Karkoutlian Affidavit at para 34.

to secure capital injections and pay monthly interest payments.²⁸ On May 21, 2025, NBC proceeded to make a formal written demand on the Debtors for payment of the amounts owed to NBC under the credit facilities (the “**Demand Letters**”) accompanied by notices of intention to enforce security (the “**BIA Notices**”) pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada).²⁹ As of May 21, 2025, the following amounts are owing by the Debtors to NBC for principal and interest (together with costs (including, without limitation, legal fees and expenses) and accruing interest, the “**Indebtedness**”):³⁰

	Principal	Interest	Total
Credit facility loan # 10078335	US\$6,545,454.57	US\$731,181.80	US\$7,276,636.37
Professional Fees	CAD\$140,322.65		CAD\$140,322.65

15. On June 5, 2025, NBC’s lawyers, Aird & Berlis LLP, sent a letter to the Debtors. The letter stated that the Debtors have not been able to demonstrate access to fresh capital to address continuing cash losses, and that NBC understood from Derrick that the Debtors were not prepared to inject any funds into the business. In its letter, NBC further requested, amongst other things, that the Debtors and its employees cooperate with NBC to facilitate a sale and/or refinancing of the Debtors’ business as well as a technology audit.

16. On June 5, Derrick advised NBC that the Debtor’s cash flow had improved, and it could begin making debt service payments of \$35,000 per month immediately, without a significant strain to the business. On June 16, 2025, Derrick advised NBC that the Debtors could begin making a payment of \$50,000 per month commencing in July 2025. In accordance with the above, the Bank

²⁸ Karkoutlian Affidavit at para 40, Exhibit “AAA”.

²⁹ Karkoutlian Affidavit at para 42, Exhibit “BBB”.

³⁰ Karkoutlian Affidavit at para 43.

swept a sum of \$40,000.³¹ On July 14, 2025, NBC sent Derrick an amended and restated forbearance agreement, an engagement letter for a technology audit, a consent to a proceeding under the BIA and CCAA, and a request that the Debtors provide an update to the intellectual property listing for the IP Pledge.³² The Debtors did not sign the Forbearance Agreement or the engagement letter. Despite NBC's request for a technology audit, the Debtors have not complied with this request. Further, they did not provide an updated listing of the Debtors' intellectual property.³³

17. On August 15, 2025, Derrick sent NBC an update regarding the company's financial position. He advised amongst other things that, several key clients have notified of substantial budget cuts; the CTO had resigned from his role as of August 8th; a key channel partner notified the Debtors of a potential service shut-off unless an immediate payment was made; and the company's credit cards were cancelled.³⁴ In his email, Derrick acknowledged that they needed to act swiftly to preserve value for stakeholders, and options included flexibility by NBC on its requirement that monthly interest payments be made and raising equity through a crowdfund, or a controlled wind-down of the Debtors and transition into receivership.³⁵ As of the date of this application, the Debtors are illiquid and the business is unable to continue to operate in the normal course of business.

F. Summary of Sales Process

18. The Company retained Raymond James in August 2024. Raymond James is an investment bank with significant experience in the technology sector. From August 2024 to mid-2025, Raymond James canvassed 73 prospective purchasers and investors, made information available to prospective

³¹ Karkoutlian Affidavit at para 45, Exhibit "DDD", Email from Derrick.

³² Karkoutlian Affidavit at para 46, Exhibit "EEE", Email from NBC to Derrick.

³³ Karkoutlian Affidavit at para 47.

³⁴ Karkoutlian Affidavit at para 48, Exhibit "FFF", Email from Derrick.

³⁵ Karkoutlian Affidavit at para 49.

purchasers in an online data room and arranged management meetings for several prospective purchasers. NBC, with the assistance of KSV, monitored the Sale Process and received updates from Raymond James regarding its efforts. Of the parties that participated in the Sale Process, 22 executed confidentiality agreements and performed due diligence. Prospective purchasers were advised that the assets available to be acquired included the Company's business, assets and tax attributes, including non-capital losses estimated to total approximately C\$140 million.³⁶

19. A total of four parties (including the Purchaser) submitted expressions of interest at various times during the Sale Process. Company A (anonymized) submitted a non-binding LOI on January 27, 2025, and Company B (anonymized) submitted a non-binding LOI on September 12, 2025. Both parties withdrew their LOIs shortly after conducting further diligence.³⁷ In November 2025, the Purchaser and Company C (anonymized) remained interested in completing a transaction, but neither was able to submit a definitive offer as they had not had the opportunity to complete due diligence and/or their offers remained conditional primarily on financing and review of additional information concerning the business.³⁸

20. Throughout the Sale Process, the Company's financial position eroded materially, and by October 2025 had become untenable, which created urgency to complete a transaction. As a result, on November 14, 2025, Raymond James, in consultation with the Company and NBC, sent the two parties that remained interested in the opportunity a letter (the "**Offer Requirement Letter**") requiring each party to submit a final and binding bid along with a non-refundable deposit by no later than Tuesday November 18, 2025 (the "**Bid Deadline**"). The parties were advised that upon

³⁶ Second Report at [para 5.0](#).

³⁷ Second Report at [para 5.0](#).

³⁸ Second Report at [para 5.0](#).

receipt of the offer and an acceptable non-refundable deposit, an offer would be selected, subject to certain approvals and consents required by NBC. Offers were received from the Purchaser and Company C. The Purchaser's offer was selected as it was for greater value and had fewer conditions.³⁹

21. Following closing of the Transaction, it is the intention of the Receiver to make distributions of the Transaction consideration to NBC as such consideration is received by the Receiver.

G. Summary of Proposed Transaction⁴⁰

22. The details of the transaction are further set out in the Second Report of the Proposed Receiver, with the key attributes described below:

- (a) **Purchaser:** a corporation incorporated pursuant to the laws of Delaware.
- (b) **Purchased Shares:** pursuant to the Subscription Agreement, the Receiver shall issue to the Purchaser, and the Purchaser shall subscribe for and purchase from the Receiver, free and clear of all Encumbrances (other than Permitted Encumbrances), 100% of the newly issued common shares of the Company (after the redemption and cancellation of all existing shares)
- (c) **Pre-Closing Reorganization:** Exhibit "A" to the Subscription Agreement provides the steps and transactions to be completed prior to closing (collectively, the "**Implementation Steps**"), which are summarized in the Receiver's Second Report.
 - (i) the Purchaser pays the Deposit to the Receiver;
 - (ii) the Receiver incorporates and organizes ResidualCo with nominal consideration for common shares;
 - (iii) ResidualCo is added to the Receivership Proceedings as a Debtor;

³⁹ Second Report at para 5.0.

⁴⁰ Unless otherwise defined herein in this section of the Factum, defined terms have the meaning provided to them in the [Subscription Agreement].

- (iv) One day prior to the Closing Date, the Purchaser shall have paid to the Receiver the Closing Payment, to be held in trust and released in accordance with these Implementation Steps;
- (v) Effective as of the Closing Time, the following steps shall take place sequentially in accordance with the Approval and RVO:
 - (A) all Employees designated by the Purchaser as Terminated Employees will be terminated by the Receiver;
 - (B) the Excluded Assets, the Excluded Contracts, and the Excluded Liabilities shall be transferred to, and vest in, ResidualCo;
 - (C) the Articles of Reorganization in respect of DTI shall be filed by the Receiver with the applicable Governmental Authority, and shall be deemed to be effective;
 - (D) the Existing Equity shall be redeemed and cancelled for no consideration pursuant to the Approval and RVO and the Articles of Reorganization;
 - (E) the Receiver shall issue the Purchased Shares to the Purchaser;
 - (F) the Purchase Price (other than the Retained Liabilities retained by the Purchased Entities) shall be released to the Receiver for the benefit of ResidualCo, and the Purchase Price payable at Closing shall be satisfied in accordance with the terms of the Subscription Agreement;
 - (G) the Receiver shall fund the Wind Down Reserve from the balance of the Deposit and the Closing Payment and hold such amount in trust for the benefit of the parties entitled thereto; and
 - (H) Closing shall be deemed to have occurred.
- (d) **Excluded Assets**: includes C\$150,000 of the Company's present cash balance, the Excluded Contracts and the shares and any other interest owned in Drop USA
- (e) **Retained Assets**: the shares of Drop ULC, Intellectual Property, equipment, Retained Contracts, Permits and Licenses, Books and Records, Business, tax losses, undertakings, any excise deposit held by Canada Revenue Agency, accounts receivables, and cash in the bank account at Closing, if any. The Retained Assets would not include the Excluded Assets (including the Excluded Cash) or the Excluded Contracts.
- (f) **Purchase Price**: the purchase price consideration is provided in the Receiver's Confidential Supplement to the Second Report. The components include the deposit, the excluded cash in the amount of \$150,000, cash due on closing, the retention of Retained Liabilities, the Financing Payment from the closing of the Equity Raise pursuant to the terms set out in the Subscription

Agreement and the collection of accounts receivable to a capped amount, and in respect of each Terminated Employee, an amount up to C\$2,000, subject to an aggregate cap of C\$15,000.

- (g) **Retained Liabilities**: the Purchaser will assume any and all liabilities related to the Retained Contracts and Retained Assets, as set out in Schedule “E” of the Subscription Agreement.
- (h) **Collection of Accounts Receivables**: The Purchaser shall use commercially reasonable efforts to collect outstanding accounts receivables of Drop up to a capped amount. If this threshold is not met, the Purchaser shall, within 15 days of the end of the last Collection Period, pay to the Receiver the difference between the agreed upon amount and the accounts receivable collected. This includes receivables collected between December 3, 2025 and the Closing Date.
- (i) **Employees**: the Receiver understands that the Purchaser intends to retain substantially all of the Company’s employees; provided, however, that the Purchaser shall have the right to identify employees that it wishes the Receiver to terminate on behalf of the Debtors prior to Closing.
- (j) **Excluded Liabilities**: consists of the Company’s debts and obligations other than the Retained Liabilities, which Excluded Liabilities shall be transferred to, and assumed in full by, ResidualCo. A non-exhaustive list of Excluded Liabilities is set out in Schedule “F” of the Subscription Agreement.
- (k) **Transfers to Residualco**: on the Closing Date, prior to the sale of the Purchased Shares, the Excluded Liabilities shall be assumed by ResidualCo through the RVO. With the benefit of the Wind Down Reserve, it is intended that ResidualCo will file an assignment in bankruptcy.
- (l) **Representations and Warranties**: consistent with the terms of a standard insolvency transaction, i.e., on an “as is, where is” basis, with limited representations and warranties.
- (m) **Material Conditions**: the only material conditions precedent are that the Court shall have issued the Appointment Order and the Approval and Reverse Vesting Order.
- (n) **Closing**: subject to Court approval, Closing is expected to occur on or prior to the Outside Date (defined in the Subscription Agreement as thirty days after the granting of the Approval and RVO, or such later date and time as the Parties may agree to in writing, each acting reasonably).

PART III – ISSUES

23. The issues on this Application and motion are:

- (a) Whether a receiver should be appointed over Drop and Drop ULC;
- (b) Whether the Reverse Vesting Order (RVO) should be approved;
- (c) Whether the distribution to NBC should be approved;

- (d) Whether KSV should be permitted to act as trustee in bankruptcy for Residual Co;
- (e) Whether the Sealing Order should be granted; and
- (f) Whether Aird & Berlis LLP can act as legal counsel to the Receiver.

PART IV- LAW & ARGUMENT

A. A Receiver Should Be Appointed Over Drop, Drop ULC, and ResidualCo

i) The Court has Jurisdiction to Appoint a Receiver

24. This Court has jurisdiction to appoint a receiver. Subsection 243(1) of the BIA provides that, on application by a secured creditor, a court may appoint a receiver to, *inter alia*, take possession over the assets of an insolvent person and exercise any control that the court deems advisable over that property and over the insolvent person's business, in circumstances where it is "just or convenient" to do so.⁴¹ Similarly, the *Court of Justice Act* ("CJA") enables the court to appoint a receiver where such appointment is "just or convenient".⁴²

ii) NBC has Complied with Technical Requirements

25. NBC has served the requisite notices pursuant to section 244 of the BIA.⁴³ The prescribed 10 day notice period has expired. KSV has consented to act as receiver.⁴⁴ Further, courts have recognized that where the secured creditor has enumerated rights to appoint a receiver, the burden

⁴¹ *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended [BIA], s. 243.

⁴² *Courts of Justice Act*, RSO 1990, c C.43, s. 101.

⁴³ Karkoutlian Affidavit at [para 42](#) and [para 62](#), [Exhibit "GGG"](#), KSV Consent

⁴⁴ Karkoutlian Affidavit at [para 42](#) and [para 62](#), [Exhibit "GGG"](#), KSV Consent

on the applicant is relaxed.⁴⁵ In such cases, the remedy sought is merely the applicant enforcing the terms of an agreement between the parties.⁴⁶

26. NBC has the contractual right to appoint a Receiver. Pursuant to section 8.1 of the LSA, an event of default occurs when the Borrower fails to pay any obligations within 3 business days after such obligations are due and payable.⁴⁷ Upon the occurrence of an event of default, pursuant to section 9.1(l), NBC may appoint a receiver and manager for all or any part of the collateral.⁴⁸ There is a clear event of default. The amount of Indebtedness remains outstanding and the Debtors cannot, and have not been servicing NBC's debt. Accordingly, the appointment of a receiver and manager in this case is not an extraordinary measure, as it is simply the result of enforcing the contractual terms to which the Debtors have already assented. Further, the appointment of a receiver is necessary to facilitate the proposed transaction.

iii) It is Just and Convenient to Appoint a Receiver

27. In determining whether it is "just or convenient" to appoint a receiver under either the BIA or the CJA, the court can take into account all of the circumstances, such as the costs, preservation of the security, and the relationship between the debtor and its creditors.⁴⁹ As recently summarized by this Court in *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*,

⁴⁵ *Elleway Acquisitions Ltd. v. The Cruise Professionals Ltd.*, 2013 ONSC 6866 at para 27 and *iSpan Systems LP*, 2023 ONSC 6212 at para 31.

⁴⁶ *Elleway Acquisitions Ltd. v. The Cruise Professionals Ltd.*, 2013 ONSC 6866 at para 27 and *iSpan Systems LP*, 2023 ONSC 6212 at para 31.

⁴⁷ Karkoutlian Affidavit, [Exhibit "F"](#), LSA, [section 8.1](#) and as further amended by the Fifth Amendment to the LSA, [section 5.2](#).

⁴⁸ Karkoutlian Affidavit, [Exhibit "F"](#), LSA, [section 9.1\(a\)](#).

⁴⁹ *Bank of Nova Scotia v. Freure Village on Clair Creek*, 1996 CanLII 8258 at para 10 and para 12 (ONSC); *Elleway Acquisitions Ltd. v. The Cruise Professionals Ltd.*, 2013 ONSC 6866 at para 26.

various factors are historically considered in determining whether a receiver should be appointed.

The court laid out these factors as follows:

- (a) whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- (b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- (c) the nature of the property;
- (d) the apprehended or actual waste of the debtor's assets;
- (e) the preservation and protection of the property pending judicial resolution;
- (f) the balance of convenience to the parties;
- (g) the fact that the creditor has a right to appointment under the loan documentation;
- (h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- (i) the principle that the appointment of a receiver should be granted cautiously;
- (j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- (k) the effect of the order upon the parties;
- (l) the conduct of the parties;
- (m) the length of time that a receiver may be in place;
- (n) the cost to the parties;
- (o) the likelihood of maximizing return to the parties; and
- (p) the goal of facilitating the duties of the receiver.⁵⁰

28. It is not essential that the moving party establish, prior to the appointment of a receiver, that it will suffer irreparable harm or that the situation is urgent.⁵¹ It is just and convenient in the

⁵⁰ *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, 2022 ONSC 6186 at para 25.

⁵¹ *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039 at para 21.

circumstances to appoint a Receiver. The Debtors have failed to repay the Indebtedness, they have not provided NBC with a plan to repay the Indebtedness, and they are not working on one. The appointment of a receiver will facilitate the proposed transaction.

B. The Purchase Agreement and the Proposed Transaction Should be Approved

i) The Pre-Filing Sales Process Should be Approved

29. When a court is asked to approve a transaction in a receivership proceeding, the court must consider the following principles established in *Royal Bank of Canada v. Soundair Corp.*:⁵²

- (a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
- (b) whether the interests of all parties have been considered;
- (c) the efficacy and integrity of the process by which offers are obtained; and
- (d) whether there has been an unfairness in the working out of the process.

30. Absent clear evidence that a proposed sale is improvident or that there was an abuse of process, a court is to grant deference to the recommendation of a receiver to sell a debtor's assets. Only in such exceptional circumstances will a court intervene and proceed contrary to the recommendation of its officer, in this case, the Receiver.⁵³ The same principles apply in evaluating a transaction resulting from a pre-filing and post-filing sales process. The Court will still apply the *Soundair* principles, but it will also consider the business' economic realities and the proposed transaction.⁵⁴ As Justice Morawetz stated in *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, such quick flip sales are approved where:

⁵² 1991 CanLII 2727 (ON CA) [*Soundair*].

⁵³ *Soundair* at para 58.

⁵⁴ *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009 at para 33.

- (a) an immediate sale is the only realistic way to provide maximum recovery for a creditor who stands in a clear priority of economic interest to all others; and
- (b) delay of the transaction will erode the realization of the security of the creditor in sole economic interest.⁵⁵

31. The *Soundair* principles have been met here.

- (a) **Sufficient effort was made to obtain the best price and the Receiver did not act improvidently.** Raymond James who has significant experience in the technology sector ran a process from August 2024 to mid-2025, in which 73 prospective purchasers were canvassed. 22 parties executed confidentiality agreements. KSV, acting as advisor to NBC, was monitored the Raymond James process and corresponded with Raymond James during that process.
- (b) **The interests of all parties are best served by the transaction.** The proposed transaction will preserve the Company's business, and is anticipated to result in the retention of certain employees. NBC, the Debtors' only creditor with an economic interest in the transaction, consents to this transaction, notwithstanding the value of the transaction is materially less than the Indebtedness.
- (c) **The sale process was run efficaciously and with integrity.** Raymond James conducted an extensive process over many months. It made information available to prospective purchasers through an online data room. In recent weeks, due to the company's rapidly eroding financial position, there was an urgency in completing the transaction. The two parties that remained interested in completing the transaction were given the opportunity to submit a final and binding bid along with a non-refundable deposit.
- (d) **There was no unfairness.** There was an extended sales process. Given the economics of this Transaction, there would be no funds available for distribution to these creditors under any circumstance. The Receiver is not aware of any deemed trust claims being transferred to ResidualCo. Accordingly, NBC is the only creditor with an economic interest in the

⁵⁵ *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009 at para 33.

Transaction and there does not appear to be any prejudice to the parties that will become creditors of ResidualCo should the relief sought be granted.⁵⁶

32. Further, an immediate sale is the only realistic way to provide recovery in the circumstances.

As set out in the proposed Receiver's report:

- (a) The Company has significant negative cash flow which will require it to cease operating in the near term if the Transaction is not completed, resulting in the loss of any remaining goodwill associated with the business and the termination of any remaining employees.
- (b) Absent approval of the Transaction, there is no party prepared to continue to finance the company's operations, including NBC;
- (c) Critical vendor relationships need to be addressed immediately, including those integral to the continued operation of the business;
- (d) Continued uncertainty in the business has resulted in a substantial risk that key employees will resign;
- (e) There are no other viable options for the business that would result in a continuation of the business given the situation with the critical vendors. If the business does not resume operating in the very near term, the Company is likely to be liquidated forthwith;
- (f) Given the nature of the Company's assets, recoveries in a liquidation would be nominal and negative recoveries are possible.⁵⁷

33. Any delay in approval of this transaction will further erode recoveries for NBC. Further, in a "quick flip" scenario, as set out in *Re Tool-Plas*, the court should consider the "impact on various parties and assess whether their respective positions and the proposed treatment that they will receive in the "quick flip" transaction would realistically be any different if an extended sales process were followed."⁵⁸ The parties would realistically be in no better position even if a further extended sale process were undertaken. The opportunity was marketed for approximately 15 months.⁵⁹ There is no

⁵⁶ Second Report at para 10.0.

⁵⁷ Second Report at para 7.0.1.

⁵⁸ *Tool-Plas Systems Inc., Re* (2008), 2008 CanLII 54791 (ON SC) at para 15.

⁵⁹ Second Report at para 8.0.1.

money available to conduct a further process, including from NBC.⁶⁰ Absent a transaction, the Company will likely run out of liquidity in the near time, resulting in a liquidation.⁶¹ The Receiver is strongly of the view that further time marketing the business for sale will not result in a superior transaction and would be prejudicial to NBC, the Company's employees, and other stakeholders.⁶²

ii) This Court has Jurisdiction to Approve a Reverse Vesting Transaction

34. The purpose of a receivership is to facilitate the preservation and realization of assets for the benefit of creditors.⁶³ The British Columbia Court of Appeal in *British Columbia v. Peakhill Capital Inc.* that courts have jurisdiction to grant RVOs pursuant to section 243 of the *BIA*.⁶⁴ In this case, the proposed RVO structure would preserve certain business and tax attributes of the Company, which would enhance the transaction and is vital to the Purchaser.⁶⁵ For transactions involving an RVO structure, a court must also consider additional questions as set out in *Harte Gold Corp. (Re)*:

- (a) Why is the RVO necessary in this case?
- (b) Does the RVO structure produce an economic result at least as favourable as any other viable alternative?
- (c) Is any stakeholder worse off under the RVO structure than they would have been under any other viable alternative? And
- (d) Does the consideration being paid for the debtor's business reflect the importance and value of the licences and permits (or other intangible assets) being preserved under the RVO structure?⁶⁶

⁶⁰ Second Report at [para 8.1](#).

⁶¹ Second Report at [para 8.0.1](#).

⁶² Second Report at [para 8.1](#).

⁶³ *Hamilton Wentworth Credit Union Ltd. (Liquidator of) v Courtcliffe Park Ltd*, [1995 CanLII 7059](#) (ONSC) at [para 18](#), [1995] OJ No 1482.

⁶⁴ *British Columbia v. Peakhill Capital Inc.*, [2024 BCCA 246](#) at [para 22](#), leave to appeal refused [2024] S.C.C.A. No. 400.

⁶⁵ Second Report at [para 8.0.1](#).

⁶⁶ *Harte Gold Corp. (Re)*, [2022 ONSC 653](#) at [para 38](#) [*Harte Gold*].

35. *Harte Gold* has been applied in the context of receivership proceedings.⁶⁷ Each of the *Harte Gold* factors have been met. First, the RVO is necessary in these circumstances. The Company's tax attributes represent a valuable asset to the Purchaser and their acquisition is a key term of the Transaction.⁶⁸ Courts have recognized that preservation of certain tax attributes that would have otherwise been lost in a traditional vesting order transaction is an appropriate reason for the use of an RVO structure.⁶⁹

36. Consideration was given to whether a CCAA plan of arrangement could be used as an alternative. However, no party was prepared to sponsor a Plan given there is no value for any stakeholder in these proceedings other than NBC. Additionally, the costs involved in preparing a plan and conducting a claims process would be wasteful in the circumstances as NBC is the only creditor with an economic interest. The Receiver understands that NBC would not fund such a process, including the Company's operations during the process, which would need to include significant amounts to pay the arrears owing to critical vendors. The delay and uncertainty on the Company's business resulting from a Plan process would also cause employees to consider employment opportunities with a more stable employer. The RVO effectively provides all the benefits of a Plan, while providing more certainty, with less cost, risk and instability.⁷⁰

37. Second, the RVO structure would provide an economic result at least as favourable as any other viable alternative. The RVO allows for the expedient conveyance of the Retained Assets and

⁶⁷ See *Bank of Montreal v Haro-Thurlow Street Project Limited Partnership*, 2024 BCSC 1722 at para 31.

⁶⁸ Second Report at para 8.1.

⁶⁹ See *Quest University Canada (Re)*, 2020 BCSC 1883 at paras 136 (referring to the RVO granted in *Re Comark Holdings Inc et al*, (July 13, 2020), Toronto CV-20-00642013-00CL (Ont. SCJ [Commercial List]) to preserve tax attributes) and 142 (referring to the RVO granted in *JMB Crushing Systems Inc. (Re)*, 2020 ABQB 763 to preserve both licenses and tax attributes). See also *Nuance Pharma Ltd. v. Antibe Therapeutics Inc. et al.*, Proposed Receiver and Applicant's Compendium dated December 7, 2025 ("Applicant's Compendium"), Tab 3.

⁷⁰ Second Report at para 8.1.

the Company's tax attributes to the Purchaser. Without an RVO, the ability to transfer the tax attributes would be at risk. NBC has advised the Receiver that it is not prepared to continue to fund the Company, meaning the Company's business and assets would need to be liquidated if the Transaction is not completed, resulting in a loss of employment, and nominal (if any) recoveries to NBC, as discussed above. The issuance of an RVO is a material condition of the Subscription Agreement and is integral to completing the Transaction. Further, as set out above, there does not appear to be any alternative viable option to this transaction, given that there is no money to conduct a further sales process.

38. Third, in the Receiver's view, no stakeholders are prejudiced by the issuance of an RVO relative to their treatment and outcome under any other viable option (if any). In particular, the claims and liabilities being transferred to ResidualCo are unsecured and/or would receive no distribution under any transaction structure. Given the value of NBC's secured claims, and its significant projected shortfall, there would be no funds available for distribution to any of the Company's creditors subordinate to NBC under any other realization scenario.⁷¹

39. The proposed transaction would cancel the interests of shareholders in Drop. However, stakeholders are no worse off under this scenario. The alternative scenario would be a liquidation, and given the amount of debt owed to NBC, there is no foreseeable recovery to equity holders in a liquidation scenario. This Court has granted similar relief in a RVO.⁷²

40. Fourth, the consideration being paid for the debtor's business reflects the importance and value of the licenses and permits (or other intangible assets) being preserved under the RVO structure. In

⁷¹ Second Report at para 8.1.

⁷² See *Nuance Pharma Ltd. v. Antibe Therapeutics Inc. et al.*, Applicant and Proposed Receiver's Compendium, Tab 3.

the proposed Receiver's view, the value of the Company's tax attributes being preserved under the RVO structure is a critical consideration in structuring the Transaction. The consideration being paid by the Purchaser is directly attributable to their importance and value, which provides the best available outcome for stakeholders, including NBC, the Company's employees and vendors.⁷³

C. Approval of Cash Distribution

41. The proposed RVO also contemplates that the proposed Receiver be authorized to distribute to NBC such proceeds from the transaction at ResidualCo as the Receiver may determine, subject to the retention of the Winddown Reserve. Orders granting interim distributions are routinely granted in insolvency proceedings.⁷⁴ In *Re Abitibowater Inc.*, Justice Gascon considered factors as to whether to grant an interim distribution under the *Companies Creditors Arrangement Act*. These include whether: (a) the payee's security is valid and enforceable; (b) the amounts owed to the payee exceed the distribution; and (c) the distribution would result in interest savings.⁷⁵

42. The Receiver has obtained an independent security opinion from Chaitons LLP confirming the validity of NBC's security in Ontario, subject to the usual qualifications assumptions and disclaimers expected with such an opinion. The Receiver is in the process of obtaining an opinion for Alberta.

D. KSV Should be Authorized to act as Trustee in Bankruptcy for ResidualCo

43. The proposed RVO also contemplates that the Receiver is authorized to assign into bankruptcy ResidualCo after closing and naming KSV as trustee for the bankruptcy estate. The BIA permits receivers to also act as trustees in bankruptcy of the debtor, so long as at the time of such

⁷³ Second Report at [para 8.1](#).

⁷⁴ See e.g., *Ontario Securities Commission v. Bridging Income Fund L.P.*, [2022 ONSC 4472](#) at paras [8](#) and [12](#).

⁷⁵ *Re Abitibowater Inc.*, [2009 QCCS 6461](#) at [para 75](#).

appointment and at the first meeting of creditors, this fact and the potential conflict of interest is disclosed.⁷⁶ This court has approved the appointment of receivers as trustees in proceedings where they had been appointed as receiver over the debtor.⁷⁷

E. Aird & Berlis LLP may be permitted to act as legal counsel where there is no conflict

44. The appointment order contemplates that the Receiver may retain legal counsel to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including NBC's counsel, Aird & Berlis LLP as long as there is no conflict of interest. The Receiver is to retain independent lawyers in respect of any issue where a conflict exists or may exist. The Court routinely grants such orders in the context of receiverships.⁷⁸ The Receiver has retained Chaitons LLP and MLT Atkins LLP to provide it with opinions on NBC's security.

F. A Sealing Order should be granted

45. The Proposed Receiver also seeks a sealing order with respect to the Confidential Supplement to the Second Pre-Filing Report (the "**Confidential Supplement**"). The Confidential Supplement contains, amongst other things, details of the purchase price, the personal information of equity holders in Drop, and the names of Drop's customers. Temporary sealing relief is sought in respect of the terms of the transaction, while permanent sealing relief is sought in respect of commercial terms of the transaction and the identities of the shareholders.

⁷⁶ BIA, s. 13.3(2).

⁷⁷ *Pinnacle v. Kraus*, 2012 ONSC 6376 at paras 5-6; *HSBC Bank Canada v Kupritz*, 2011 BCSC 788 at para 4.

⁷⁸ See e.g., *MarshallZehr Group Inc. v. La Pue International Inc.*, Order (appointing receiver) at para 24, dated October 19, 2023, bearing Court File No. CV-23-00700695-00CL, Tab 1 of the Applicant and Proposed Receiver's Compendium Compendium and *Care Lending Group Inc. v. 1000209217 Ontario Ltd.*, Order (appointing Receiver) at para 28 dated June 21, 2024, Court File No. CV-24-00000103-0000, Tab 2 of the Applicant and Proposed Receiver's Compendium.

46. The applicable legal test is that the party seeking such relief must establish that: (a) court openness poses a serious risk to an important public interest; (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.⁷⁹ This Court has granted sealing orders in respect of commercial information that could negatively impact any sales process in the event that the proposed transaction does not close and the property must undergo another marketing process.⁸⁰ This Court has further held that, in such circumstances, there is no reasonable alternative to a sealing order; stakeholders will not be materially prejudiced; and any deleterious effects are outweighed by the benefits of granting such relief.⁸¹

47. Disclosure of the transaction terms provided in the Confidential Supplement could have a detrimental impact of any future sales process, should one be required. Once the transaction closes, there is no reason for this information to remain sealed. Permanent sealing the Debtors' customers names is sought because making them public could provide a commercial advantage to competitors of the Purchaser. Permanent sealing of the identities of DTI's shareholders is sought because this is personal information. In the case of all information for which sealing is sought, there is no reasonable alternative to the sealing order, and no stakeholders are materially prejudiced by the sealing order. The benefits of maximizing value for shareholders outweigh any deleterious effects of the relief sought.

⁷⁹ *Sherman Estate v. Donovan*, 2021 SCC 25 at para 38.

⁸⁰ *Ontario Securities Commission v. Bridging Finance Inc.*, 2022 ONSC 1857 at paras 50-53.

⁸¹ *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, 2023 ONSC 5911 at paras 104-107.

PART V – RELIEF SOUGHT

48. The proposed Receiver and Applicant respectfully requests that this Court grant the relief requested in the Receiver's motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th of December, 2025.

A handwritten signature in cursive script, appearing to read "Adrienne Ho", is positioned above a horizontal line.

Steven L. Graff / Adrienne Ho

**SCHEDULE “A”
LIST OF AUTHORITIES**

1. *Bank of Nova Scotia v. Freure Village on Clair Creek*, 1996 CanLII 8258 (ONSC)
2. *Elleway Acquisitions Ltd. v. The Cruise Professionals Ltd.*, 2013 ONSC 6866.
3. *iSpan Systems LP*, 2023 ONSC 6212.
4. *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, 2022 ONSC 6186.
5. *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039.
6. *Pinnacle v. Kraus*, 2012 ONSC 6376.
7. *HSBC Bank Canada v Kupritz*, 2011 BCSC 788.
8. *British Columbia v Peakhill Capital Inc.*, 2024 BCCA 246, leave to appeal refused, [2025 CanLII 38366](#) (SCC).
9. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, 2019 ONCA 508.
10. *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA).
11. *Harte Gold Corp. (Re)*, 2022 ONSC 653.
12. *Quest University Canada (Re)*, 2020 BCSC 1883, leave to appeal refused, [2020 BCCA 364](#).
13. *Bank of Montreal v Haro-Thurlow Street Project Limited Partnership*, 2024 BCSC 1722.
14. *Sherman Estate v. Donovan*, 2021 SCC 25.
15. *Ontario Securities Commission v. Bridging Finance Inc.*, 2022 ONSC 1857.
16. *JMB Crushing Systems Inc. (Re)*, [2020 ABQB 763](#)
17. *Romspen Investment Corporation v. Tung Kee Investment Canada Ltd. et al.*, 2023 ONSC 5911.
18. Nuance Pharma Ltd. v. Antibe Therapeutics Inc. et al. bearing Court File No. CV-24-00719237-00CL, Reverse Vesting Order and Endorsement dated January 29, 2025, Proposed Receiver and Applicant’s Compendium dated December 7, 2025 (“**Applicant and Proposed Receiver’s Compendium**”), Tab 3.
19. *MarshallZehr Group Inc. v. La Pue International Inc.*, Order (appointing receiver), dated October 19, 2023, bearing Court File No. CV-23-00700695-00CL, Tab 1 of the Applicant and Proposed Receiver’s Compendium

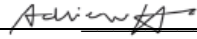
20. *Care Lending Group Inc. v. 1000209217 Ontario Ltd.*, Order (appointing Receiver) dated June 21, 2024, Court File No. CV-24-00000103-0000, Tab 2 of the Applicant and Proposed Receiver's Compendium

Certificate of Authenticity

I, Adrienne Ho, am satisfied as to the authenticity of every authority cited in the factum, in accordance with Rule 4.06.1(2.1) of the *Rules of Civil Procedure*, R.R.O, 1990, Reg. 194.

7- DECEMBER- 2025

DATE



Adrienne Ho

SCHEDULE “B” RELEVANT STATUTES

Bankruptcy and Insolvency Act (R.S.C., 1985, c. B-3)

PART XI

Secured Creditors and Receivers

Marginal note: Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person’s or bankrupt’s business; or
- (c) take any other action that the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

[...]

Courts of Justice Act, RSO 1990, c. C. 43

Interlocutory Orders

Injunctions and receivers

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Documents public

137 (1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

Sealing documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

Court lists public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document the person is entitled to see. R.S.O. 1990, c. C.43, s. 137.

NATIONAL BANK OF CANADA

- and -

DROP TECHNOLOGIES INC. et al.

Applicant

Respondents

Court File No. CV-25-00749775-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

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