Court File No.: CV-23-00703933-00CL

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 QUALITY RUGS OF CANADA LTD AND THE OTHER COMPANIES LISTED IN SCHEDULE A ATTACHED HERETO

Applicants

THIRD REPORT TO THE COURT OF

RSM CANADA LIMITED, IN ITS CAPACITY AS MONITOR OF THE APPLICANTS

OCTOBER 30, 2023

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Appendices

I. INTRODUCTION

1. On August 25, 2023, Quality Rugs of Canada Limited and the other companies listed in Schedule A attached hereto (collectively referred to herein as "**QSG**" or the "**Applicants**" or the "**Companies**") sought and obtained an initial order (the "**Initial Order**"), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), from the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). The Companies' proceedings pursuant to the CCAA are referred to herein as the "**CCAA Proceedings**".

2. The Initial Order, among other things:

   (a) appointed RSM Canada Limited ("**RSM**") as monitor (in such capacity, the **Monitor**);

   (b) granted a Stay of Proceedings against the Companies and Directors and Officers (as those terms are defined in the Initial Order) for the period to and including September 5, 2023 (the "**Stay Period**");

   (c) approved a debtor-in-possession credit facility (the "**DIP Facility**") from Ironbridge Equity Partners IV LP and Ironbridge Equity Partners (International) IV, LP (collectively, the **"DIP Lender"**) pursuant to which, among other things, the DIP Lender would provide an initial amount of up to $3,500,000 in accordance with the Cash Flow Forecast (as defined in the Monitor's First Report) to be advanced during the initial 10 days of the CCAA; and

   (d) granted the Administration Charge, Directors' Charge, DIP Lenders' Charge, Financial Advisor's Charge and Lien Charge (all defined in the Initial Order).

3. On September 5, 2023, the Initial Order was amended and restated (the "**ARIO**"), which, *inter alia*: (i) extended the Stay Period to October 31, 2023; and (ii) provided for borrowings under the DIP Facility to be increased to but not exceed $7 million, unless permitted by further order of the Court. A copy of the ARIO is attached hereto as **Appendix** "**A**".

4. On September 22, 2023, the Court issued an Endorsement (the "**September 22nd Endorsement**") addressing a letter sent to builder customers of QSG dated August 16, 2023 by Labourers' International Union of North America, Local 183 ("**LiUNA 183**") and the status of QSG's various remittance payments thereto, including that: (a) QSG is fully paid up in respect of the remittances payable to LiUNA 183; and (b) builder customers should continue to remit accounts payable amounts to QSG in the ordinary course of business. A copy of the September 22nd Endorsement is attached hereto as **Appendix** "**B**".

5. On September 28, 2023, the Court issued an Endorsement (the "**September 28th Endorsement**") setting out that: (a) LiUNA 183's holdback issue is adjourned to October 5, 2023; (b) the sale approval motion is rescheduled to be heard on October 18, 2023; and (c) the Monitor's counsel shall keep the Court apprised of progress of those matters currently under negotiation (LRO and holdback issues). A copy of the September 28th Endorsement is attached hereto as **Appendix** "**C**".

6. On October 5, 2023, a hearing was held with respect to the holdback matters as between the Unions and the Applicants and the Court issued an Endorsement in this regard (the "**October 5th Endorsement**"). A copy of the October 5th Endorsement is attached hereto as **Appendix** "**D**".

7. On October 13, 2023, a hearing was held in respect of the delay in finalizing a Lien Regularization Order and the Court issued an Endorsement in this regard (the "**October 13th Endorsement**"). A copy of the October 13th Endorsement is attached hereto as **Appendix** "**E**".

8. On October 27, 2023, a case conference was held upon the request of Waygar Capital Inc. ("**Waygar**") during which, *inter alia*, the various delays in relation to finalization of a Lien Regularization Order and completion and execution of definitive documents in respect of an asset purchase agreement were discussed. The Court issued an Endorsement in this regard (the "**October 27th Endorsement**"). A copy of the October 27th Endorsement is attached hereto as **Appendix** "**F**".

9. Copies of the various materials pertaining to the CCAA Proceedings are available on the Monitor's website at http://www.rsmcanada.com/quality-sterling-group (the "**Monitor's Website**").

Purpose of Report

10. The purpose of this third report of the Monitor (the **"Third Report")** is to provide the Court with information pertaining to:

    (a) the status of the various stakeholders' discussions and negotiations as it relates to QSG's CCAA Proceedings;

    (b) the maturity of the DIP Facility between Quality Rugs of Canada and the DIP Lenders (as defined in the DIP Facility Loan Agreement); and

    (c) the Applicants' request for an extension of the Stay of Proceedings until and including November 6, 2023.

Terms of Reference

11. In preparing the Third Report and making the comments herein, the Monitor has relied upon unaudited financial information, books and records and financial information prepared by the Applicants, discussions with, among others, QSG management and staff, counsel to Ironbridge Equity Partners Management Limited ("**Ironbridge**"), QSG and the Monitor, the Fuller Landau Group in its capacity as financial advisor to Waygar and Waygar's counsel, and discussions and correspondence with counsel for various lien claimants and other stakeholders (collectively, the "**Information**").

12. Certain of the information contained in the Third Report may refer to, or is based on, the Information. Since the Information has been provided by other parties or was obtained from documents filed with the Court in this matter, the Monitor has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the

Chartered Professional Accountants Canada Handbook. Accordingly, the Monitor expresses no opinion or other form of assurance in respect of the Information.

13. Capitalized terms not otherwise defined herein are as defined in the pre-filing reports of RSM, the First Report, the Second Report, the various Orders of the Court and other documentation filed in respect of the CCAA Proceedings, which can be found on the Monitor's Website.

14. Unless otherwise stated, all dollar amounts contained in the Third Report are expressed in Canadian dollars.

II. STATUS OF DISCUSSIONS AND NEGOTIATIONS

15. The Applicants, the Monitor and Ironbridge, and counsel for a group of lien and construction trust claimants have engaged in many discussions and negotiations with a view to coming to common ground on numerous commercial business issues involving a form of Lien Regularization Order (the "**LRO**").

16. One of the central issues required for the Applicants to move forward with a purchase and sale transaction with Ironbridge has been finalizing a form of LRO, hopefully with the support of many of the lien and trust claimants and getting such an LRO approved by the Court.

17. Since the ARIO prevents the filing and registration of liens in the normal course under provincial legislation, the various stakeholders have engaged in numerous without prejudice meetings and discussions attempting to develop a comprehensive global solution for all parties, notwithstanding varying provincial laws as they relate to construction liens and trust claims, and to avoid having to come back to Court for multiple Orders.

18. The discussions on the LRO have been advanced primarily by counsel to the Applicants and Ironbridge, with the support of the Monitor, and the draft LRO proposes, among other things, to:

    (a) attempt to deal with all lien and trust claims in all applicable provinces;

    (b) incorporate a claims process for the submission of lien and trust claims;

(c) empower the Monitor to engage one or more adjudicators to review claim documentation submitted by lien or trust claimants, which adjudicators would be experts in construction law and provide for a significantly expedited and economically efficient process to vet claims; and

(d) create a court ordered charge which would provide for the possibility of a tangible recovery to be available for lien and trust claimants, subject to the determination of their claims in the claims process.

19. Notwithstanding the efforts made, there is no meeting of the minds on the quantum of any such recoveries for the lien and trust claimants. The quantum of that recovery was a material issue for all parties, including Waygar. Waygar had also expressed concerns about any reserves being deducted from the purchase price on closing, even to secure the amounts of the Administration Charge and Directors' Charge.

20. The Monitor understands that, on October 30, 2023, Waygar and Ironbridge met to discuss whether any further accommodations may be agreed to by either party to bridge the issues in question. The Monitor has been advised that those discussions were not fruitful, and that Ironbridge has advised the Applicants that it is no longer interested in concluding the purchase transaction which it and the Applicants had been pursuing. At approximately 9:40 pm on October 30, 2023, the Monitor was informed formally that the proposed transaction will not be proceeding.

21. In light of this information, and given the position recently stated by Waygar, the Monitor expects that Waygar will bring forward a motion to appoint a receiver to liquidate the assets of the Applicants. The Monitor is not aware of whether Ironbridge will seek an alternative process to see to the repayment in full of the DIP Facility.

III. DIP FACILITY LOAN MATURITY

22. Pursuant to the DIP Facility Loan Agreement dated August 25, 2023, all DIP Obligations shall be due and payable on the earliest of the occurrence of any of the following:

    (a) conversion of the CCAA Proceeding into a proceeding under the Bankruptcy and Insolvency Act (Canada);

    (b) an Event of Default in respect of which the DIP Lenders have notified the Obligors pursuant to Section 31 that they have elected to accelerate all amounts owing; or

    (c) the date that is eight weeks after the date of the Initial Order, which date may be extended by the DIP Lenders for up to an additional two weeks provided that the DIP Lenders agree to such extension in writing.

23. By letter dated October 23, 2023 (the "**October 23rd Letter**"), counsel for the DIP Lenders sent a notice to QSG advising it, among other things, that the DIP Facility matured on October 20, 2023, and that the DIP Lenders extended the maturity date to October 27, 2023. A copy of the October 23rd Letter is attached hereto as **Appendix** "**G**".

24. On October 30, 2023, the Monitor's counsel was advised by counsel to the DIP Lenders that the DIP Facility would not be further extended beyond October 27, 2023. Accordingly, the DIP Facility has matured and is repayable in full.

IV. STAY EXTENSION

25. The Stay Period currently expires on October 31, 2023.

26. The Monitor supports the requested stay extension for the following reasons:

    (a) the Monitor believes that the Companies have acted and continue to act in good faith and with due diligence;

    (b) the requested stay extension provides the Companies with the additional time required to:

(i) schedule a case conference or a further motion to address and implement an appropriate process to deal with the assets of the Applicants; and

(ii) schedule a motion to deal with the need for a form of LRO; and

(c) the Monitor believes that creditors of the Applicants will not be materially prejudiced by the requested stay extension.

V. CONCLUSION

27. Clearly, one or more further Court attendances will be required to address both the status of the LRO and the manner in which to best deal with the assets of the Applicants.

28. In the circumstances, the Monitor recommends that the Court approve the Applicants' request for an extension of the Stay Period to November 6, 2023.

All of which is respectfully submitted to this Court as of this 30th day of October 2023.

RSM CANADA LIMITED
solely in its capacity as Proposed CCAA
Monitor of the Quality Sterling Group and
not in its personal or corporate capacity

Per: Arif Dhanani, CPA, CA, CIRP, LIT
Vice-President

Schedule "A" – Other Applicants

A.1 QSG Opcos (in addition to QRCL)

1. Timeline Floors Inc.
2. Ontario Flooring Ltd
3. Weston Hardwood Design Centre Inc
4. Malvern Contract Interiors Limited

A.2 Holding Companies

5. Quality Commercial Carpet Corporation;
6. Joseph Douglas Pacione Holdings Ltd.;
7. John Anthony Pacione Holdings Ltd.;
8. Jopac Enterprises Limited;
9. Patjo Holdings Inc.

APPENDIX A

Court File No. CV-23-00703933-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	TUESDAY, THE 5TH
MR JUSTICE PENNY	)	DAY OF SEPTEMBER, 2023

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 QUALITY RUGS OF CANADA LIMITED AND THE OTHER COMPANIES LISTED IN SCHEDULE "A" HERETO

(collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER
(Amending Initial Order Dated August 25, 2023)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of the Applicants and the Supplementary Application Record of the Applicants, including the affidavit of John Pacione sworn August 3, 2023 and the Exhibits thereto (the "Pacione Affidavit"), the supplemental affidavit of John Pacione sworn August 17, 2023, the second supplemental affidavit of John Pacione sworn August 22, 2023, the affidavit of John Pacione sworn September 2 , 2023 and the Exhibits

thereto (the "Third Pacione Affidavit"), the Application Record and the Supplementary Application Record filed by Waygar Capital Inc. ("Waygar"), including the affidavit of Don Rogers sworn July 24, 2023, the supplementary affidavit of Don Rogers sworn August 3, 2023, the pre-filing report of Fuller Landau Group Inc., dated July 25, 2023, the supplement to the pre-filing report of Fuller Landau Group Inc., dated August 3, 2023, the second supplement to the pre-filing report of the Fuller Landau Group Inc., dated August 16, 2023, the pre-filing report of RSM Canada Limited, dated August 3, 2023, the supplemental pre-filing report of RSM Canada Limited dated August 17, 2023, the second supplemental pre-filing report of RSM Canada Limited dated August 25, 2023, the first report of RSM Canada Limited as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), and the consent of RSM Canada Limited to act as the Monitor, 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 for the Applicants, counsel for Waygar, counsel for Ironbridge Equity Partners ("Ironbridge"), counsel for Mohawk Carpet Distribution, Inc. ("Mohawk"), and counsel for RSM Canada Limited, no other parties having been served or appearing,

SERVICE

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

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, 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 Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants shall be entitled to utilize the cash management system currently in place as described in the Pacione Affidavit or if agreed to between the Applicants, Waygar and Ironbridge, provided that Waygar's approval rights shall terminate upon the closing of the transaction contemplated by the Asset Purchase Agreement, to replace it with another substantially similar cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as the provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable 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

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

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, 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 this Order, and in carrying out the provisions of this Order, 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 to the Applicants following the date of this Order.

8. 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, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, 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 the Applicant.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA and the DIP Term Sheet, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of August 4, 2023; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents and the DIP Term Sheet (each as hereinafter defined), have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $100,000 in any one transaction or $250,000 in the aggregate;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

12. THIS COURT ORDERS that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord

shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. THIS COURT ORDERS that until and including October 31, 2023, 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") shall be commenced or continued against or in respect of the Applicants, the entities named in Schedule “A” hereto (the “Protected Parties”), the Monitor, the Financial Advisor (as hereinafter defined), or affecting the Business or the Property, except with the 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 Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants, the Protected Parties, the Monitor, or the Financial Advisor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the 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

16. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right,

contract, agreement, licence or permit in favour of or held by the Applicants or the Protected Parties, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, the Cash Management System or other banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

TREATMENT OF LIEN CLAIMS

18. THIS COURT ORDERS that, without limiting the generality of paragraphs 14 to 17 hereof, the rights of any person who has supplied services and/or materials to the Applicants to preserve and perfect a lien under the *Construction Act* (Ontario) or any applicable provincial equivalent (the "Provincial Lien Legislation") in respect of a project or improvement to which one of the Applicants is a contracting party (the "Lien Claims") be and are hereby stayed and any person seeking to preserve, perfect or otherwise enforce such a claim shall be required to comply with the process and seek the rights and remedies set out in paragraphs 18 to 21 hereof subject to further Order of the Court.

19. THIS COURT ORDERS that any person who wishes to assert a Lien Claim (a "Lien Claimant") shall serve a notice of such Lien Claim setting out the amount and particulars thereof

(including without limitation the improvement in question) to (a) the Monitor at arif.dhanani@rsmcanada.com, with a copy Goodmans LLP, counsel to the Monitor at: jlatham@goodmans.ca, and (b) the Applicants, care of cbesant@grllp.com, in each case within the timeframes prescribed by the applicable Provincial Lien Legislation (a "Lien Notice") or such other time frame as may be ordered by the Court. Upon delivering such Notices of Lien, the Lien Claims will be considered preserved and perfected and no further steps need be taken by the Lien Claimant.

20. THIS COURT ORDERS that, upon serving a Lien Notice, subject to paragraph 21, the Lien Claimant shall be entitled to a charge over any Property of the Applicants, other than the Borrower's Account, relating to the project or improvement which is the subject of such Lien Claim, equivalent to the value and in accordance with the priority that the Lien Claimant would otherwise be entitled to as claim a lien under the applicable Provincial Lien Legislation (the "Lien Charge"), and shall rank in priority in accordance with the priority afforded to such Charge at law.

20A. THIS COURT ORDERS that, subject to paragraph 21, any Lien Claim preserved by any person in respect of a project in which the Applicants are a contracting party, which has not been bonded off as of the date of this order, is hereby vacated on terms that any person having such a Lien Claim shall be deemed to have provided the Lien Notice referred to in paragraph 19 of this order on the date of preservation of such Lien Claim, and shall be entitled to the Lien Charge referred to in paragraph 20 of this order (as may be subsequently amended), provided that the vacating and preservation of such Lien Claims pursuant to this paragraph shall not be deemed to cure any default triggered by the filing of a lien under any contract with any owner or contracting party of the Applicants.

21. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA and elsewhere in this Order, is hereby authorized and empowered to review the Lien Notices and approve reduce or disallow the Lien Claims set out therein, or refer such matter for determination by the Court, on notice to the applicable Lien Claimant. Any such Lien Claimant shall have 10 days to give notice to the Monitor and the Applicants that it intends

seek a review by the Court of the decision of the Monitor on a motion before a judge of this Court.

22. THIS COURT ORDERS that nothing in paragraphs 18 to 21 hereof shall be construed as limiting or prejudicing the rights of the Monitor, the Applicants or any other interested party from challenging: (a) the validity or timeliness of a Lien Notice; (b) the validity or quantum of a Lien Claim under the applicable Provincial Lien Legislation, except for failure to preserve a lien by registration; (c) a Lien Claimant's entitlement to a Lien Charge under paragraph 20 of this Order; or (d) the priority of a Lien Charge under this Order.

23. THIS COURT ORDERS that, in connection with the matters in paragraphs 18 to 21 of this Order, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in the CCAA Proceedings, (ii) shall incur no liability or obligation as a result of carrying out matters in connection with paragraphs 18 to 22 of this Order, (iii) shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without independent investigation, (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be required to carry out matters in connection with paragraphs 18 to 22 of this Order from the Applicants or any of their affiliates.

NON-DEROGATION OF RIGHTS

24. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease 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 the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

25. 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 the Applicants or the Protected Parties with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations 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 compromise or arrangement 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.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

26. THIS COURT ORDERS that the Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

27. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, other than the Borrower's Account, which charge shall not exceed an aggregate amount of $600,000, as security for the indemnity provided in paragraph 26 of this Order. The Directors' Charge shall have the priority set out in paragraphs 45 and 47 herein.

28. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 26 of this Order.

APPOINTMENT OF FINANCIAL ADVISOR

29. THIS COURT ORDERS that the agreement dated as of February 1, 2023, engaging Alvarez & Marsal Canada Securities ULC (the "Financial Advisor") as financial advisor to the Applicants (the "A&M Engagement Letter"), and the retention of the Financial Advisor under the terms thereof are hereby approved, including, without limitation, the Success Fee (as the term is defined in the A&M Engagement Letter). The Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the "Financial Advisor's Charge") on the Property, other than the Borrower's Account, which charge shall not exceed an aggregate amount of $950,000, as security for the Success Fee. The Financial Advisor's Charge shall have the priority set out in paragraphs 45 and 47 herein.

APPOINTMENT OF MONITOR

30. THIS COURT ORDERS that RSM Canada Limited (the "Monitor") 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 its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by 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.

31. 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 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) assist the Applicants, to the extent required by the Applicants, in its dissemination, of information to creditors of the Applicants, including Waygar and its financial advisor;

(d) assist the Applicants, to the extent required by the Applicants, in its dissemination, to the DIP Lender (as herein defined) 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 to be 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, but not less than weekly, or as otherwise agreed to by the DIP Lender;

(f) advise the Applicants in their development of the Plan and any amendments to the Plan;

(g) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(h) 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 Applicants' business and financial affairs or to perform its duties arising under this Order;

(i) 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; and

(j) perform such other duties as are required by this Order or by this Court from time to time.

32. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of 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 Property, or any part thereof.

33. 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 (the "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.

34. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicants 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 or in paragraph 31 hereof. 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 Applicant may agree.

35. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out 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 the Monitor by the CCAA or any applicable legislation.

36. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Financial Advisor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, 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 for the Monitor and counsel for the Applicant on a weekly basis, and the Financial Advisor on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of $65,000, $60,000 and $50,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time. For clarity, in no circumstances shall Waygar be responsible for the Financial Advisor's monthly Work Fee (as that term is defined in the A&M Engagement Letter), including, without limiting the foregoing, by way of payment from the proceeds of sale of the Applicants' assets (including accounts receivable collections).

37. 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.

38. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicants' counsel and the Financial Advisor (in respect of their monthly fees and expenses as set out in the A&M Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, other than the Borrower's Account, which charge shall not exceed an aggregate amount of $750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, for the period from

and after August 18, 2023 in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

DIP FINANCING

39. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (the "DIP Facility") from Ironbridge Equity Partners IV LP and Ironbridge Equity Partners (International) IV, LP (collectively, the "DIP Lender") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such DIP Facility shall not exceed $7,000,000 unless permitted by further Order of this Court.

40. THIS COURT ORDERS THAT such DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated August 25, 2023 (the "DIP Term Sheet"), filed, and the definitive documentation to be entered into pursuant thereto.

41. 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 Term Sheet 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 its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order

41A. THIS COURT ORDERS that the Applicants shall deposit all Advances (as defined in the DIP Term Sheet) into a bank account designed by the Borrower (the "Borrower's Account") and utilized by the Borrower in accordance with the terms of the DIP Term sheet and other Definitive Documents.

42. 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, including the Borrower's Account, which DIP Lender's Charge shall not secure an obligation that existed before the first Order in these proceedings made on August 4, 2023. The DIP Lender's Charge shall have the priority set out in paragraphs 45 and 47 hereof.

43. 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 Definitive Documents or the DIP Lender's Charge, the DIP Lender, may immediately exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, 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 Term Sheet, 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.

44. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

45. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge, and the DIP Lender's Charge , as among them, shall be as follows:

> First – the DIP Lender's Charge but only to the extent of the assets in the Borrower's Account at any time from time to time;
>
> Second – the Administration Charge (to a maximum amount of $750,000);
>
> Third – the Directors' Charge (to a maximum amount of $600,000);
>
> Fourth – the DIP Lender's Charge (to a maximum of $7,000,000); and
>
> Fifth – the Financial Advisor's Charge (to a maximum of $950,000).

46. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge, the DIP Lender's Charge or the Lien Charge (collectively, 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.

47. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and the Borrower's Account, as applicable, and such Charges (except for the Lien Charge, which is dealt with in paragraph 20) shall rank in priority to all other security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except for any claims of any person against the Applicants for amounts owing for services rendered and/or materials supplied that have priority over Encumbrances by statute.

48. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any 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 and the beneficiaries of the Charges, or further Order of this Court.

49. THIS COURT ORDERS that the Charges 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") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) 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 the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it 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 creation of the Charges; and

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

50. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SERVICE AND NOTICE

51. 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, (ii) within five 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 the Applicants of more than $1000, 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 Section 23(1)(a) of the CCAA and the regulations made thereunder.

52. THIS COURT ORDERS that the E-Service Guide of the Commercial List (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 http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the 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 '<http://www.rsmcanada.com/quality-sterling-group>' (the "Monitor's Website").

53. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the "Service List"). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor's Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

54. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants and the Monitor 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 transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

55. THIS COURT ORDERS that, notwithstanding anything in this Order or the August 4 Order (as herein defined), including any language granting priority charges over the Property of the Applicants, the issue as to priority as among the Charges (including the Interim Lender's Charge in the August 4 Order) and the security held by Mohawk, including any purchase money security interest, shall be deferred to the Comeback Hearing, or as may otherwise be agreed to by the parties. The Applicants are directed to identify and segregate into a separate bank account any proceeds received from and after August 4, 2023 in respect of goods in the possession of the Applicants as of or after August 4, 2023 and supplied by Mohawk.

56. THIS COURT ORDERS and the Interim Lender's Charge in favour of Waygar made pursuant to the August 4 Order is fully discharged and no longer enforceable as the Monitor has filed with this Court a certificate, confirming that the Interim Financing provided by Waygar pursuant to the August 4 Order was paid in full net of the amount of $707,000.

57. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

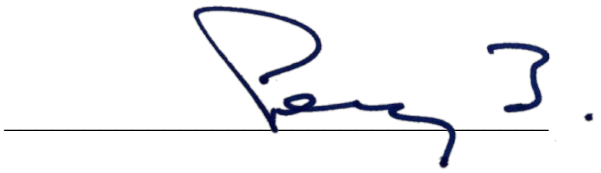
58. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

59. 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.

60. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is 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.

61. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

62. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



Schedule "A" – Other Applicants

A.1 QSG Opcos (in addition to QRCL)

1. Timeline Floors Inc.
2. Ontario Flooring Ltd
3. Weston Hardwood Design Centre Inc
4. Malvern Contract Interiors Limited

A.2 Holding Companies

5. Quality Commercial Carpet Corporation;
6. Joseph Douglas Pacione Holdings Ltd.;
7. John Anthony Pacione Holdings Ltd.;
8. Jopac Enterprises Limited;
9. Patjo Holdings Inc.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF QUALITY RUGS OF CANADA LIMITED AND THE OTHER COMPANIES LISTED IN SCHEDULE "A" HERETO

Court File No.: CV-23-00703933-00CL

collectively, The Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

Gardiner Roberts LLP
Bay Adelaide Centre
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Christopher Besant (LSO#24882O)
Email: cbesant@grllp.com
Tel: (416) 865 4022

Lawyer for the Applicants

7406884

APPENDIX B

SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00703933-00CL **DATE:** September 22, 2023

NO. ON LIST: 1

TITLE OF PROCEEDING: QUALITY RUGS OF CANADA LIMITED v. WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Christopher Besant	Lawyer for Quality Rugs - App	cbesant@grllp.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Steven L. Graff	Lawyer for Waygar Capital	sgraff@airdberlis.com
Matilda Lici	Lawyer for Waygar Capital	mlici@airdberlis.com
Joe Latham	Lawyer for RSM	jlatham@goodmans.ca

For Other, Self-Represented Etc.:

Name of Person Appearing	Name of Party	Contact Info

Nathasha MacParland	Lawyer for Ironbridge	nmacparland@dwpv.com
Natalie Renner	Lawyer for Ironbridge	nrenner@dwpv.com
Demetrios Yiokaris James Harnum	Lawyer for LIUNA local 183 Lawyer for LIUNA local 183	dyiokaris@kmlaw.ca jharnum@kmlaw.ca, 416
Danny Nunes	Lawyer for Macro-Universe	Danny.nunes@dlapiper.com
Akhil Vohra	Lawyer for Ames Tile and Stone	avohra@ogilvielaw.com
Marin Leci Michael Mazzuca Haddon Murray Gerard Borean	Lawyer for Housing One 10th Ave Lawyer for United Brotherhood of Carpenters Lawyer for Torlys Inc Lawyer for CIOT Creditor	mleci@blg.com michael@rousseaumazzuca.com Haddon.murray@gowlingwlg.com gborean@parenteborean.com

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ENDORSEMENT OF JUSTICE PENNY (Released September 25, 2023):

In this CCAA proceeding, certain matters were scheduled for Friday, September 22, 2023. The issue of the lien regularization order (LRO) is still in process; active and positive negotiations are ongoing. The LRO matter is adjourned to October 5, 2023 at 10:00 AM, which is a date also reserved for a potential sale approval motion.

The motion to lift the stay by GG Eight, adjourned to today, is also not proceeding as a result of positive, ongoing negotiations. That, and the Housing One motion, may also be addressed on October 5, 2023 if necessary.

The remaining issues for the September 22, 2023 hearing were two motions relating to the Union, LIUNA Local 183. One motion has been brought by the Union relating to preservation of certain funds held back from amounts paid to installers for work performed (which I will call the holdback issue).

The second motion has been brought by the Applicants. This motion is for declaratory and other relief relating to the monthly payment of benefits, pension contributions and other remittances (which I will collectively refer to as the remittance issue) by one of the Applicants, QSG, into accounts administered by the Union. The remittance obligation is governed by the Union's collective agreement.

The Applicants were anxious to resolve the remittance issue, as uncertainty about whether these payments are up to date or not is having, they believe, a negative impact on the collection of accounts receivable by the

Applicants' customers (which are, generally, builders and owners). The Union was anxious to have the holdback issue resolved because, it submits, the protection of the holdback amounts needs to be dealt with before the potential sale of the Applicants' business to Ironbridge.

After hearing the parties' submissions on how to proceed, and having regard to the amount of time available on September 22 and the amount of time likely required to argue both motions, I resolved the scheduling of these motions as follows. The Applicants' motion for declaratory relief was argued on September 22, 2023. I took that decision under reserve until September 25, 2023. These are my reasons on that motion. The Union's holdback motion will be argued on September 28, 2023 commencing at 2:00 PM.

Background

The Applicants are in the business of contracting for the installation of flooring in large condominium and other construction projects. A number of the Applicants' installers are members of the Union. There is a collective agreement.

On August 4, 2023 I was faced with two competing applications under the CCAA, brought on an urgent basis, and, in the alternative, an application for the appointment of a receiver over the Applicants' business. I adjourned the applications for about two weeks to enable the stakeholders to engage in negotiations. In order to stabilize the situation, I ordered an interim stay of proceedings against the Applicants. Paras. 5 and 6 of that Order provided:

> NO EXERCISE OF RIGHTS OR REMEDIES
>
> 5. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Debtors, or affecting the Business or the Property, are hereby stayed and suspended, provided that nothing in this Order shall (i) empower the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) prevent the filing of any registration to preserve or perfect a security interest, or (iii) prevent the registration of a claim for lien.
>
> NO INTERFERENCE WITH RIGHTS
>
> 6. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the any of the Debtors.

That order was continued on August 18, to permit further, ongoing negotiations. On August 25, I made an initial order in this matter under the CCAA. Following the comeback hearing on September 5, I made an amended and restated initial order (ARIO). The initial order contains stay provisions based on the Model Order:

> NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY
>
> 14. THIS COURT ORDERS that until and including October 31, 2023, 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") shall be commenced or continued against or in respect of the Applicants, the entities named in Schedule "A" hereto (the "Protected Parties"), the Monitor, the Financial Advisor (as hereinafter defined), or affecting the Business or the Property, except with the 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 Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.
>
> NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants, the Protected Parties, the Monitor, or the Financial Advisor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the 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

16. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants or the Protected Parties, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, the Cash Management System or other banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

Factual Circumstances Giving Rise to the Remittance "Problem"

QSG is obliged under the collective agreement to make the remittance to specified Union-administered accounts in arrears by the 15th of each month. There is no evidence of any historical default or problem with these payments. However, through what later turned out to have been an administrative error (i.e., not due to financial problems or cash flow limitations), delivery of the July remittance (due August 15) was delayed by several days. Having just discovered that QSG was likely heading into insolvency proceedings under the CCAA or by way of a receivership, the Union became alarmed. Its initial enquiry was unanswered so, on August 16, 2023, the Union issued notices concerning the missed remittance payment under s. 6.1 of the collective agreement to about 60 builders involved in QSG work using Union installers. The notices said, among other things:

> Pursuant to Article 6 of the TRCLB and DRCLB Collective Agreements, the Union hereby gives notice of its intention to activate the Builder's Holdback Mechanism. Should the Defaulting Contractor fail to pay all outstanding amounts by August 18, 2023, the Builder must freeze all funds owing to Defaulting Contractor up to the amount of $250,000.00.

The monthly remittance involves three categories of earmarked payments: benefits, pension contributions and payments to the Union. The evidence is (and it is not contested) that by August 17, the July remittance had either been delivered or, in one case, mailed. The evidence is also clear (and not contested) that the three components of the July remittance were actually deposited into the appropriate accounts administered by the Union on August 17, 17 and 21 respectively. As a result of this payment, the Union took no further action on the notices it had issued a few days earlier. Finally, it is clear on the evidence, and not contested, that the next

remittance, the August remittance, was made on September 15, 2023 as required. Accordingly, the evidence establishes, and the parties agree, that as of September 15, 2023, QSG was, and remains as of today, in compliance with its remittance obligations under article 6.1. This is specifically confirmed in the affidavit of Mr. Williamson, general counsel to the Union. He swore under oath that:

> 42. QSG delivered payments of the three cheques on August 17, 17, and 21 respectively. Attached hereto as Exhibits L, M, and N are the stamped reports from the Union, benefits offices, and Pension Fund, confirming the dates that they received the Remittance Report and payments. These stamps are put in the usual and ordinary course of business on the day when the documents or payments are received. In addition, I specifically recall making inquiries within Local 183 on August 15 and 16, 2023, and they confirmed that the monthly benefits and remittances were not paid.
>
> 52. QSG submitted its monthly contributions reports and cheques for work performed under the RTCA Agreement in August 2023 on or before September 15, 2023. The Union therefore did not take any action and has not sent out any further notices.
>
> 55. On September 16, 2023, after receiving confirmation that the August remittances had been paid, the Union provided written notice to the RTCA, the DRCLB, TRCLB and MTABA confirming that QSG had paid its July remittances, and that the August remittance reports and cheques had been received on time and that we were optimistic that they would clear. Copies of those emails are attached at Exhibit T. That email also indicated that they could advise their members of this fact, and directed that contractors or builders could contact me if they had any further inquiries.

It is common ground, supported by uncontested evidence, that the August remittance delivered on September 15 did clear and that the funds were deposited in the relevant Union-administered accounts.

I also note that the unchallenged evidence of the Applicants is that it is fully their intention to continue to make all the ongoing Union remittances leading up to the proposed restructuring/sale and that it is, likewise, the intention of the proposed purchaser, if the sale is approved and closes, to continue to make all ongoing Union remittances as required under the collective agreement post-closing.

The problem appears to be that the August 16 notices issued by the Union "spooked" a number of the builders, who may now be uncertain what to do and whether payment of their accounts receivable to the Applicants might get them in trouble with the Union or expose them to some kind of "double jeopardy". Attempts at negotiating a solution to this problem between the Applicants, the Monitor and the Union broke down, such that the Applicants felt it necessary to bring this motion for two heads of relief:

1) an order declaring that QSG is current in its remittance obligations to the Union; and

2) an order requiring the Union to deliver notices to all builders and project owners who received a written notice on August 16, 2023: a) retracting the August 16, 2023 notice of alleged default; and b) confirming to each recipient that QSG is in good standing with its monthly remittances in accordance with the applicable collective agreement.

The Union does not object to the Court confirming in an endorsement the evidence (again, not contested) that QSG is current in its remittance obligations. The Union does object to the Court issuing a declaration to this effect on the basis that compliance/non-compliance with the provisions of a collective agreement is exclusively a matter for the appropriate arbitration tribunal, not the courts. The Union also objects to any order requiring it to retract statements made in the notices (which it maintains were true at the time they were made and not in breach of my August 4 order) or forcing it to make representations to the builders as to QSG's compliance with its obligations.

The Applicants and the Monitor submit I have the jurisdiction to make both orders sought under s. 11 of the CCAA (the court may make "any order that it considers appropriate in the circumstances"), the Union's alleged lack of good faith under s. 18.6 of the CCAA, and on the basis of the Court's remedial jurisdiction in the face of what they say was a breach of the August 4 stay order caused by the Union issuing the notices on August 16.

Analysis

In the view I take of the matter, it is not necessary to determine whether the Union's August 16 notices were in breach of the August 4 order or whether the Union failed to act in good faith. To be clear, in taking this approach I am finding neither that the Union's conduct in issuing the notices was, or was not, a breach of the August 4 order. Similarly, I am finding neither that the Union was, or was not, acting in good faith. Such findings are, in my view, simply not necessary to resolve the current problem. I will only express my fervent hope and my expectation that, now that the Union is a full, and fully informed, participant and represented by counsel in these proceedings, the kind of precipitate action taken on August 16 will not be repeated without notice to the Applicants and the Monitor (and/or the Court as necessary), whether or not it is believed to fall within one of the exceptions to para. 15 of the ARIO. Such matters are best dealt with at this stage by way of reasonable discussion between the parties with access to the Court if necessary.

As I have set out earlier, the evidence of both the Union and the Applicants establishes beyond peradventure that the monthly remittance payable to the Union which was the subject of the August 16 notices *is fully paid up and current*. Further, the evidence establishes unequivocally that the August remittance was made on September 15 and is also *fully paid up and current*. QSG is, therefore, manifestly not currently in breach of its remittance obligations. Not only does the evidence establish this fact; the parties are in complete agreement that this is so and have publicly stated as much.

As I alluded to earlier, there is one other outstanding issue between the Union and QSG. That issue (which I have referred to as the holdback issue) is distinct from the remittance issue and is scheduled to be argued before the Court on September 28, 2023. For clarity, the analysis and determinations reached in this endorsement regarding the remittance issue is without prejudice to the parties' positions on the holdback issue to be argued on September 28. I urged the parties during oral argument, and reiterate that urging in this endorsement, to find a negotiated solution to the holdback issue, which strikes me as eminently solvable without the need for judicial intervention.

It seems appropriate to remind stakeholders at this point that the only alternative to a transaction with the proposed purchaser, which is premised on a continuation of the business post-closing, is a receivership, which will likely result in a liquidation of the Applicants' assets. It is in stakeholders' interests that the business be preserved.

The timely payment of accounts receivable is a critical feature of this CCAA proceeding. A significant percentage of the value of the Applicants' business lies in its accounts receivable. It is not efficient, and perhaps not even feasible, for the Applicants to take action against dozens of builders who are reluctant to pay otherwise legitimate and owing accounts receivable for fear of stepping into possible Union conflicts or being exposed to double jeopardy. The flow of funds in the ordinary course must be preserved.

Indeed, para. 16 of the ARIO provides that "no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants or the Protected Parties, except with the written consent of the Applicants and the Monitor, or leave of this Court". I view that provision as including good faith payment by builders for all otherwise legitimate accounts receivable owing to the Applicants.

Section 11 of the CCAA provides that the court may make any order that that it considers appropriate in the circumstances. This is, of course, not an invitation to the exercise of unbridled discretion. This broad power must be interpreted within the objects and purposes of the legislative scheme. In light of the facts and the circumstances I have described above, as the judge presiding over these CCAA proceedings, I conclude that an

order declaring that the monthly remittance payable to the Union, which was the subject of the August 16 notices, as well the August remittance payable in September, are fully paid up and current is not outside the Court's remit. I am not interpreting, or resolving a dispute over the application of, the collective agreement. Regarding the remittances themselves, there is no dispute requiring such interpretation or resolution that would otherwise be in the exclusive jurisdiction of the labour tribunal. Rather, the problem requiring a solution is clarifying for the builders/owners that a perceived barrier (i.e., the August notices) to the ordinary course payment of their accounts payable to QSG is, as both the Union and the Applicants agree, no longer operative because the relevant remittances have been made and QSG is, as of today, fully paid up and current with this obligation. It is, in my view, withing the jurisdiction of this Court under s. 11 of the CCAA, and necessary in the circumstances, to correct a possible misapprehension among builders that the August 16 notices remain an impediment to payment of their otherwise legitimate accounts payable to QSG.

The Supreme Court described the criteria for declaratory relief in *S.A. v. Metro Vancouver Housing Corp.*, 2019 SCC 4, [2019] 1 S.C.R. 99, at para. 60:

> Declaratory relief is granted by the courts on a discretionary basis, and may be appropriate where (a) the court has jurisdiction to hear the issue, (b) the dispute is real and not theoretical, (c) the party raising the issue has a genuine interest in its resolution, and (d) the responding party has an interest in opposing the declaration being sought. [Citations omitted.]

I find these criteria are met: I have jurisdiction under s. 11 and as the supervising judge of these CCAA proceedings; there is a real problem requiring a solution as any non-payment by builders could seriously impair the operations of QSG and the interests of the Applicants' stakeholders; the Applicants have a genuine interest in resolution of the problem so that their business can continue to be operated; and, the Union, which also has an interest, was on notice and actively participated in these proceedings. I find that a declaratory order is required in the peculiar circumstances of this case to fulfill the purposes of the CCAA and to facilitate the Applicants' attempt to restructure and preserve their business for the benefit of stakeholders.

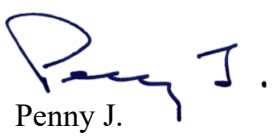
I therefore order and declare that:

(a) the July monthly remittance payable to the Union, which was the subject of the August 16 notices, as well the August remittance payable in September are fully paid up and current as of this date;

(b) the remittance delay giving rise to the August 16 notices has been resolved by virtue of the payments as declared above; and,

(c) the Union's August 16 notices to the builders are, as a result of payment being made, not an impediment to payment of otherwise legitimate accounts receivable owing to QSG or the other Applicants.

In light of my analysis and determination that a declaratory order shall issue in the form stipulated above, I conclude that any mandatory order requiring the Union to distribute a retraction and/or clarifying statement regarding the payment of the August and September remittances is unnecessary at this time. Accordingly, I make no finding or determination about my jurisdiction or the legal or factual requirements to make such an order.



Penny J.

APPENDIX C

SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00703933-00CL **DATE: September 28, 2023**

NO. ON LIST: 5

TITLE OF PROCEEDING:

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Herbert Law		hlaw@mathewsdinsdale.com
Chris Besant		cbesant@GRLLP.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Jonathan Yantzi		jyantzi@airdberlis.com
Michael Mazzuca		michael@rousseaumazzuca.com
Erik Axell		eaxell@goodmans.ca
Michael Mazzuca		michael@rousseaumazzuca.com
Michael Farace		michael.farace@devrylaw.ca
Tiffany Sun		tsun@osler.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Joseph Latham		jlatham@goodmans.ca
Ken Pearl,	Observer	kpearl@fullerllp.com
Bryan A. Tannenbaum	Monitor	bryan.tannenbaum@rsmcanada.com

Arif Dhanani	Monitor	Arif.chanani@rsmcanada.com
Demetrios Yiokaris		jharnum@kmlaw.ca
Natasha Macparland		nmacparland@dwpv.com

ENDORSEMENT OF JUSTICE PENNY:

[1] The Union's holdback issue is close to resolution but more time is required. This matter is adjourned to October 5, 2023 at 10:00 AM. Parties shall continue to exert their energies to a consensual resolution of this issue.

[2] The parties advised they wish to move the sale approval motion date out from the currently scheduled October 5. That motion, and certain related matters, shall take place before me on October 18, 2023 at 10:00 AM (3 hours).

[3] Monitor's counsel shall keep me up to date on progress of those matters currently under negotiation (LRO and holdback issues).

Penny J.

APPENDIX D

SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-23-00703933-00CL **DATE:** October 5, 2023

REGISTRAR: Teodoro Olaso

NO. ON LIST: 1

TITLE OF PROCEEDING: Quality Rugs of Canada Ltd. Vs. Waygar Capital Inc. et al

BEFORE JUSTICE: Justice Penny

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Christopher Besant	Quality Rugs of Canada Ltd.	CBesant@GRLLP.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Matilda Lici	Waygar Capital Inc.	mleci@blg.com
Joe Latham	RSM Canada, Monitor	jlatham@goodmans.ca
James Harnum	LiUna Local 183	jharnum@kmlaw.ca
Demetrios Yiokaris	LiUna Local 183	dyiokaris@kmlaw.ca
Natasha MacParland	Ironbridge	nmacparland@dwpv.com
Natalie Renner	Ironbridge	nrenner@dwpv.com
Haddon Murray	Lauzon, Torlys, Ceratec, Boa-Franc, Metropolitan Hardwood	haddon.murray@gowlingwlg.com
Michael Mazzuca Daniel Wright	Carpenter's Union	michael@rousseaumazzuca.com dwright@rousseaumazzuca.com
Arif Dhanani	RSM Canada Ltd.	arif.dhanani@rsmcanada.com
Tiffany Sun	Mohawk Carpet Distribution Inc.	tsun@osler.com
Akhi Vohra	Ames Tile & Stone Ltd.	avohra@ogilvielaw.com
Michael Farace	GG Eight Cumberland	michael.farace@devrylaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE PENNY (Released on October 10, 2023):

On September 28 three matters were put over to be dealt with today: 1) the lien regularization order; 2) the motions of GG Eight and Housing One; and, 3) the Unions' holdback motions.

As matters have evolved, useful negotiations are still ongoing regarding the LRO issue and the work is proceeding on the GG Eight and Housing One sites. Accordingly, it is proposed, and I accept, that these matters be adjourned as follows. The LRO motion shall be heard by me on Friday October 13, 2023 at 10:00 AM by video conference. The builders' motions are adjourned to October 18, which is a date already reserved for the sale approval motion (also at 10:00 AM by videoconference).

The Unions' Holdback Issue

Both LIUNA Local 183 and the Carpenters' Union brought motions concerning the preservation of certain holdback funds. I encouraged the parties to make every effort to find a commercially practical solution to this issue in a prior hearing and endorsement. The motion was adjourned on September 28 because, I was advised, the parties were still exchanging proposals and were close to an agreement on many items. As it turned out, the parties agreed on most issues (the interim holdback resolution) but were still apart on several implementation and related issues. All parties filed *with prejudice* offers to resolve the holdback issue. All parties agreed that, in the circumstances, argument would be restricted to a general overview of the areas of agreement and the applicable law but that the focus would be on the disputed items and the arguments for against the competing proposals, such that the court could accept, reject or vary the disputed terms of the proposed resolution in order to conclude the interim holdback resolution.

Background

Under the terms of the respective collective agreements, an amount not to exceed $2,000 may be withheld by QSG to cover any back charges or deficiencies arising out of work performed by each installer hired to perform flooring services on QSG projects. The withheld funds must be recorded and accounted for on a monthly basis. These funds may be with withheld for a period not to exceed six months from the date of commencement of the work or three months from the time that the installer no longer works for QSG.

The Unions both maintain that on a proper interpretation of the language of the relevant collective agreement, the holdback funds are subject to a trust for the benefit of the installers and do not form part of the estate of QSG. The Unions have brought, or wish to bring, grievances against QSG, the purpose of which is to seek an interpretation of the language of the collective agreements and a determination of whether the holdback amounts are funds held in trust or not. In aid of these arbitration proceedings, the Unions moved for a court order in these CCAA proceedings for the interim preservation of the holdback funds pending arbitral resolution of this dispute and for an order lifting the stay for the purpose of bringing, or proceeding with, the necessary grievances before an arbitrator under the collective agreements. The pre-filing holdback amounts are not in material dispute: LIUNA, $97,083.41; and Carpenters' Union, $95,028.

There is a complicating factor involving LIUNA which becomes relevant to one of the disputed items discussed below. While QSG was bound to a collective agreement with LIUNA from May 1, 2022 to April 30, 2025, LIUNA abandon these bargaining rights in May 2023. In response, QSG brought an application to the OLRB, which was resolved in minutes of settlement. Under this Settlement Agreement, QSG is permitted to complete tile work on "existing projects" until April 30, 2024 without LIUNA seeking to enforce subcontracting out provisions. In exchange, QSG agreed to continue to apply the terms and conditions of the collective agreement, including the holdback provisions. The parties agreed in the Settlement Agreement that Vice-Chair Kugler of the OLRB "remains seized [of] any issues arising from the settlement." LIUNA has raised an issue about whether a successor to QSG (e.g., the purchaser in these CCAA proceedings) is entitled to the benefit of the Settlement Agreement with LIUNA.

I will also add that important context for the holdback and other, collateral issues raised on these motions, concerns the current status of all employee compensation payments. The evidence is not disputed that, with the benefit of DIP financing provided by the purchaser and ongoing collection of accounts receivable owed to the applicants, there is no unpaid employee compensation which is due and owing. The applicants are current with all employee payments. In addition, funds sufficient to pay all holdback refunds are available. Further, as pointed out by counsel for the purchaser, it is a term of the purchaser's offer that all employee compensation be kept current pending closing of the sale transaction. It is also the purchaser's stated intention to continue payment of compensation for installers on all ongoing projects. As I have noted before in a prior endorsement, the applicants' most significant asset is their ongoing projects and the accounts receivable from ongoing work done on those projects. To complete those projects, the applicants need to have installers working; the installers naturally will not be working if they are not being paid. It is also the stated intention of the applicants and the purchaser, and the objective of this proposed interim resolution of the holdback issue, that all holdback refunds will be paid in accordance with the terms of the relevant collective agreement as they become due and owing. It is entirely possible that there may never be any priority dispute concerning the status of the holdback amounts in these proceedings because, if the sale closes, the intention would be that the amounts will ultimately be paid in full.

The Core Agreed Provisions

The parties have agreed on the core features of preserving the holdback funds and the payment of these funds as they become due and owing. QSG, the purchaser and the Unions have agreed that:

a. a $2,000 holdback refund claimed by one pieceworker (designated MRAD) will be paid forthwith by the applicants.
b. the Unions' holdback motions will be adjourned without fixed day.
c. The issue of whether the holdback provision in the Residential Tile Contractors Association and LIUNA collective agreement dated May 1, 2022 to April 30, 2025 creates an obligation to hold the holdback amounts in trust shall be dealt with in the pending grievance arbitrations relating to the holdback provision and/or by way of fresh or amended grievance as required.
   Similarly, the issue of whether the Residential Carpet, Hardwood, Laminate and Floor Coverings Collective Agreement, dated May 1, 2019 to April 30, 2022 creates an obligation to hold the holdback amounts in trust and whether that trust obligation continues under the Residential Floorlayers Collective Agreement, dated May 1, 2022 to April 30, 2025 shall be dealt with by way of fresh grievance by the Carpenters.
   In both cases, the stay shall be lifted and the grievance arbitrations shall be allowed to proceed. If jurisdiction over the holdback issue is declined and/or otherwise not allowed in the arbitration and/or by the OLRB, then the holdback issue may be dealt with by way of motion in the CCAA proceedings or any subsequent insolvency proceedings which may be established.

d. The sum of $95,083.41 regarding the LIUNA holdback amount shall be paid forthwith by the applicants to the Monitor and held segregated and separate from other funds held by the Monitor as the LIUNA reserve in accordance with the terms of the agreement.
The sum of $95,028.00 regarding the Carpenters holdback amount shall be paid forthwith by the applicants to the Monitor and held segregated and separate from other funds held by the Monitor as the Carpenters reserve in accordance with the terms of the holdback resolution.
The LIUNA holdback amount and the Carpenters' holdback amount shall not form part of the assets of the applicants' estate while being held as a reserve, and the reserve shall be maintained pending either (i) a determination of whether any portion of the funds should be paid to any installers, (ii) the mutual agreement of the parties, or (iii) a court order.

e. It also appears to be agreed in concept that the reserve shall be transferred to the purchaser if the sale transaction closes and that holdback refunds from the reserve shall be paid by the purchaser post-closing to installers as refunds become due and owing under the terms of the collective agreements. However, some of the terms and conditions dealing with implementation and certain contingencies are in dispute. I will address the three most significant disputed issues below.

I will say at the outset that I accept, and approve, these features of the parties' proposed resolution (which I will refer to as the holdback resolution). I find it is appropriate in the circumstances for the stay to be lifted to permit the prosecution of the holdback trust issue before the appropriate arbitral tribunal.

Resolution of the Disputed Issues

1. The Transition to the Purchaser

Much of the concern of the Unions, particularly LIUNA, is focused on the transition, if the sale transaction is approved and closes, from the applicants (and Monitor) to the purchaser and how that will affect the ongoing existence of the two reserves and their availability to pay holdback refunds to the installers.

As noted earlier, the purchaser's stated intention is to step into the shoes of the applicants and to honour all ongoing obligations to the installers. This specifically includes honouring the status of the reserve and using the reserve to pay holdback refunds as they come due.

Under the applicants' proposal, supported by the purchaser and the Monitor, on the closing of the sale transaction, the purchaser will give a unilateral undertaking to the applicants, LIUNA and the Court, that it will comply with the Settlement Agreement and continued to deal with the LIUNA reserved in accordance with the terms of the collective agreement. Upon giving this undertaking, the LIUNA reserve will be released to the purchaser.

The situation with the Carpenters holdback and reserve is not complicated by a prior abandonment or a settlement agreement. Regarding the Carpenters reserve, the purchaser's undertaking to the applicants, Carpenters and the Court will be that the purchaser will continue to deal with the Carpenters holdback and reserve post-closing in accordance with the Carpenters collective agreement, and to pay holdback refunds from the Carpenters reserve as they come due.

As I understand it, LIUNA objects to this formulation of the transfer if the sale closes on two grounds: 1) it questions the reliability and enforceability of the purchaser's undertaking; and, 2) it is not prepared to concede that the purchaser will, post-closing, enjoy any of the benefits of the Settlement Agreement since the purchaser is not a party to that agreement.

As to the first point, the sale requires court approval. If a term of the Court approval of the sale is that the purchaser will take over and maintain the reserve, and give an undertaking to the parties and the Court that it will continue to maintain the reserve and to deal with the reserve in accordance with the relevant collective agreements, that is, in my view, a powerful commitment, the breach of which would attract appropriate remedial action by the Court.

The second point, concerning a possible dispute over the status of the Settlement Agreement vis-à-vis the purchaser, involves a potentially complex application of the law of successor rights for which recourse to the Vice Chair of the OLRB, in accordance with the terms of the Settlement Agreement, seems likely to be the most appropriate path to resolution. The law is clear that CCAA proceedings do not abrogate collective agreements or collective bargaining rights – at most CCAA proceedings may temporarily suspend certain specific actions pending further court order. In a scenario in which there is a dispute about the ongoing status of the Settlement Agreement post-sale, paragraphs 14 to 17 of the ARIO would come into play. In order to ensure an orderly resolution of such a dispute, if in fact it actually arises, this issue will have to return to the CCAA court to clear the path to a resolution, in much the same way as the parties propose to deal with the question of whether the holdback provisions of the collective agreements create a trust.

As I understand it, LIUNA's real complaint arises from its view that the language of the applicants' proposal would somehow preclude LIUNA for making the argument that the purchaser is not a party to, and cannot derived benefit from, the Settlement Agreement such that LIUNA could somehow be "held hostage" by the purchaser threatening to withhold payment of otherwise due and owing holdback rebates. I find that the proposed language cannot reasonably be interpreted in that way. The contemplated undertaking is unilateral. It is for the benefit of the installers. LIUNA is not giving up anything. It is simply receiving the unilateral commitment of the purchaser to hold the LIUNA reserve and to pay it out as rebates come due, as contemplated by the terms of the collective agreement. LIUNA cannot reasonably complain about that.

LIUNA also proposes language in its version of the proposed holdback resolution that would preserve its right to argue that the Settlement Agreement does not survive the sale of the business by the applicants. While I agree that this concept can usefully be reflected in the holdback resolution, I find that LIUNA's specific drafting creates ambiguity and is weighted, in what is effectively an advocacy piece, overtly in favour of LIUNA's position. It is sufficient, in my view, that the holdback resolution simply state that its terms are without prejudice to parties' positions in any subsequent challenge to the applicability of the Settlement Agreement following the closing of the sale transaction.

On the basis of this analysis, if the sale closes and the purchaser gives the undertaking, the reserve will have been preserved; the reserve may be transferred to the purchaser. The Unions' argument that the holdback amounts constitute a trust will not be prejudiced by other priority claims because the holdback amounts will have effectively been isolated, pending final resolution, from the applicants' estate.

Also related to this question of the transition from the applicants to the purchaser if the sale transaction closes, is a proposal by both Unions to include a provision by which both the Unions and the purchaser must "advise the Court within 30 days of the closing that they are bound to a Collective Agreement which provides that the purchaser may maintain a holdback account". Following that "advice", the reserve "shall be paid to the Purchaser who shall then hold such monies and pay them out to the Pieceworkers in accordance with the terms of such Collective Agreement".

The purpose and need for this provision, or indeed even what it means, were not explained or justified to my satisfaction. The provision seems to once again enter the realm of successor rights which, subject to the temporary limit on certain collective bargaining rights arising out of the ARIO pending the applicants' attempt to restructure their business and/or further court order, is the exclusive preserve of the OLRB. On its face, s.

69(2) of the *Labour Relations Act* dealing with successor rights on the sale of a business appear to be declaratory and self-determining. The existence of successor rights, for example, does not appear to require any "advice" by the purchaser or by the Unions.

From the perspective of the applicants, the purchaser and the Monitor, this *proviso* merely sets up an unknown or ambiguous condition subsequent which introduces an unacceptable level of transaction risk into the proposed sale. The purchaser in particular was as clear as a bell on this: this provision is unnecessary and its meaning and purpose are highly ambiguous; the inclusion of this provision is a "dealbreaker".

As noted earlier, it is the purchaser's stated intention to step into the shoes of the applicants, including compensation obligations under the collective agreements. It is in the economic interests of the purchaser and the installers that the installers receive ongoing compensation, including holdback refunds as they come due.

The Unions have not satisfied me as to the purpose of, much less the need for, this *proviso*. I agree with the applicants, the purchaser and the Monitor that the Union *proviso* need not and should not be included in the interim holdback resolution. To the extent the Unions have successor rights concerns, subject to paragraphs 14 to 17 of the ARIO these can be taken up with the OLRB. This would appear to be, in principle at least, a situation where an order lifting the stay in order to seek direction from the OLRB could easily be sought if it became necessary to do so (again, along the same lines as has been done in the holdback resolution itself).

2. *If the Transaction Does Not Close*

Another issue around which the parties did not entirely agree is what happens to the reserve if the sale transaction does not close. In my view, this issue is best addressed if and when that happens.

The parties agree that the holdback funds will be held as a reserve by the Monitor pending closing. If the sale does not close, the Monitor will continue to hold the reserve until further order of the Court. Whatever ultimately happens, or whatever comes next, will be on notice to all stakeholders. The status of the reserve in the hands of the Monitor can be addressed at that time. Even in the event of a liquidation, the Unions will have the opportunity to address the question of priorities if the funds have not yet been paid out to the installers as holdback refunds. If they have, of course, the issue becomes moot.

3. *Potential Claims Against Directors*

The Unions object to a provision in the applicants' proposal for the interim holdback resolution which, they say, purports to limit the Unions' right to make common law trust or other statutory claims against the applicants' directors on account of potential unpaid wages. I do not read the provision as limiting the installers right to seek indemnity from the applicants' directors for unpaid compensation in appropriate circumstances.

What the proposed language is meant to do is to acknowledge that claims against directors for unpaid prefiling holdback amounts are going to be limited to the amount of the reserve, provided the reserve remains in place. Counsel for the Unions accept that the reserve contains the prefiling holdback amounts and that the number is known and materially accurate; there is no "other" prefiling holdback amount. Counsel for the applicants clarified that the premise for the proposed language is that, as long as the holdback reserve is available, any claims against directors for holdback refunds could not, by definition, exceed the reserve. The applicants accept that if, for some unforeseen reason, the reserve ceased to be available, claims for unpaid holdback refunds could not, logically, be limited to the amount of the reserve since the reserve, in that scenario, would not exist. With that concession (that the reserve must continue to subsist and be available for the payment of holdback refunds), the language proposed by the applicants makes sense and is in accord with the underlying intent of the interim holdback resolution.

Any other issues related to potential claims against directors are, in my view, premature. All parties agree that there are no known employee claims against directors for unpaid compensation at this time. Installers are being paid. If and when the potential for such claims arises, the matter be can be addressed by motion to the court on a proper record. There is no need, or justification, at this time to make pronouncements about when and in what circumstances the stay might be lifted to permit pursuit of claims against directors for statutory or other compensation claims.

Conclusion

In conclusion, I find that the motions shall be determined by the interim holdback resolution on the basis of the agreed provisions and the determinations made in these reasons on the disputed items. This shall be generally in accordance with the form of the applicants' proposed holdback resolution, subject to the qualifications and clarifications set out earlier in this endorsement. I am confident the parties can, with the benefit of these reasons, prepare the appropriate form of interim holdback resolution and order. I may be spoken to if there are any outstanding matters.[1]

Penny J.

[1] The Monitor, at the end of oral submissions, pointed out that the holdback amount is a rolling number because work has continued on many of the applicants' projects post-filing. No one else commented on this issue explicitly. The principal focus of the motions and during oral submissions was on the pre-filing amounts, the calculation of which was not subject to any material controversy. The parties have proposed language in the holdback resolution which applies to post-filing holdbacks as well. If there are any unique issues about the post-filing holdbacks, I sure they will be addressed in future attendances.

APPENDIX E

SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: 23-703933-00CL **DATE: October 13th, 2023**

NO. ON LIST: 1

TITLE OF PROCEEDING: QUALITY RUGS CANADA LIMITED V WAYGAR CAPITAL INC

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Chris Besant	Quality Rugs of Canada Limited	CBesant@GRLLP.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Farace, Michael P.	GG Eight Cumberland INC	mfarace@millerthomson.com
Steven L. Graff	Waygar Capital Inc	sgraff@airdberlis.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Gerry Borean	Ciot INC	gborean@parenteborean.com
Bryan A. Tannenbaum	Monitor RSM	bryan.tannenbaum@rsmcanada.com
Manav Singhla	Vifloor Canada Ltd.	msinghla@millerthomson.com
Tony Van Klink	Vifloor Canada Ltd.	tvanklink@millerthomson.com
Derek B. Brett	4405967 Nova Scotia Limited	dbb@burnsidelaw.net
Natalie Renner	Ironbridge, DIP Lender	nrenner@dwpv.com
Joseph Latham	RSM Canada, Monitor	jlatham@goodmans.ca
Marin Leci	Housing One	mleci@blg.com

Akhil Vohra	Ames Tile & Stone Ltd.	avohra@ogilvielaw.com
Haddon Murray	Lien Claimants	haddon.murray@gowlingwlg.com
Nathasha MacParland	Ironbridge Equity Partners Management Limited	nrenner@dwpv.com
Demetrios Yiokaris	LIUNA Local 183	dyiokaris@kmlaw.ca
Matt Feehan	Ames Tile and Stone Ltd.	mfeehan@ogilvielaw.com
Eric Dwyer	CDS Distribution Inc.	edwyer@brazeauseller.com

ENDORSEMENT OF JUSTICE PENNY:

[1] The lien regularization motion was to have proceeded today. The applicants' latest draft was circulated late last night, giving stakeholders effectively no time to consider it. Further, because negotiations have been ongoing, there is no motion material before the court, and no responding material. The matter will have to be adjourned, again.

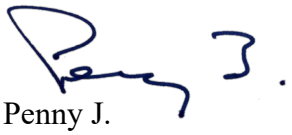
[2] It also became apparent that because the LRO issue has not been resolved, the applicants will not be in a position to bring, nor other stakeholders respond to, a sale approval motion. Accordingly, the October 18 date reserved for that motion is vacated.

[3] Perhaps through excessive optimism, or for other reasons, matters have tended not to be ready to proceed as scheduled in this CCAA proceeding. I expect to see increased focus on getting the job done and delivering material on a timely basis so that stakeholders and the court can be prepared, and on making all this happen on a timetable that ensures the matter will proceed as scheduled and in an orderly, fair way.

[4] In the circumstances, I am not prepared to fix any other dates for the hearing of the LRO and sale approval motions until I am assured that settlement discussions have reasonably run their course, motion material has been served and that the matter is ready to proceed on reasonable notice to all stakeholders.

[5] I have provided counsel to the Monitor with some possible dates I can make myself available once these preconditions are met. I will endeavor to accommodate the proposed timetable once it becomes clear these matters are ready to proceed.

[6] The Housing One and GG Eight motions are also adjourned without a fixed day. They can be rescheduled in accordance with the directions set out above.



Penny J.

APPENDIX F

SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00703933-00CL **DATE: 27 October 2023**

NO. ON LIST: 6

TITLE OF PROCEEDING: In the Matter of a Plan of Compromise or Arrangement of Quality Rugs of Canada Limited and the Other Companies
BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Christopher Besant	Counsel for Quality Rugs of Canada Ltd.	cbesant@grllp.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Steven L. Graff	Counsel for Waygar Capital Inc., as agent for Ninepoint Canadian Senior Debt Master Fund L.P.	sgraff@airberlis.com
Matilda Lici		mlici@airdberlis.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Joseph Latham	Counsel for the Monitor (RSM Canada Limited)	jlatham@goodmans.ca
Erik Axell		eaxell@goodmans.ca
Bryan Tannenbaum	Representative of the Monitor (RSM Canada Limited)	Bryan.tannenbaum@rsmcanada.com
Arif Dhanani		Arif.dhanani@rsmcanada.com
Akhil Vohra	Counsel for Ames Tile and Stone Ltd.	avohra@ogilvielaw.com
Michael Farace	Counsel for GG Eight Cumberland	Michael.farace@devrylaw.ca
Daniel Wright	Counsel for United Brotherhood of Carpenters and Joiners of America	dwright@rousseaumazzuca.com

Natasha MacParland	Counsel for Ironbridge Equity Partners Management Ltd.	nmacparland@dwpv.com
Natalie Renner		nrenner@dwpv.com
Haddon Murray	Counsel for Torlys Inc.	Haddon.murray@gowlingwlg.com
Bruce Darlington	Counsel for Macro-Universe Enterprises Ltd.	Bruce.darlington@dlapiper.com
Gerard Borean	Counsel for Ciot Creditor	gborean@parenteborean.com

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ENDORSEMENT OF JUSTICE PENNY:

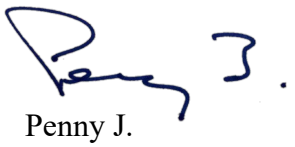
[1] This case conference was requested by Waygar, which is owed over $50 million by the debtor. The entire service list is not provided notice of the conference.

[2] Since this proceeding began, it is been plagued by the parties' inability to reach accommodation on significant issues including the terms and conditions of an asset purchase agreement between the debtor and Ironbridge (the proposed purchaser), priority and other issues between Waygar and the Ironbridge, and the terms of a lien regularization order, the purpose of which was to preserve lien claimants rights under an alternative process conducted within the four corners of the CCAA proceeding.

[3] The stay expires on October 31, 2023. The $5 million of DIP financing has been fully drawn down. The preconditions to the advance of an additional $2 million have not been met. The debtor is effectively back in the position it was in August 2023, only now is even deeper in debt. The protracted nature of the process has also led to other problems, including non-payment by customers, which have aggravated the cash flow problem even further. I was advised, however, that senior representatives of Waygar and Ironbridge were meeting next Monday afternoon in a final effort to see if there was any path forward for a going concern transaction.

[4] The debtor may bring a motion to extend the stay, returnable before me on Tuesday October 31, 2023 at 10:00 AM. It must be supported by evidence which warrants such extension.

[5] Perhaps this crisis will galvanize the parties to action. If not, other realization measures will have to be considered and pursued.



Penny J.

APPENDIX G

NOTICE

TO: **QUALITY RUGS OF CANADA LIMITED ("Quality")**

AND TO: **RSM CANADA LIMITED**

FROM: **IRONBRIDGE EQUITY PARTNERS IV, LP and IRONBRIDGE EQUITY PARTNERS (INTERNATIONAL) IV, LP (collectively, the "DIP Lenders")**

DATE: **October 23, 2023**

RE: **DIP Facility Loan Agreement dated as of August 25, 2023 (the "DIP Credit Agreement")**

All capitalized terms used and not otherwise defined herein shall have the respective meanings set out in the DIP Credit Agreement.

The DIP Lenders hereby give you notice that the Maturity Date under the DIP Credit Agreement occurred on Friday, October 20, 2023. On the Maturity Date, the DIP Lenders' commitment to make Advances under the DIP Facility expired and all DIP Obligations became immediately due and payable.

The DIP Lenders also hereby give you notice of the following Events of Default: (a) failure to pay the DIP Obligations when due and owing on the Maturity Date, (b) negative variance of the net cash flows of more than 15% compared to the Approved Cash Flow, and (c) failure to complete the Transaction before the Maturity Date (collectively, the "**Existing Defaults**"). With this Notice, the DIP Lenders hereby advise that the DIP Obligations shall bear interest at the Default Rate from and after October 20, 2023.

With this Notice and without constituting a waiver of Quality's obligations or limiting the remedies of the DIP Lenders under the DIP Credit Agreement, the DIP Lenders hereby extend the Maturity Date until Friday, October 27, 2023. The DIP Lenders hereby agree to forbear from exercising any rights or remedies under the DIP Credit Agreement or applicable Laws until the expiration of the Maturity Date, as extended by this Notice. Notwithstanding the foregoing, if any Event of Default shall occur from and after the date of this Notice, other than the Existing Defaults, the DIP Lenders' agreement to forbear shall immediately terminate .

For certainty, any failure by the DIP Lenders to exercise any right set out in the DIP Credit Agreement shall not constitute a waiver thereof and nothing in this Notice nor any payment deferral by the DIP Lenders shall constitute a waiver, in whole or in part, of any breach by Quality of any provisions of the DIP Credit Agreement, including the Existing Defaults. The DIP Lenders hereby expressly reserve all of their rights and remedies under the DIP Credit Agreement and under applicable Laws with respect to the Existing Defaults.

IN WITNESS WHEREOF, the DIP Lenders have caused this Notice to be executed the day and year first above written.

IRONBRIDGE EQUITY PARTNERS IV, LP, by its general partner, IRONBRIDGE EQUITY PARTNERS MANAGEMENT IV LIMITED

by _____

IRONBRIDGE EQUITY PARTNERS (International) IV, LP, by its general partner, IRONBRIDGE EQUITY PARTNERS MANAGEMENT IV LIMITED

by _____