



**First Report to Court of  
KSV Restructuring Inc. as Proposal  
Trustee of RGN British Columbia XXIII  
Limited Partnership**

December 9, 2020

<b>Contents</b>		<b>Page</b>
1.0	Introduction.....	1
1.1	Purposes of this Report.....	3
1.2	Currency .....	3
1.3	Restrictions .....	3
2.0	Background .....	4
2.1	Financial Position .....	5
2.1.1	Assets .....	5
2.1.2	Liabilities .....	6
3.0	Dealings with the Landlord.....	6
4.0	Cash Flow Forecast.....	7
5.0	Partnership’s Request for an Extension .....	7
6.0	Conclusion and Recommendation .....	8

## **Schedules and Appendices**

<b>Schedule</b>	<b>Tab</b>
CCAA Entities .....	A
LP Related Entities .....	B
<b>Appendix</b>	<b>Tab</b>
Certificate of Filing .....	A
Organizational Chart.....	B
Balance sheet as at September 30, 2020 .....	C
Letters to the Landlord.....	D
Cash Flow Forecast, Management’s and Proposal Trustee’s Reports on Cash Flow .....	E



COURT FILE NO.: 31-2688719

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
RGN BRITISH COLUMBIA XXIII LIMITED PARTNERSHIP  
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

PROPOSAL TRUSTEE'S FIRST REPORT TO COURT  
DECEMBER 9, 2020

## 1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as proposal trustee ("Proposal Trustee") in connection with a Notice of Intention to Make a Proposal ("NOI") filed on November 13, 2020 by RGN British Columbia XXIII Limited Partnership (the "Partnership") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"). A copy of the certificate of filing issued by the Office of the Superintendent of Bankruptcy is provided in Appendix "A".
2. The principal purpose of these proceedings is to create a stabilized environment where the Partnership Lease cannot be terminated due to bankruptcy proceedings commenced in Luxembourg by the guarantor of the Partnership Lease, being Redox Plc (f/k/a Regus Plc S.A.) ("Regus Plc"), and allow the continued construction of the Leased Premises and continued negotiations between the Partnership and the Landlord in order to allow the intended Occupant to occupy the premises, as discussed below (all capitalized terms are defined below).
3. On August 17, 2020 (the "U.S. Filing Date"), the following entities filed voluntary petitions for relief pursuant to chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware (the "U.S. Court"):
  - RGN-National Business Centers, LLC ("RGN-National" or the "Foreign Representative");
  - H Work, LLC (f/k/a HQ Global Workplaces LLC) ("H Work"); and
  - RGN-Group Holdings, LLC ("Holdings").

Collectively, RGN-National, H Work and Holdings are defined herein as the "Guarantor Debtors".

The proceedings before the U.S. Court involving the Chapter 11 Debtors are defined herein as the “Chapter 11 Proceedings” and the debtors subject to the Chapter 11 Proceedings, including the Guarantor Debtors, are defined herein as the “Chapter 11 Debtors”.

4. On August 18, 2020, the U.S. Court heard the Chapter 11 Debtors’ first day motions and granted certain orders (the “First Day Orders”).
5. On August 24, 2020, the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued the following orders pursuant to Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”):
  - a. the Initial Recognition Order (Foreign Main Proceeding) (the “Recognition Order”) which, *inter alia*, recognizes the Chapter 11 Proceedings as a “foreign main proceeding” and the Foreign Representative as the “foreign representative” as defined in section 45 of the CCAA. The Recognition Order stays all proceedings against the Guarantor Debtors; and
  - b. the Supplemental Order (Foreign Main Proceeding) which, *inter alia*, appoints KSV as Information Officer with respect to the Chapter 11 Debtors, grants a stay of proceedings as set out therein, and recognizes certain of the First Day Orders.
6. On August 28, 2020, the Foreign Representative sought an interim Order under section 49 of the CCAA extending the stay of proceedings to certain affiliates of the Chapter 11 Debtors until they could bring an application for protection under the CCAA (the “August 28<sup>th</sup> Relief”). The Court did not grant the August 28<sup>th</sup> Relief. Accordingly, on August 28, 2020, RGN Ontario II Limited Partnership (“RGN Ontario II”), an affiliate of the Partnership, filed an NOI and KSV was appointed as proposal trustee. The NOI for this entity was filed on an urgent basis as its business was at risk if its lease was terminated by its landlord, which opposed the August 28<sup>th</sup> Relief.
7. On August 31, 2020, the Court issued an Order granting Guardian Financial Corp. and the entities listed on Schedule “A” attached hereto (collectively, the “Company”) protection under the CCAA, extending the stay of proceedings over the limited partnerships (the “LPs”) listed in Schedule “B” attached hereto (together, the LPs and the Company are referred to as the “CCAA Debtors”) and appointing KSV as monitor in the CCAA proceedings (the “CCAA Proceedings”). On September 10, 2020, the Court granted an Order amending and restating the Initial Order (as amended and restated, the “CCAA Order”). Pursuant to an Order made on November 19, 2020, the Court extended the stay of proceedings under the CCAA Order until and including March 16, 2021.

8. On September 16, 2020, RGN Ontario XXXIV Limited Partnership (“RGN Ontario XXXIV”), another affiliate of the Partnership, filed an NOI pursuant to the BIA. KSV was also appointed as proposal trustee of RGN Ontario XXXIV. The NOI filings by the Partnership and by RGN Ontario XXXIV were precipitated by proceedings commenced on September 10, 2020 by Regus Plc, a Bailiwick of Jersey entity that is managed and controlled in Luxembourg. Regus Plc is the guarantor of the leases held by the Partnership and RGN Ontario XXXIV. Regus Plc commenced proceedings in Jersey to request assistance from the courts in Luxembourg and to obtain a bankruptcy order under the Luxembourg Commercial Code. Regus Plc does not carry on business in Canada. The Luxembourg Court appointed a trustee in bankruptcy in respect of Regus Plc on October 9, 2020.
9. On November 5, 2020, the Court granted an Order continuing the NOI proceedings commenced by RGN Ontario II under the CCAA Proceedings and extending all the rights, benefits and protections under the CCAA Order to RGN Ontario II as a “CCAA Debtor”.
10. On November 30, 2020, the Court granted an Order extending the time for RGN Ontario XXXIV to file a proposal until January 14, 2021.

## **1.1 Purposes of this Report**

1. The purposes of this Report are to:
  - a) provide background information about the Partnership and certain related entities;
  - b) summarize recent developments related to the Partnership Lease;
  - c) report on the Partnership’s weekly cash flow projections for the period December 7, 2020 to February 1, 2021 (the “Forecast”); and
  - d) recommend that the Court make an order granting the Partnership’s request for an extension of the time required to file its proposal, from December 14, 2020 to January 27, 2021.

## **1.2 Currency**

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

## **1.3 Restrictions**

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by representatives and financial advisors of the Partnership and related companies, the books and records of the Partnership and related companies and discussions with the Canadian counsel to the Partnership and related companies.

2. The Proposal Trustee has not performed an audit or other verification of such information. An examination of the Partnership's financial forecasts 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 on the Partnership's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Proposal Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report or relied upon by the Proposal Trustee in its preparation of this Report. The Partnership's business and operations may be affected by the Covid-19 pandemic and the effect of the pandemic on the Partnership may be material.

## 2.0 Background

1. The Partnership was formed on April 11, 2018 under the *Limited Partnerships Act*, R.S.O. 1990, c. L.16 (Ontario).
2. The Partnership holds a lease for premises located at 400 West Georgia, Vancouver, British Columbia (the "Partnership Lease"). Homer Street Office Properties Inc. is the landlord under the Partnership Lease (the "Landlord"). The Partnership Lease has a term of fifteen (15) years commencing nine months after the Landlord has delivered the premises to the Partnership (the "Delivery Date"). As discussed further in Section 3 below, construction of the premises is ongoing. The premises subject to the Partnership Lease are to comprise approximately 119,316 square feet over eight (8) floors (the "Leased Premises"). The Partnership is not required to pay rent prior to the Delivery Date. The Partnership has already arranged for most of the Leased Premises to be licensed to a major Occupant (as defined below).
3. The Partnership, RGN Ontario XXXIV and the CCAA Debtors are affiliates of Regus Corporation, a Delaware corporation, that, together with its affiliates (collectively, "IWG") offers a network of on-demand office and co-working spaces, and ancillary services and support, to a variety of clients across several industries in over 1,000 locations in the United States and Canada.
4. IWG is a multinational corporation, which operates over 3,300 locations across more than 110 countries. IWG's business model begins when one of its special purpose subsidiaries or affiliates (the "SPE") enters into a long-term commercial real property lease with a landlord that provides the SPE with unoccupied office space (the "Centres"). IWG develops and engineers each of the Centres to meet the needs of individuals, companies and organizations that contract for use of portions of the Centres. IWG markets its Centres under different brand names, each tailored to appeal to different types of clients and those clients' specialized needs. These clients (the "Occupants", and each an "Occupant") enter into short-term licenses (each an "Occupancy Agreement") to use portions of the Centres, which are customizable as to duration, configuration, services and amenities. When operating successfully, the license payments from Occupants will exceed the combined cost of the underlying long-term lease, management cost and operating expenses of the Centre.

5. Each SPE is formed for the purpose of holding a lease. In certain cases, the SPE's obligations under the lease are partially or fully guaranteed by another IWG entity, such as the Guarantor Debtors or another IWG entity (this is the case with the Partnership – it is an SPE and the Partnership Lease is guaranteed by Regus Plc). The Occupancy Agreements are between the Occupants and an entity in the group that is not an SPE.<sup>1</sup> In Canada, most of the Occupants have contracted with RGN Management Limited Partnership ("RGN Management"). RGN Management directly pays substantially all of the costs and expenses related to the operation of the Centres on behalf of each SPE, with the exception of rent and certain other costs. Payment of rent is advanced by RGN Management to the SPE, which then pays its landlord.
6. The Guarantor Debtors were guarantors or were co-liable as original tenant-assignors of 653 Leases in total as of the U.S. Filing Date, including 85 Leases in respect of Centres located in Canada (the "Guaranteed Canadian Leases"). The Guarantor Debtors do not carry on business in Canada. Of the 85 Guaranteed Canadian Leases, approximately 39 of them provide, or may provide, that an insolvency filing by one of the Guarantor Debtors is an event of default, which may allow the respective landlord to terminate the lease with little or no notice. Similarly, the Partnership Lease provides that an insolvency filing by Regus Plc may allow the Landlord to terminate the Partnership Lease.
7. IWG, through Canadian SPE affiliates of the Chapter 11 Debtors, operates 137 Centres in Canada (the "Canadian Affiliates"). The Canadian Affiliates are not subject to the Chapter 11 Proceedings. The CCAA Debtors are a subset of the Canadian Affiliates.
8. A simplified organizational chart of IWG is provided in Appendix "B".
9. Further information concerning the CCAA Proceedings and Chapter 11 Proceedings is available on KSV's website at <https://www.ksvadvisory.com/insolvency-cases/case/rgn-national-business-centers>.

## 2.1 Financial Position

1. The Partnership's internally prepared and unaudited balance sheet as at September 30, 2020 is provided in Appendix "C". The balance sheet reflects a deficit of approximately \$70,000.

### 2.1.1 Assets

1. The Partnership's assets are limited – they include a sales tax receivable (\$6,000) and office furniture and equipment (\$191,000).

---

<sup>1</sup> From an accounting perspective, the economic interest is recorded in the SPE's financial statements.

### 2.1.2 Liabilities

1. The Partnership's creditors are RGN Management (\$268,000) in respect of advances to the Partnership, and the Landlord, in respect of the Partnership's obligations pursuant to the Partnership Lease.

## 3.0 Dealings with the Landlord

1. As more fully set out in the affidavit of Joshua Nicosia, Regus's North American General Counsel, sworn December 8, 2020, IWG has engaged with representatives of the Landlord regarding:
  - a) notices dated July 9, 2020 and August 24, 2020 from the Landlord advising of construction delays, reflecting a total delay to date of approximately 3 months and new estimated Delivery Dates of June 21, 2021 for seven (7) floors of the Leased Premises and August 18, 2021 for the remaining floor;
  - b) a notice of default issued by the Landlord on September 28, 2020 (the "Indemnity Default") in response to the commencement of insolvency proceedings by Regus Plc requiring the Partnership to post a security deposit in cash or by letter of credit to the Landlord of \$10 million, being the maximum liability under the indemnity that had previously been provided by Regus Plc. The Partnership responded by attempting to find mutually agreeable solutions with the Landlord that would allow the Partnership Lease to continue following completion of construction of the Leased Premises. The Partnership subsequently filed an NOI due to concerns that the Landlord may attempt to terminate the Partnership Lease;
  - c) an email from a representative of the Landlord on November 19, 2020 purporting to terminate the Partnership Lease due to the Indemnity Default (the "Termination Notice"); and
  - d) the validity of the Termination Notice given the stay of proceedings afforded to the Partnership under the BIA and concerns that the Landlord has been corresponding with the intended main Occupant of the Leased Premises for it to directly rent and occupy the Leased Premises. The latter could materially prejudice the Partnership's stakeholders, including IWG affiliates. Letters from the Partnership's counsel dated November 26, 2020 and December 7, 2020 responding to the Termination Notice are provided in Appendix "D".
2. Representatives of IWG have advised that they would like the opportunity to continue negotiating with the Landlord; however, the Landlord has advised that it does not have any intention to engage in further negotiation with IWG, and instead prefers to explore other opportunities. The Partnership believes this may involve commencing negotiations directly with the prospective Occupant of the Leased Premises.



## 4.0 Cash Flow Forecast

1. The Partnership has prepared the Forecast for the period ending February 1, 2021. As the Partnership Lease is in a rent-free period and the Partnership is conducting no other operations, the Forecast reflects nil receipts and disbursements.
2. The Forecast, together with Management's Report on the Cash-Flow Statement, as required by section 50.4(2)(c) of the BIA, and the Proposal Trustee's Report on the Cash Flow Statement, as required by section 50.4(2)(b) of the BIA, are provided in Appendix "E".

## 5.0 Partnership's Request for an Extension

1. The Partnership is seeking an extension of the time required to file its proposal to January 27, 2021. The Proposal Trustee supports the Partnership's request for the following reasons:
  - the Partnership has acted and is acting in good faith and with due diligence;
  - the Partnership's management has indicated that it may be able to make a viable proposal to its creditors if the extension is granted;
  - the extension would provide the Partnership with a further opportunity to engage in negotiations with the Landlord and address the alleged default under the Partnership Lease. If the Landlord intends to continue to assert its position that the Partnership Lease has been terminated notwithstanding the stay of proceedings afforded to the Partnership, it appears appropriate to the Proposal Trustee that the Landlord bring a motion to determine this dispute. If the Termination Notice is upheld, it could create a precedent for affiliates of the Partnership that could adversely affect the global restructuring of the various SPEs in creditor protection;
  - construction of the premises in respect of the Partnership Lease has not commenced. Accordingly, the extension should not adversely affect or materially prejudice any group of creditors, including the Landlord, particularly since the Partnership Lease is in a rent-free period; and
  - it would provide the Partnership with additional time it requires to restructure its affairs as part of a coordinated effort with its affiliates, including RGN Ontario XXXIV, the CCAA Debtors and the Chapter 11 Debtors. It is premature to determine that the Partnership will be unable to restructure its obligations under the Indemnity Default – many of the Partnership's affiliates are similarly situated and are making progress with landlords to address this same issue.

## 6.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(d) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.  
IN ITS CAPACITY AS TRUSTEE UNDER THE  
NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
RGN BRITISH COLUMBIA XXIII LIMITED PARTNERSHIP,  
AND NOT IN ITS PERSONAL CAPACITY**

## **Schedule "A" – Additional Applicants**

RGN Alberta IV GP Inc.  
RGN Alberta GP Inc.  
RGN Alberta X GP Inc.  
RGN Alberta XIII GP Inc.  
RGN Alberta XIV GP Inc.  
RGN Alberta XVII GP Inc.  
RGN British Columbia XX GP Inc.  
RGN British Columbia XVI GP Inc.  
RGN British Columbia XXV GP Inc.  
RGN British Columbia XXIV GP Inc.  
RGN Manitoba II GP Inc.  
RGN Ontario II GP Inc.  
RGN Ontario L GP Inc.  
RGN Ontario LV GP Inc.  
RGN Ontario LVI GP Inc.  
RGN Ontario LVIII GP Inc.  
RGN Ontario LXII GP Inc.  
RGN Ontario XI GP Inc.  
RGN Ontario XLI GP Inc.  
RGN Ontario XLII GP Inc.  
RGN Ontario XLV GP Inc.  
RGN Ontario XLVI GP Inc.  
RGN Ontario XLVII GP Inc.  
RGN Ontario XLVIII GP Inc.  
RGN Ontario XXI GP Inc.  
RGN Ontario XXIV GP Inc.  
RGN Ontario XXIX GP Inc.  
RGN Ontario XXV GP Inc.  
RGN Ontario XXVIII GP Inc.  
RGN Ontario XXXI GP Inc.  
RGN Ontario XXXII GP Inc.  
RGN Ontario XXXIII GP Inc.  
RGN Quebec V GP Inc.  
RGN Quebec VI GP Inc.  
RGN Quebec XIV GP Inc.  
RGN Quebec XVI GP Inc.  
RGN Services Limited

## **Schedule “B” – Limited Partnerships**

RGN Alberta IV Limited Partnership  
RGN Alberta Limited Partnership  
RGN Alberta X Limited Partnership  
RGN Alberta XIII Limited Partnership  
RGN Alberta XIV Limited Partnership  
RGN Alberta XVII Limited Partnership  
RGN British Columbia XX Limited Partnership  
RGN British Columbia XVI Limited Partnership  
RGN British Columbia XXV Limited Partnership  
RGN British Columbia XXIV Limited Partnership  
RGN Manitoba II Limited Partnership  
RGN Ontario L Limited Partnership  
RGN Ontario LV Limited Partnership  
RGN Ontario LVI Limited Partnership  
RGN Ontario LVIII Limited Partnership  
RGN Ontario LXII Limited Partnership  
RGN Ontario XI Limited Partnership  
RGN Ontario XLI Limited Partnership  
RGN Ontario XLII Limited Partnership  
RGN Ontario XLV Limited Partnership  
RGN Ontario XLVI Limited Partnership  
RGN Ontario XLVII Limited Partnership  
RGN Ontario XLVIII Limited Partnership  
RGN Ontario XXI Limited Partnership  
RGN Ontario XXIV Limited Partnership  
RGN Ontario XXIX Limited Partnership  
RGN Ontario XXV Limited Partnership  
RGN Ontario XXVIII Limited Partnership  
RGN Ontario XXXI Limited Partnership  
RGN Ontario XXXII Limited Partnership  
RGN Ontario XXXIII Limited Partnership  
RGN Quebec V Limited Partnership  
RGN Quebec VI Limited Partnership  
RGN Quebec XIV Limited Partnership  
RGN Quebec XVI Limited Partnership

## **Appendix “A”**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2688719  
Estate No. 31-2688719

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

**RGN British Columbia XXIII Limited Partnership**  
Insolvent Person

**KSV RESTRUCTURING INC.**  
Licensed Insolvency Trustee

---

Date of the Notice of Intention: November 13, 2020

---

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

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

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

Date: November 13, 2020, 11:46

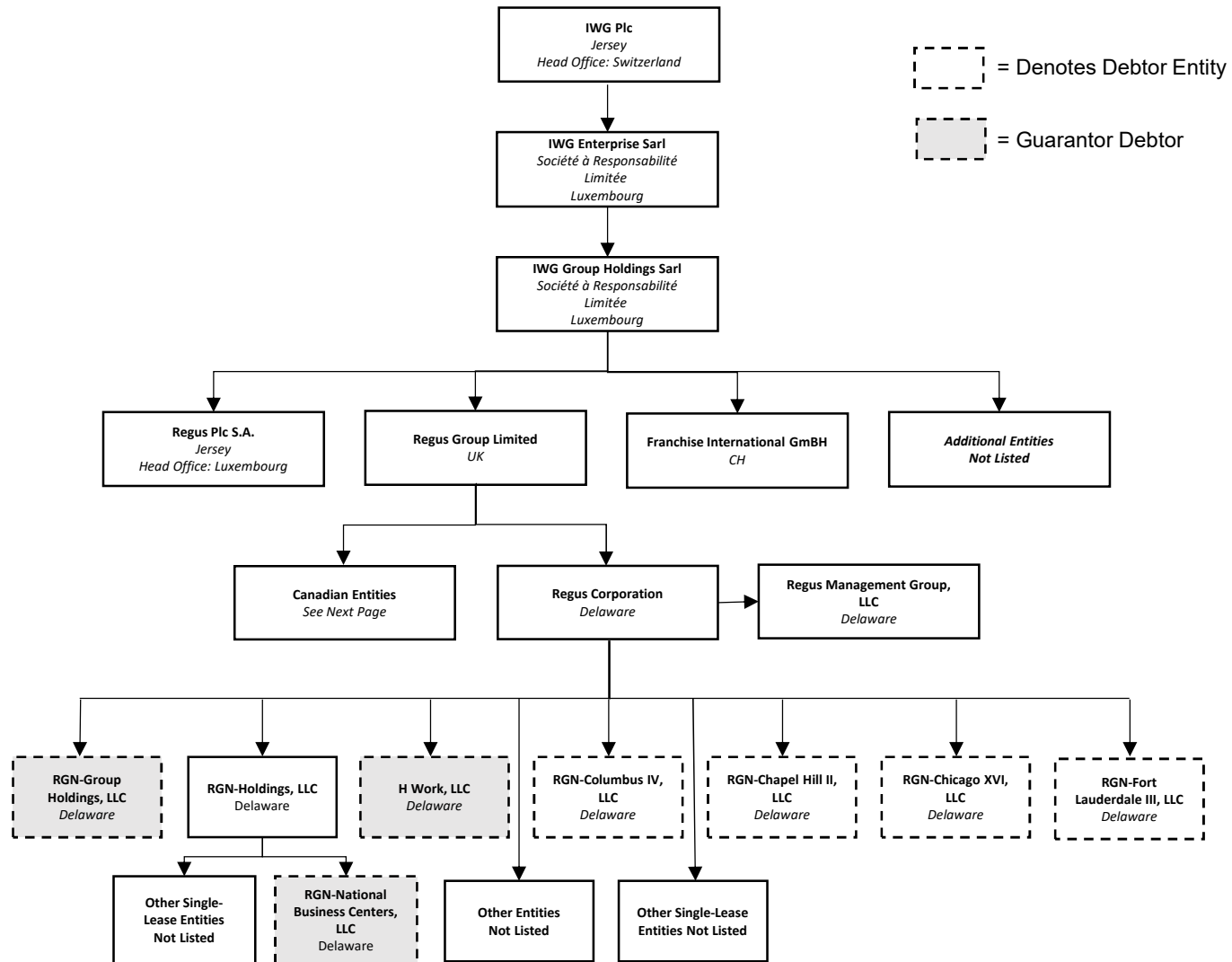
E-File/Dépôt Electronique

Official Receiver

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

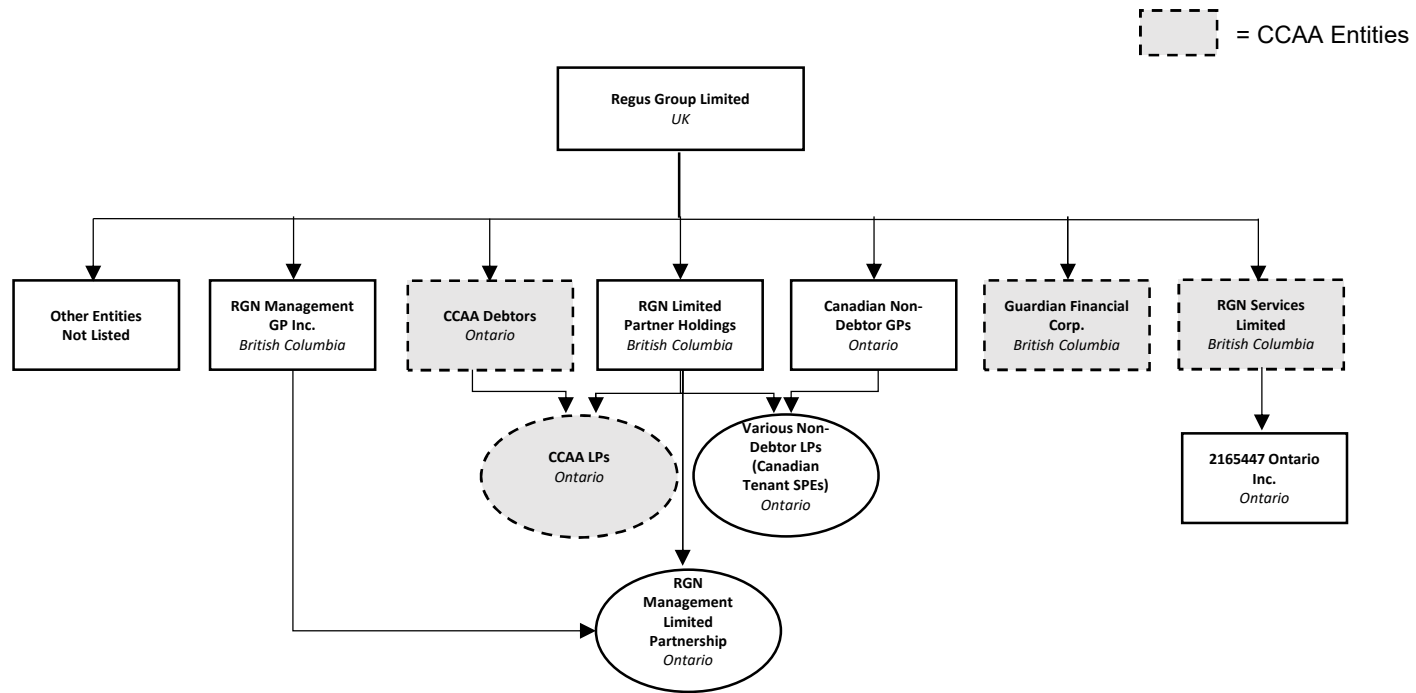
**Canada**

## **Appendix “B”**



\*all ownership is 100% unless otherwise noted





\*all ownership is 100% unless otherwise noted

## **Appendix “C”**

RGN British Columbia XXIII Limited Partnership

**Balance Sheet**

As at September 30, 2020

C\$, (unaudited)

---

Current Assets

    Prepaid expenses and other current assets 6,165

Property and equipment, net 191,278

**Total Assets** 197,443

Due to affiliates 267,545

Total Liabilities 267,545

Shareholders Equity

Share capital 711,000

Retained earnings (781,102)

Total Shareholders' Equity (70,102)

**Total Liabilities and Shareholders' Equity** 197,443

## **Appendix “D”**

# Stikeman Elliott

**Stikeman Elliott LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON Canada M5L 1B9

Main: 416 869 5500  
Fax: 416 947 0866  
www.stikeman.com

Lee Nicholson  
Direct: (416) 869-5604  
leenicholson@stikeman.com

November 26, 2020

**By E-mail**

Kornfeld LLP  
1100 One Bentall Centre  
505 Burrard Street, Box 11  
Vancouver, B.C. V7X 1M5  
Attention: E. Neil Kornfeld, Q.C.

Dear Mr. Kornfeld:

**Re: Lease dated August 31, 2018 (the "Lease") between Homer Street Office Properties Inc. (the "Landlord") and RGN British Columbia XXIII Limited Partnership (the "Tenant") in respect of premises at 400 West Georgia Street, Vancouver, B.C. (the "Leased Premises")**

We are counsel to RGN British Columbia XXIII Limited Partnership (the "**Tenant**"). We write in response to a notice of default dated September 28, 2020 and notice of termination dated November 19, 2020 issued by the Landlord purporting to terminate the Lease in respect of the Leased Premises.

On November 13, 2020, the Tenant filed a Notice of Intention to Make a Proposal (the "**NOI**") under section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"). A copy of the certificate confirming the filing is enclosed. KSV Restructuring Inc. was appointed as proposal trustee in respect of the Tenant (the "**Proposal Trustee**"). Notice of the NOI filing was mailed to your client.

Pursuant to section 69 of the BIA, there is a stay of proceedings in respect of the Tenant prohibiting creditors, including the Landlord, from exercising any rights and remedies against the Tenant during the NOI proceedings. Section 65.1 of the BIA further provides that no person is entitled to terminate any agreement of the insolvent person by reason only that the insolvent person is insolvent or a NOI has been filed in respect of the insolvent person. Accordingly, the Landlord acted in violation of the stay of proceedings and the purported termination of the Lease is null and void in all respects.

The Tenant remains willing to continue the ongoing discussions between the parties to find a mutually acceptable resolution for the benefit of the Landlord and the Tenant as part of the NOI proceedings. Given Landlord's actions and desire to terminate the Lease, the Tenant would be willing consider a full and final surrender of the Lease upon execution of mutual releases in favour of the parties, including the Tenant, the Landlord and the Indemnitor. Please let us know within the next five (5) days if this is of interest to your client.

If the parties are unable to reach a resolution, the Tenant reserves all rights to continue its efforts to develop a proposal for the benefit of its stakeholders, which, may, among other things, disclaim or assign the Lease in accordance with the BIA.

# Stikeman Elliott

Yours truly,

A handwritten signature in black ink, appearing to read "Lee Nicholson". The signature is fluid and cursive, with the first name "Lee" and the last name "Nicholson" clearly distinguishable.

Lee Nicholson

cc. A. Taylor, Stikeman Elliott LLP  
R. Kofman and M. Vininsky, KSV Restructuring Inc.  
S. Zweig, Bennett Jones LLP

# Stikeman Elliott

**Stikeman Elliott LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON Canada M5L 1B9

Main: 416 869 5500  
Fax: 416 947 0866  
www.stikeman.com

Lee Nicholson  
Direct: (416) 869-5604  
leenicholson@stikeman.com

December 7, 2020

**By E-mail**

Kornfeld LLP  
1100 One Bentall Centre  
505 Burrard Street, Box 11  
Vancouver, B.C. V7X 1M5

Attention: E. Neil Kornfeld, Q.C.

Dear Mr. Kornfeld:

**Re: Lease dated August 31, 2018 (the “Lease”) between Homer Street Office Properties Inc. (the “Landlord”) and RGN British Columbia XXIII Limited Partnership (the “Tenant”) in respect of premises at 400 West Georgia Street, Vancouver, B.C. (the “Leased Premises”)**

We are counsel to RGN British Columbia XXIII Limited Partnership. Capitalized terms not otherwise defined have the meaning set out in our letter dated November 26, 2020.

Further to our telephone conversation, we disagree with the Landlord’s position that the Lease was validly terminated following the filing of the NOI. We refer you to the decision of the Ontario Court of Appeal in *Crystalline Investments Ltd. v. Domgroup Ltd.* which sets out that upon filing of a NOI “the landlord’s rights against the insolvent tenant are suspended subject to the right to collect rent on a day-to-day basis following the date of the notice or proposal”. We also note that section 65.1(2) applies to cases where the debtor has failed to pay “rent, royalties... or other payments of a similar nature...” There have been numerous cases where the stay of proceedings provided in sections 65.1 and 69 of the BIA have been applied to prevent the termination of an agreement such as in this instance. For examples, please see *Nautical Data International Inc., (Re)* and *Cosgrove-Moore Bindery Services Ltd., (Re)*.

The decision in *Canadian Petcetera Ltd. Partnership v. 2876 R. Holdings Ltd.* (“*Petcetera*”) referred to in our conversation is not applicable to this situation as it solely addressed instances of post-filing defaults and payments, which is not the case in this situation. In any event, *Petcetera* is not the law in Ontario and we refer you to the decision in *Emergency Door Service Inc., (Re)*.

The Tenant will vigorously contest any effort by the Landlord to seek a declaration that the Lease has been validly terminated from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), which is overseeing the NOI proceedings.

As set out in our last letter, the Tenant wishes to continue the good faith discussions that were ongoing prior to the filing of the NOI and the purported termination of the Lease in order to develop a consensual resolution for the mutual benefit of the Tenant and the Landlord. It should be possible to develop a restructured replacement indemnity to replace the guarantee of Redox Plc., however, due to the various creditor protection proceedings involving Regus affiliates, a full letter of credit replacement is not possible in the current circumstances. If the Landlord remains unwilling to discuss a proposal that involves the Tenant continuing with the project, we would also consider options on a surrender of the Lease. Currently, we have concerns that the Landlord has taken advantage of the filing of Redox Plc to terminate the Lease and begin discussions with clients of the Tenant and its affiliates regarding their direct

# Stikeman Elliott

2

occupation of the Leased Premises without the involvement of the Tenant. If the Landlord takes steps to interfere with pre-existing arrangements between the Tenant and its clients, the Tenant reserves all of its rights and claims against the Landlord with respect thereto.

Lastly, the Tenant will be bringing a motion to extend the time for it to file a proposal in the NOI proceedings for another 45 days. We have reserved time before the Court on Monday, December 14, 2020 at 2:15 p.m. to seek such an extension. We will serve you with our materials when they are available.

Yours truly,

A handwritten signature in black ink, appearing to read "L. Nicholson". The signature is fluid and cursive, with the first letter of the first name being a large, stylized "L".

Lee Nicholson

cc. A. Taylor, *Stikeman Elliott LLP*  
R. Kofman and M. Vininsky, *KSV Restructuring Inc.*  
S. Zweig, *Bennett Jones LLP*



## **Appendix “E”**

RGN British Columbia XXIII Limited Partnership

**Projected Statement of Cash Flow**

For the Period Ending February 1, 2021

(Unaudited; C\$)

	Notes	Weeks Ending								Total
		14-Dec-20	21-Dec-20	28-Dec-20	04-Jan-21	11-Jan-21	18-Jan-21	25-Jan-21	01-Feb-21	
	1									
<i>Receipts</i>		-	-	-	-	-	-	-	-	-
<i>Disbursements</i>		-	-	-	-	-	-	-	-	-
<i>Net Cash Flow</i>		-	-	-	-	-	-	-	-	-

Note: The Proposal Trustee, counsel to the Proposal Trustee and counsel to RGN British Columbia XXIII Limited Partnership are to be paid their reasonable fees and disbursements by RGN Management LP, a Canadian affiliate that is not part of these proceedings. Accordingly, these amounts are not reflected in the cashflow.

These financial projections are based on management's assumptions detailed in Appendix "1-1".

The note references correspond to the assumption numbers shown in Appendix "1-1".

RGN British Columbia XXIII Limited Partnership



Per: \_\_\_\_\_

December 7, 2020

Date \_\_\_\_\_

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



Per: \_\_\_\_\_

December 9, 2020

Date \_\_\_\_\_

**Purpose and General Assumptions**

1. The purpose of the projection is to present a cash flow forecast of RGN British Columbia XXIII Limited Partnership (the "Partnership") for the period from December 7, 2020 to February 1, 2021 in respect of its proposal proceedings under the Bankruptcy and Insolvency Act.

The Partnership is not operating so there are no hypothetical and probable assumptions.

**Hypothetical Assumptions**

None.

**Probable Assumptions**

None.

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

The management of RGN British Columbia XXIII Limited Partnership (the "Partnership") has developed the assumptions and prepared the attached statement of projected cash flow of the Partnership for the period ending February 1, 2021

The hypothetical and probable assumptions are suitably supported and consistent with the purpose of the projection and the plans of the Partnership and provide a reasonable basis for the projection.

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

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

Dated at Toronto, this 7<sup>th</sup> day of December 2020.

**RGN British Columbia XXIII Limited Partnership**



\_\_\_\_\_  
Per:

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

The attached statement of projected cash-flow of RGN British Columbia XXIII Limited Partnership as of the 7<sup>th</sup> day of December, 2020, consisting of a weekly cash flow statement for the period December 7, 2020 to February 1, 2021, has been prepared by the management of the insolvent person for the purpose described in Note 1, using the probable and hypothetical assumptions.

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

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

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

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

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

Dated this 9<sup>th</sup> day of December, 2020.

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.  
IN ITS CAPACITY AS TRUSTEE UNDER THE  
NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
RGN BRITISH COLUMBIA XXIII LIMITED  
PARTNERSHIP  
AND NOT IN ITS PERSONAL CAPACITY**