

Court File No. _____

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

BETWEEN

KENSINGTON PRIVATE EQUITY FUND

Applicant

-and-

O2 INDUSTRIES INC.

Respondent

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

**APPLICATION RECORD
(Returnable May 27, 2021)**

May 25, 2021

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

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Lawyers for the Applicant

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SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following pages.

THIS APPLICATION will come on for a hearing on **May 27, 2021 at 10:00 a.m.**

- In person
 By telephone conference
 By video conference

at the following link:

<https://us02web.zoom.us/j/84939597385?pwd=MTNPWk9WNUV2cCtNTVdCQXA5ancwUT09>

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not

have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than two (2) days before the hearing, or as otherwise ordered by the Court.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: May 25, 2021

Issued by: _____

Local registrar

Address of court office: 330 University Avenue
Toronto, Ontario M5G 1E7

APPLICATION

THE APPLICANT MAKES THIS APPLICATION FOR:

1. An Order, substantially in the form attached at Tab 3 of the Application Record, among other things:
 - (a) appointing RSM Canada Limited (“**RSM**”) as receiver (in such capacity, the “**Receiver**”) of the assets, undertakings and properties of O2 Industries Inc. (the “**Debtor**”), pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”);
 - (b) authorizing and directing the Receiver to conduct a sale process in respect of the Debtor’s business and assets (the “**Sale Process**”) pursuant to the sale procedures (the “**Sale Procedures**”) attached to the pre-filing report of the proposed Receiver (the “**Pre-Filing Report**”); and
 - (c) authorizing the Receiver and the Company to execute an asset purchase agreement with an affiliate of the Agent (the “**Stalking Horse Bidder**”) in substantially the form attached to the Pre-Filing Report to serve as a stalking horse transaction for purposes of the Sale Process (the “**Stalking Horse Transaction**”); and
2. Such further and other relief as counsel may request and this Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Debtor is a privately-owned corporation incorporated pursuant to the laws of the Province of Ontario;
2. The Debtor designs and sells personal respirators for consumer, healthcare and military/law enforcement markets;
3. The Debtor is currently indebted to the Applicant, Kensington Private Equity Fund (the “**Agent**”), in the amount of US\$2,030,574.29 as of May 25, 2021 (inclusive of accrued interest but exclusive of expenses, costs and other charges) pursuant to three convertible promissory notes (collectively, the “**Promissory Notes**”) issued by the Debtor to the Agent, as lender and agent on behalf of Kensington Venture Fund II, L.P. (“**KVFII**”) and Kensington (Parallel) Venture Fund II, L.P. (“**KVFII Parallel**” and, together with the Agent and KVFII, the “**Kensington Lenders**”);
4. Pursuant to a General Security Agreement dated March 31, 2021 (the “**General Security Agreement**”), the Debtor granted to the Agent a security interest in its present and future assets, undertaking and property, both real and personal (as defined in the General Security Agreement, the “**Collateral**”) as security for all obligations of the Debtor pursuant to the Promissory Notes;
5. The Debtor is experiencing severe financial challenges as a result of declining sales revenues, substantial unsold inventory, and an unsustainable cost structure. Despite the bridge financing provided by the Kensington Lenders, the Debtor has been unable to execute on its business plan to attract additional capital from new investors or generate liquidity from the sale of product inventory;

6. The Debtor is insolvent and the continuation of normal course business activity would cause the Debtor to exhaust its remaining liquidity in a matter of days;

7. The insolvency of the Debtor and the material adverse change in its financial condition constitute events of default under the Promissory Notes, entitling the Agent to exercise its rights and remedies under the General Security Agreement, including seeking the appointment of the Receiver;

8. On May 14, 2021, the Agent delivered a letter to the Debtor demanding repayment in full of the obligations under the Promissory Notes and providing notice of the Agent's intention to enforce its security pursuant to subsection 244(1) of the BIA. The indebtedness under the Promissory Notes remains outstanding;

9. The Debtor has consented to the immediate enforcement of the Agent's security, including the appointment of the Receiver;

10. The Agent seeks the appointment of the Receiver to preserve the value of the Agent's Collateral, stabilize the business, and obtain a stay of proceedings to prevent actions that could result in a further deterioration of the Debtor's financial condition;

11. The receivership proceedings will provide a stabilized environment for the Receiver to conduct the Sale Process to solicit interest in and implement a transaction that maximizes the value of the business. The Agent supports the conduct of the Sale Process and has engaged with the proposed Receiver to develop the Sale Procedures;

12. Under the Stalking Horse Transaction, the Stalking Horse Bidder would acquire substantially all of the business and assets of the Debtor in exchange for the release and

discharge of the secured obligations owing under the Promissory Notes and the receiver's certificates to be issued by the Receiver to fund these proceedings (collectively, the "**Senior Secured Indebtedness**") and the payment of priority obligations;

13. The Sale Process will provide an opportunity to determine whether there are any alternative transaction opportunities that are capable of repaying in full the Senior Secured Indebtedness and providing additional value. If any such alternative transactions emerge, the Sale Procedures provide for an auction process involving the Stalking Horse Bidder and other qualified bidders to determine the transaction that maximizes the value of the Debtor's business and assets;

14. In light of the Debtor's deteriorating financial condition, it is necessary to proceed expeditiously with the appointment of the Receiver and the commencement of the Sale Process;

15. RSM is a licensed trustee within the meaning of section 2 of the BIA and has extensive experience in Canadian insolvency proceedings. RSM consents to act as Receiver on the terms of the proposed Receivership Order;

16. The appointment of the Receiver is just and convenient having regard to all of the circumstances;

17. Subsection 243(1) of the BIA and section 101 of the CJA;

18. Rules 1.05, 2.03, 3.02, 16, 38 and 41 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

19. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Application:

1. The affidavit of Richard Nathan sworn May 25, 2021 and the exhibits thereto;
2. The Pre-Filing Report of the proposed Receiver;
3. The consent of RSM to act as Receiver; and
4. Such further and other material as counsel may advise and this Court may permit.

May 25, 2021

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Lawyers for the Applicant

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-and-

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Respondent

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AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE
ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**AFFIDAVIT OF RICHARD NATHAN
(Sworn May 25, 2021)**

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I, Richard Nathan, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY** as follows:

I. OVERVIEW

1. I am a Senior Managing Director at Kensington Capital Partners Limited (together with its affiliates and managed funds, “**Kensington**”), a Canadian alternative asset management firm that holds a portfolio of global private equity investments. Kensington Private Equity Fund (the “**Agent**”) is an investment fund managed by Kensington.

2. The Agent is a secured creditor of O2 Industries Inc. (the “**Debtor**”), the respondent in this application. I have been directly involved in the management of Kensington’s arrangements with the Debtor since October 2020, when the Kensington Lenders (as defined below) first advanced funding to the Debtor. As such I have personal knowledge of the matters to which I herein after depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

3. This affidavit is sworn in support of an application by the Agent, on its own behalf and on behalf of the other Kensington Lenders, for an Order (the “**Receivership Order**”), among other things, appointing RSM Canada Limited (“**RSM**”) as receiver (in such capacity, the “**Receiver**”) of the assets, undertaking and properties of the Debtor (the “**Property**”) pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and section 101 of the *Courts of Justice Act* (Ontario).

4. The Debtor is currently indebted to the Agent in the amount of \$2,030,574.29 as of May 25, 2021 (inclusive of accrued interest but exclusive of expenses, costs and other charges) pursuant to three convertible promissory notes issued by the Debtor to the Agent (collectively, the “**Promissory Notes**”). As security for the obligations under the Promissory Notes, the Debtor granted to the Agent a security interest in substantially all of the Property pursuant to the General Security Agreement (as defined below).

5. The Debtor, which designs and sells personal respirators for consumer, healthcare and military/law enforcement markets (the “**Business**”), is experiencing severe financial challenges. The Debtor made substantial investments to expand its inventory and business operations on the assumption that the demand its products experienced during the early COVID-19 pandemic would persist for longer than it did, and new products would continue to grow the Business. However, the Debtor’s sales revenues have declined precipitously to near pre-pandemic levels and the Debtor’s financial position is no longer sustainable. I have been informed by management that the Debtor is insolvent and the continuation of normal course business activity would cause the Debtor to exhaust its remaining liquidity in a matter of days.

6. In January 2021, the Board of Directors of the Debtor (the “**Board**”) was informed that the financial position of the Company was substantially worse than it had previously been led to believe. As a result, the Board immediately took action and replaced the Debtor’s Chief Financial Officer and the Debtor’s co-founder and Chief Executive Officer, Peter Whitby. The Board appointed co-founder Richard Szasz as Interim Chief Executive Officer and Ani Tourian as Interim Chief Financial Officer and directed them to engage in a full financial review of the Business. As a result of that review, the Debtor began laying off employees and otherwise substantially cutting costs, and attempted to sell off a substantial amount of

accumulated inventory at discounted prices to address the Debtor's precarious cash position, while creating a revised business plan to stabilize the Business and attract new investors.

7. By the end of March 2021, the Debtor was running out of working capital as revenue continued to decline and the Debtor was unable to sell its substantial accumulated inventory. In order to provide the Debtor with additional runway to stabilize the Business and develop a plan for longer term funding, the Board approved a proposed \$4 million bridge financing facility (the "**Bridge Financing Facility**"), half of which would be provided by the Kensington Lenders through the Promissory Notes. The Kensington Lenders advanced funding to the Debtor under the Promissory Notes on March 31, 2021, April 13, 2021 and May 10, 2021 in an effort to stabilize the Debtor's business while it pursued various restructuring initiatives.

8. The goal of the Bridge Financing Facility was to enable the Debtor to continue business operations while it navigated through its financial challenges. The Debtor was optimistic that the structure of the Bridge Financing Facility would attract additional capital from new investors to match the amounts advanced by the Kensington Lenders, and that a further program of price discounting could provide additional liquidity from the sale of product inventory. On the whole, the combination of additional investment plus inventory sales was targeted to finance the business while a more sustainable business model was established.

9. However, the Debtor's efforts to date have not resulted in a resolution of the many challenges facing the company. The Debtor has been unable to attract additional investors to provide the remaining \$2 million under the Bridge Financing Facility or generate sufficient

liquidity through the sale of inventory. In addition, certain stakeholders have initiated proceedings in respect of alleged contractual defaults by the Debtor. The Debtor's liquidity has continued to deteriorate, such that it cannot continue normal course business operations without additional funding. Under the current circumstances, the Kensington Lenders are not prepared to provide further funding outside of a court-supervised process.

10. The insolvency of the Debtor and the material adverse change in its financial condition constitute events of default under the Promissory Notes, entitling the Agent to exercise its rights and remedies under the General Security Agreement, including seeking the appointment of the Receiver.

11. The Agent seeks the appointment of the Receiver to preserve the value of the Agent's security, stabilize the Business, and obtain a stay of proceedings to prevent actions that could result in a further deterioration of the Debtor's financial condition.

12. The Debtor has consented to the immediate enforcement of the Agent's security, including the appointment of the Receiver.

13. The receivership proceedings will provide a stabilized environment for the Receiver to conduct a sale process to solicit interest in and implement a sale transaction that maximizes the value of the Debtor and its Business. The Agent supports the conduct of a sale process and has engaged with the proposed Receiver to develop the procedures that, subject to approval by this Court, will govern the sale process (the "**Sale Procedures**"). Approval of the Sale Procedures is being sought as part of the Receivership Order to enable the Receiver to commence the sale process without delay.

14. Kensington, through a special purpose entity, has agreed, subject to Court approval, to act as the stalking horse bidder in the sale process and has prepared a form of asset purchase agreement for the acquisition of substantially all of the business and assets of the Debtor (the “**Stalking Horse Transaction**”). The Sale Procedures will enable the Receiver to test the market and ultimately select the transaction that maximizes the value of the Debtor’s Business and assets.

15. The Agent is prepared to provide funding to the Receiver, on a priority basis pursuant to Receiver’s borrowing certificates, to fund scaled-down Business operations and the cost of these receivership proceedings while the Receiver conducts the sale process.

16. Unless otherwise stated, all dollar amounts specified herein are in United States dollars.

II. BACKGROUND AND BUSINESS OVERVIEW

17. Attached hereto and marked as Exhibit “A” is a copy of the Corporation Profile Report for the Debtor obtained from the Ontario Ministry of Government and Consumer Services on May 10, 2021. I note that the list of directors and officers of the Debtor is not current.

18. Based upon the Corporation Profile Report, the Agent believes that the Debtor was originally incorporated under the name “Canada Prosper Apparel Ltd.” on September 5, 2014 pursuant to the laws of the Province of Ontario. The Debtor changed its name to O2 Industries Inc. on January 20, 2020.

19. O2 is privately-owned. Based upon the corporate records the Agent reviewed in connection with entering into the Promissory Notes and related transactions, the Agent believes that the Debtor has 1,354,167 Class A preferred shares and 7,806,071 common shares outstanding. Entities managed or controlled by Kensington own 100% of the Class A preferred shares and approximately 18.2% of the outstanding common shares.

20. Based upon the Corporation Profile Report, the Debtor's registered office is located at 151 Charles Street W, Suite #100, Kitchener, Ontario. The Debtor's head office is located in leased premises at 5 Michael Street, Suite #2, Kitchener, Ontario. I have been informed by management of the Debtor that the head office is the only premises occupied by the Debtor and is the location where all of its corporate, accounting, management and administrative functions are performed.

21. The Interim Chief Executive Officer and sole director of the Debtor is Richard Szasz. I was a director of the Debtor commencing December 4, 2020 until my resignation on May 6, 2021.

22. The Debtor is a company that designs and produces a variety of reusable respirators, medical grade dual-filter respirators, respirator filters, and other associated accessories. The Debtor's respirators are designed to protect the wearer from exposure to airborne particles, including biological aerosols.

23. I have been informed by Mr. Szasz that the Debtor's first product – the O2 Curve, a hard shell respirator targeted at the consumer market – was launched in 2017 and is manufactured in China under agreement with Sigma Worldwide, LLC (“**Sigma**”). The O2 Curve is sold principally on a direct-to-consumer basis through the Debtor's website.

24. The Debtor's second product – the TR2 Respirator, a hard shell respirator designed for in-field tactical users such as military and police – was launched in November 2020. To date, the TR2 Respirator is manufactured in China under agreement with Sigma, although the Debtor has plans to transition manufacturing of the TR2 Respirator to Canada and the United States.

25. Neither the O2 Curve nor the TR2 Respirator is certified by Health Canada or the National Institute for Occupational Safety and Health in the United States.

26. I am informed by management of the Debtor that the Debtor currently has thirteen employees (including full time and hourly employees) and that all employees are non-unionized. Given its severe liquidity issues, the Debtor terminated the employment of most of its employees in April and May 2021.

III. INDEBTEDNESS OWING TO THE KENSINGTON LENDERS AND THE AGENT'S SECURITY

A. The Promissory Notes

27. The Debtor is directly indebted to the Agent pursuant to and under the terms of the Promissory Notes issued by the Debtor to the Agent, as lender and agent on behalf of Kensington Venture Fund II, L.P. (“**KVFII**”) and Kensington (Parallel) Venture Fund II, L.P. (“**KVFII Parallel**”) and, together with the Agent and KVFII, the “**Kensington Lenders**”), as follows:

- (a) Convertible Promissory Note dated March 31, 2021 in the principal amount of \$1,001,216.44 issued by the Debtor to the Agent (the “**March Promissory Note**”), a copy of which is attached hereto as Exhibit “B”;

- (b) Convertible Promissory Note dated April 13, 2021 in the principal amount of \$650,000.00 issued by the Debtor to the Agent (the “**April Promissory Note**”), a copy of which is attached hereto as Exhibit “C”; and
- (c) Convertible Promissory Note dated May 10, 2021 in the principal amount of \$350,000.00 issued by the Debtor to the Agent (the “**May Promissory Note**”), a copy of which is attached hereto as Exhibit “D”.

28. The Promissory Notes bear cumulative interest at the rate of 1% per month on amounts outstanding, payable upon maturity. The Promissory Notes mature on the earlier of (i) March 31, 2022, or (ii) the date upon which the Debtor completes an equity financing raising at least \$5 million. The Promissory Notes are convertible, at the option of the Agent, into shares of the Debtor upon the occurrence of certain events.

29. The Kensington Lenders and the Debtor are parties to an Assignment and Agency Agreement dated May 10, 2021 (the “**Assignment and Agency Agreement**”) pursuant to which, among other things, the Agent confirmed the assignment to KVFII and KVFII Parallel of certain pro rata interests in the Promissory Notes and KVFII and KVFII Parallel confirmed their appointment of the Agent to act as agent and to service the Promissory Notes and the General Security Agreement on their behalf.

B. General Security Agreement

30. The Debtor and the Agent are parties to a General Security Agreement dated as of March 31, 2021 (the “**General Security Agreement**”) pursuant to which the Debtor granted to the Agent a security interest in its present and future assets, undertaking and property, both real and personal (as defined in the General Security Agreement, the “**Collateral**”) as security

for all obligations, debts and liabilities of the Debtor to the Agent pursuant to the Bridge Financing Facility, including the Promissory Notes. A copy of the General Security Agreement is attached hereto as Exhibit “E”.

31. The Collateral includes the Debtor’s right, title and interest in the Intellectual Property (as defined in the General Security Agreement). Attached hereto as Exhibit “F” is a copy of a Notice of Security Interest in Canadian Intellectual Property dated March 31, 2021 provided by the Debtor to the Agent, pursuant to which the Debtor confirmed the granting to the Agent of a security interest and lien in the Canadian intellectual property, including the registrations and applications set forth on Schedule “A” thereto.

32. The Collateral excludes Receivables, as that term is defined in the General Security Agreement. The Agent understands that the Debtor has agreements with certain third parties pursuant to which such third parties advanced funding to the Debtor and the Debtor agreed to transfer a specified percentage of its future receivables to such third parties in repayment of amounts due under the agreements.

33. The Assignment and Agency Agreement executed by the Debtor confirms that the security granted to the Agent under the General Security Agreement is granted to the Agent on its own behalf and as agent for the other Kensington Lenders.

34. The Agent registered its security interest in respect of the Collateral under the Ontario *Personal Property Security Act* (the “PPSA”) on April 6, 2021. The Agent’s registration was amended on May 5, 2021 to correct the spelling of the Agent’s name.

35. Attached as Exhibit “G” hereto is a listing of the PPSA registrations made in respect of the Debtor as of May 24, 2021 (the “**PPSA Search Results**”).

36. The Agent also registered its security interest and lien in the Debtor’s Canadian intellectual property with the Canadian Intellectual Property Office on April 6, 2021.

IV. OTHER CREDITORS

37. The PPSA Search Results list two additional PPSA registrations in respect of the Debtor, each of which was registered prior to the registration by the Debtor:

(a) a registration by the Toronto Dominion Bank on January 11, 2021 in respect of Inventory, Equipment, Accounts, Motor Vehicles and Other (as such terms are defined in the PPSA). The Agent is informed by management of the Debtor that this registration secures obligations of the Debtor under certain corporate credit cards issued by Toronto Dominion Bank, and that such credit card indebtedness is approximately \$1,013 and CAD\$7,837 as of May 25, 2021; and

(b) a registration by 1537638 Ontario Limited on December 3, 2020 in respect of Equipment (as defined in the PPSA) identified by two serial numbers, with a secured amount of CAD\$9,132. The Agent is informed by management of the Debtor that this registration relates to two photocopiers/printers leased by the Debtor.

38. The Agent is informed by management of the Debtor that the other outstanding obligations of the Debtor include the following:

- (a) accounts payable of approximately \$952,000, CAD\$1,993,000 and GBP 52,000;
- (b) a promissory note dated July 18, 2018 in the principal amount of CAD\$125,000 issued by the Debtor to Ontario Centres of Excellence Inc.;
- (c) a promissory note dated July 5, 2018 in the principal amount of CAD\$50,000 issued by the Debtor to BPI Construction Inc.;
- (d) various promissory notes issued by the Debtor to former directors or officers of the Debtor or their family members in the aggregate principal amount of approximately CAD\$248,000; and
- (e) obligations to former employees for termination pay of approximately CAD\$43,000.

V. THE DEBTOR'S DETERIORATING FINANCIAL CONDITION

A. Financial Challenges

39. Over the past year, the Debtor has experienced financial challenges that have severely strained its liquidity and caused a significant deterioration in its financial position. Since March 31, 2021, the Debtor has required financing from the Kensington Lenders under the Promissory Notes in order to continue business operations. Without additional funding, the Debtor is expected to exhaust its remaining liquidity in the coming days.

40. I have been informed by Mr. Szasz that from the launch of the O2 Curve in late 2017 through February 2020, the Debtor generated approximately \$30,000-\$50,000 of monthly revenue with six employees.

41. The onset of the global COVID-19 pandemic in the first quarter of 2020 created substantial demand for personal protective equipment (“PPE”), including masks and respirators. The Debtor experienced a sudden and significant increase in sales revenue resulting from this demand, with monthly sales peaking in May 2020 at more than \$3.3 million (compared to monthly sales of approximately \$41,000 in January 2020). For the fiscal year ended July 31, 2020, the recent financial review conducted by management of the Debtor determined that the Debtor achieved total sales of approximately \$13 million (compared to total sales of approximately \$191,000 in the previous fiscal year).

42. However, the Debtor subsequently experienced a similarly drastic decline in sales volumes as consumer demand for PPE peaked and the market became saturated with excess supply. I have been informed by management of the Debtor that monthly revenues have decreased from a peak of more than \$3.3 million in May 2020 to approximately \$120,000 in April 2021.

43. During the brief period of heightened demand, the Debtor made business and financial decisions assuming peak pandemic-level demand and sales would continue for some time, and ultimately be supplanted and surpassed by new product lines. The Debtor made significant expenditures across many aspects of its Business – including inventory, employee headcount, marketing, sales, operations and research and development – in an attempt to “scale up”. Among other things, the Debtor placed orders for 250,000 units of the O2 Curve and grew from fewer than 10 to more than 60 employees during this period. However, the Debtor’s expenditures and cost structure became unsustainable as it experienced a precipitous decline in sales revenue.

44. The Debtor invested heavily in manufacturing and stockpiling its O2 Curve respirator in response to peak pandemic-induced demand. As a result of the current global glut in PPE supplies, the Debtor has been unable, despite significant price discounting, to sell any substantial amounts of its remaining inventories of the O2 Curve through either direct-to-consumer or wholesale channels. The Debtor continues to incur significant costs associated with the storage of these inventories with its distributors in Canada, the United States and China.

45. The Debtor has also depleted its liquidity through a number of recent marketing initiatives including a marketing arrangement with Zuffa International, LLC d/b/a Ultimate Fighting Championship (“UFC”). In September 2020, the Debtor announced a sponsorship agreement with UFC – the largest mixed martial arts organization in the world – pursuant to which the Debtor agreed to make payments to UFC totaling approximately \$10.28 million through December 31, 2023 in exchange for the promotion of the Debtor’s products by UFC. The marketing partnership was intended to enhance the Debtor’s brand among its prospective customers. The remaining quarterly payments under the sponsorship agreement are approximately \$8.43 million, with the next payment of 750,000 due July 1, 2021. The Debtor’s payment obligations under the sponsorship agreement are not sustainable in light of the Debtor’s current sales volume and liquidity.

46. The Agent is aware of a number of ongoing lawsuits in which the Debtor is named as a defendant, including lawsuits initiated by Sigma, the manufacturer of the Debtor’s respirators, and Huge Canada, a provider of design, marketing and other services to the Debtor.

47. As described earlier, the Debtor has experienced significant turnover among its senior executives, including the termination of the Debtor's Chief Executive Officer and Chief Financial Officer in January 2020. The Debtor has also reduced its employee headcount from more than 60 employees to thirteen employees, including 20 employee departures in May 2021, as a result of its most recent financial challenges.

B. Funding by Kensington and Continuing Liquidity Issues

48. In autumn 2020, revenue from the O2 Curve respirator continued to decline from the peak demand experienced at the beginning of the COVID-19 pandemic. The Debtor sought additional investment funding to allow the Debtor to continue to expand the Business and launch new product lines. On December 4, 2020, a limited partnership affiliated with and funded by Kensington purchased 1,354,167 Class A preferred shares of the Debtor for proceeds to the Debtor of \$6,500,000. In addition, this limited partnership purchased additional common shares for approximately \$3,600,000 from an existing shareholder of the Debtor in a secondary purchase. As a result of these transactions, this limited partnership acquired approximately 21.4% of the outstanding shares of the Debtor for an investment of approximately \$10.1 million, and I was appointed to the Board. The Debtor used the proceeds of the preferred share offering for general corporate purposes and to complete the launch of its TR2 Respirator.

49. In January 2021, the Board discovered that the financial position of the Debtor was substantially worse than it had previously been led to believe, and as a result the Board immediately took action by terminating the employment of the Chief Executive Officer and Chief Financial Officer and replacing them with new appointees, while directing management

to cut costs and conduct an internal financial audit to better understand the Debtor's ongoing cash requirements. Based upon the Debtor's limited cash position, management and the Board devised a plan to further cut costs by reducing the Debtor's workforce and otherwise reducing expenditures, while also attempting to raise additional funds by rapidly selling its outstanding inventory at a discount.

50. Despite these measures, by the end of March 2021, as the Debtor's sales and financial situation continued to deteriorate and the Debtor was unable to sell meaningful amounts of its substantial accumulated O2 Curve inventory, the Debtor and Kensington agreed upon the Bridge Financing Facility to provide the Debtor with additional working capital to stabilize the Business while it sought to liquidate its O2 Curve inventory to raise additional capital and attract new investors by developing a plan for longer term financing.

51. The Debtor and Kensington entered into a binding term sheet dated March 31, 2021, a copy of which is attached hereto as Exhibit "H". Pursuant to and subject to the terms of the term sheet, the Agent agreed to provide up to \$2 million of the Bridge Financing Facility to the Debtor while the Debtor attempted to raise the remaining \$2 million from other investors.

52. The Bridge Financing Facility was made available to the Debtor pursuant to the Promissory Notes. The first advance was made on March 31, 2021 pursuant to the March Promissory Note. The Agent subsequently provided further financing to the Debtor on April 13, 2021 (under the April Promissory Note) and on May 10, 2021 (under the May Promissory Note). The aggregate principal obligations under the three Promissory Notes outstanding are \$2,001,216.44.

53. Despite the Debtor's best efforts, it has been unable to raise additional capital by selling meaningful amounts of its accumulated O2 Curve inventory despite significantly discounting its price. The Debtor has also been unable to attract new investors to match the \$2 million commitment under the Bridge Financing Facility from the Kensington Lenders. In addition, creditors of the Debtor have begun threatening and commencing litigation to enforce alleged contractual liabilities of the Debtor.

54. The Debtor has expended substantially all of the funding advanced under the Promissory Notes since March 31, 2021. Without additional funding, the continuation of normal course business activity would cause the Debtor to exhaust its remaining liquidity in a matter of days.

55. Given the Debtor's current circumstances and the sustained deterioration of its financial condition in recent months, the Agent is not prepared to advance additional funding to the Debtor outside of a court-supervised process that will facilitate the pursuit of a value-maximizing transaction for the Debtor's Business.

VI. EVENTS OF DEFAULT UNDER THE PROMISSORY NOTES AND DEMAND FOR PAYMENT

56. Events of Default, as defined in each of the Promissory Notes, have occurred and are continuing as a result of the Debtor's current circumstances as described in this affidavit.

These Events of Default include:

- (a) the Debtor has become insolvent (an Event of Default pursuant to section 5.1(e) of each of the Promissory Notes); and

- (b) there has occurred a material adverse change in the financial condition or other condition of the Debtor which is likely to result in the impairment of the Debtor's ability to pay or perform its obligations under the Promissory Notes or of the value of the Collateral or the Agent's ability to realize thereupon (an Event of Default pursuant to section 5.1(f) of each of the Promissory Notes).

57. Pursuant to each of the Promissory Notes, upon the occurrence of any Event of Default, the outstanding principal amount of such Promissory Note, together with unpaid accrued interest, shall become immediately due and payable.

58. The General Security Agreement provides that, on or after the occurrence of any Event of Default that is continuing, among other things:

- (a) the Obligations (as defined in the General Security Agreement) will, at the option of the Agent, become immediately due and payable;
- (b) any or all of the security granted under the General Security Agreement will, at the option of the Agent, become immediately enforceable; and
- (c) the Agent may appoint a receiver or institute proceedings in any court of competent jurisdiction for the appointment of a receiver or receiver and manager of the Collateral.

59. On May 14, 2021, the Agent delivered a letter to the Debtor declaring all Obligations owing by the Debtor to the Kensington Lenders to be due and payable and demanding payment in full of the Obligations (the "**Demand Letter**"). The Demand Letter enclosed a

notice of intention to enforce security pursuant to subsection 244(1) of the BIA (the “**BIA Notice**”). Copies of the Demand Letter and the BIA Notice are attached hereto as Exhibit “I”.

60. To date, the Debtor has not repaid any of the Obligations owing in respect of the Promissory Notes. The Debtor is indebted to the Agent in the aggregate amount of \$2,030,574.29, inclusive of interest through May 25, 2021 but exclusive of expenses and other costs, charges and fees.

61. By irrevocable consent dated May 18, 2021 delivered by the Debtor to the Agent, the Debtor acknowledged receipt of the BIA Notice and consented to the immediate enforcement by the Agent of its security in the Collateral, including the appointment by the Court, on the application of the Agent, of a receiver or receiver and manager over the business, assets, property and undertaking of the Debtor. A copy of the irrevocable consent is attached hereto as Exhibit “J”.

VII. APPOINTMENT OF THE RECEIVER

62. The Agent believes that the appointment of the Receiver is necessary and appropriate at this time to prevent further deterioration of the Debtor’s financial condition and the value of the Agent’s Collateral. The Debtor is insolvent and will exhaust its remaining cash resources in the very near term. Without access to additional financing in a court-supervised process, the Debtor will not have sufficient funding to continue business operations. A disorderly cessation of business activities would significantly impair the value of the Collateral, to the detriment of the Agent and other stakeholders of the Debtor.

63. The Debtor is in default of its obligations under the Promissory Notes, which are due and payable. The Agent has the right under the General Security Agreement to appoint a receiver or to institute proceedings for the appointment of a receiver by the Court. The Debtor has consented to the appointment of a receiver.

64. The Agent believes that, having regard to all of the circumstances, the appointment of the Receiver at this time is just and equitable. The appointment of the Receiver will stabilize the Debtor, preserve the value of the Collateral, and facilitate a process to maximize value through the sale of the Business on a going concern basis.

65. The Agent proposes that RSM be appointed as the Receiver. RSM is a licensed insolvency trustee with extensive experience in Canadian insolvency proceedings, including receiverships. RSM is familiar with the circumstances of the Debtor and has been involved in the design of the proposed Sale Process to be carried out during the receivership proceedings.

66. The written consent of RSM to act as Receiver in these proceedings will be included in the Agent's application record.

67. The Agent understands that, having regard to the nature of the Business, RSM may be unable to obtain insurance coverage. Accordingly, RSM is not prepared to manage or operate the Business or take possession or control of the Debtor's property. The proposed form of Receivership Order authorizes the Receiver to conduct the sale process, monitor the Business, control the Debtor's receipts and disbursements, and take other actions as set out in the Order.

VIII. THE SALE PROCESS AND STALKING HORSE TRANSACTION

68. As part of the initial application for the Receivership Order, approval is being sought for the Sale Procedures pursuant to which the Receiver will solicit proposals for a sale transaction in respect of all or certain of the property, assets and undertakings of the Debtor. Due to the Debtor's strained liquidity and need to proceed expeditiously towards a restructuring solution, it is imperative that the Receiver commence the sale process without delay.

69. Kensington, through a special purpose entity, has agreed to act as a stalking horse bidder in the Sale Process (the "**Stalking Horse Bidder**"). The Stalking Horse Bidder has prepared an asset purchase agreement governing the Stalking Horse Transaction. Under the Stalking Horse Transaction, the Stalking Horse Bidder would acquire substantially all of the business and assets of the Debtor in exchange for the release and discharge of the secured obligations owing under the Promissory Notes and receiver's certificates to be issued by the Receiver to fund the proceedings (collectively, the "**Senior Secured Indebtedness**") and the payment or assumption of priority obligations.

70. The sale process to be conducted by the Receiver will provide an opportunity to determine whether there are alternative transaction opportunities for the Business that are capable of repaying in full the Senior Secured Indebtedness owing to the Agent and providing additional value. If any such alternative transactions emerge, the Sale Procedures provide for an auction process involving the Stalking Horse Bidder and other qualified bidders to determine the transaction that maximizes the value of the Debtor's business and assets.

71. The Agent believes that the sale process, supported by the Stalking Horse Transaction, is the best means in the circumstances to stabilize the Debtor's Business and identify a going concern solution that provides a recovery to the Kensington Lenders and maximizes the value of the Debtor's Business and assets.

72. This affidavit is sworn in support of the Agent's application for the appointment of the Receiver and for no improper purpose.

SWORN before me over videoconference on this 25th day of May, 2021. The affiant was located at the City of Toronto, in the Province of Ontario and the commissioner was located at the City of Toronto, in the Province of Ontario. This affidavit was commissioned remotely as a result of COVID-19 in accordance with O. Reg 431/20



A Commissioner for taking affidavits
Name:



RICHARD NATHAN

A

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021

A handwritten signature in black ink, appearing to be 'A. Nathan', written over a horizontal line.

Commissioner for Taking Affidavits

Request ID: 026125561
Transaction ID: 79202014
Category ID: UN/E

Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2432865	O2 INDUSTRIES INC.	2014/09/05
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address		Date Amalgamated
151 CHARLES ST W		NOT APPLICABLE
Suite # 100		Amalgamation Ind.
KITCHENER		NOT APPLICABLE
ONTARIO		New Amal. Number
CANADA N2G 1H6		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
Mailing Address		Letter Date
5 MICHAEL STREET		NOT APPLICABLE
Suite # 2		Revival Date
KITCHENER		NOT APPLICABLE
ONTARIO		Continuation Date
CANADA N2G 1L7		NOT APPLICABLE
		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
	Number of Directors	Date Commenced
	Minimum	in Ontario
	Maximum	Date Ceased
	00001	in Ontario
	00009	NOT APPLICABLE
Activity Classification		NOT APPLICABLE
NOT AVAILABLE		

Request ID: 026125561
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Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2432865	O2 INDUSTRIES INC.

Corporate Name History	Effective Date
O2 INDUSTRIES INC.	2020/01/20
CANADA PROSPER APPAREL LTD.	2014/09/05

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
SANDEEP MAHAL	295 ADELAIDE STREET WEST TORONTO ONTARIO CANADA M5V 0L4

Date Began	First Director	
2016/06/09	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

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CORPORATION PROFILE REPORT

Ontario Corp Number

2432865

Corporation Name

O2 INDUSTRIES INC.

Administrator:

Name (Individual / Corporation)

RICHARD
SZASZ

Address

85 DUKE STR.

Suite # 1606
KITCHENER
ONTARIO
CANADA

Date Began

2014/09/05

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

RICHARD
SZASZ

Address

118 KING STREET
SOUTH

WATERLOO
ONTARIO
CANADA N2J 2X8

Date Began

2014/09/06

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

VICE-PRESIDENT

Resident Canadian

Y

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CORPORATION PROFILE REPORT

Ontario Corp Number

2432865

Corporation Name

O2 INDUSTRIES INC.

Administrator:

Name (Individual / Corporation)

PETER
L
WHITBY

Address

70 GEORGE STREET

WATERLOO
ONTARIO
CANADA N2J 1K7

Date Began

2014/09/05

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Administrator:

Name (Individual / Corporation)

PETER
WHITBY

Address

72 BREITHAUPT STR.

KITCHENER
ONTARIO
CANADA

Date Began

2014/09/05

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

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CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2432865	O2 INDUSTRIES INC.

Administrator: Name (Individual / Corporation)	Address
PETER L WHITBY	70 GEORGE STREET WATERLOO ONTARIO CANADA N2J 1K7

Date Began	First Director	Resident Canadian
2014/09/06	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	PRESIDENT	Y

Administrator: Name (Individual / Corporation)	Address
PETER L WHITBY	70 GEORGE STREET WATERLOO ONTARIO CANADA N2J 1K7

Date Began	First Director	Resident Canadian
2014/09/06	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	CHIEF EXECUTIVE OFFICER	Y

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CORPORATION PROFILE REPORT

Ontario Corp Number

2432865

Corporation Name

O2 INDUSTRIES INC.

Last Document Recorded

Act/Code Description

Form

Date

CIA ANNUAL RETURN 2020

1C

2021/02/14 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

B

**THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, consisting of a stylized, cursive script that appears to be the initials 'R.N.' followed by a horizontal flourish.

Commissioner for Taking Affidavits

THIS CONVERTIBLE PROMISSORY NOTE MAY ONLY BE SOLD TO PURCHASERS PURCHASING, OR DEEMED TO BE PURCHASING, AS PRINCIPAL, THAT ARE ACCREDITED INVESTORS, AS DEFINED IN NATIONAL INSTRUMENT 45-106 *PROSPECTUS EXEMPTIONS* OR SUBSECTION 73.3(1) OF THE *SECURITIES ACT* (ONTARIO).

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS CONVERTIBLE PROMISSORY NOTE MUST NOT TRADE THIS SECURITY OR THE SECURITIES ISSUABLE UPON THE CONVERSION OF THIS CONVERTIBLE PROMISSORY NOTE BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (I) THE DATE OF THE ISSUE OF THIS CONVERTIBLE PROMISSORY NOTE AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY OF CANADA.

CONVERTIBLE PROMISSORY NOTE

US\$1,001,216.44

Date of Issuance : March 31, 2021

FOR VALUE RECEIVED, O2 Industries Inc., an Ontario corporation (the “**Company**”), hereby promises to pay to the order of Kensington Private Equity Fund, (the “**Holder**”), the principal sum of US\$1,001,216.44 (the “**Principal Amount**”), together with interest thereon from the date of issuance of this convertible promissory note (this “**Note**”). Interest will accrue at a rate of 1% per month and shall be paid to the Holder on the Maturity Date (as defined below). Unless earlier converted into Convertible Securities pursuant to Section 2.2 of this Note, the Principal Amount and accrued interest on this Note will be due and payable by the Company in full on the Maturity Date.

This Note is issued in connection with the Financing Facility outlined in the term sheet dated as of March 30, 2021, by and among the Company and Kensington Private Equity Fund, any notes issued thereunder (together, the “**Related Notes**”) and the Security Agreement dated as of the date hereof, by and among Company and the Holder (as may be amended from time to time, the “**Security Agreement**”). Capitalized terms not otherwise defined in this Note will have the meanings set forth in Section 2.1.

ARTICLE 1 PAYMENT

Except as expressly required under the Security Agreement, all payments will be made in lawful money of the United States at the principal office of the Holder, or at such other place as the Holder may from time to time designate in writing to the Company. Payment will be credited first to accrued interest due and payable, with any remainder applied to principal. Prior to March 31, 2022, prepayment of principal, together with accrued interest, may not be made without the written consent of the Holder.

ARTICLE 2 CONVERSION

This Note may be convertible, at the option of the Holder, into securities of the Company pursuant to the following terms.

2.1 Definitions

- (a) “**Business Day**” means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal Canadian chartered banks in the City of Toronto, Ontario are open for business;
- (b) “**Collateral**” has the meaning given to such term in the Security Agreement;
- (c) “**Convertible Securities**” means either the Financing Shares or the Preferred Shares;
- (d) “**Event of Default**” has the meaning given to it in Section 5.1 of this Agreement;
- (e) “**Financing Shares**” means securities of the Company issued in connection with a Qualifying Financing;
- (f) “**Maturity Date**” means the earlier of (i) March 31, 2022, or (ii) the date upon which the Company completes an Qualifying Financing;
- (g) “**Preferred Shares**” means the Class A Preferred Shares of the Company;
- (h) “**Preferred Shares Conversion Price**” means the lesser of (i) US\$3.84; or (ii) the U.S. Dollar Equivalent of the price per share payable in connection with any Liquidation Event;
- (i) “**Qualifying Financing**” means an equity financing of the Company raising at least U.S. \$5,000,000;
- (j) “**Qualifying Financing Conversion Price**” means at a price equal to a 20% discount to the U.S. Dollar Equivalent of the price per security issued in connection with a Qualifying Financing;
- (k) “**U.S. Dollar Equivalent**” means, as of any particular Business Day, with reference to any amount (the “original amount”) expressed in Canadian dollars, the amount expressed in United States dollars which would be required to buy the original amount of Canadian dollars using the 4:30 p.m. rate of exchange for Canadian interbank transactions applied in converting United States dollars into Canadian dollars published by the Bank of Canada for the day prior to the day in question.

2.2 Conversion

In the event of a Qualifying Financing, the Holder may elect to convert all outstanding amounts under this Note into that number of Financing Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Qualifying Financing Conversion Price.

In the event of a Liquidation Event, (as such term or any similar term is defined in the Articles of Incorporation of the Company, as amended to the date hereof), the Holder may elect to convert effective immediately prior to such event, all outstanding amounts under this Note into that number of Preferred Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Preferred Shares Conversion Price.

Any conversion will be conditioned upon the Holder entering into any then current shareholders agreement between the Company and its shareholders (the “SHA”).

2.3 Certificates

As promptly as practicable after the conversion of this Note and the issuance of any shares issuable upon conversion, the Company (at its expense) will issue and deliver a certificate or certificates evidencing the shares (if certificated) to the Holder or, if the shares are not certificated, will deliver a true and correct copy of the Company’s share register reflecting the shares held by the Holder. The Company will not be required to issue or deliver the shares until the Holder has surrendered this Note to the Company (or provided an instrument of cancellation or affidavit of loss) and delivered a duly executed adoption or joinder to the SHA.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE COMPANY

In connection with the transactions contemplated by this Note, the Company hereby represents and warrants to the Holder as follows:

3.1 Due Organization; Qualification and Good Standing

The Company is a corporation duly organized and validly existing under the laws of the Province of Ontario and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business in each jurisdiction in which the failure to so qualify would have a material adverse effect on the Company.

3.2 Authorization and Enforceability

All corporate action has been taken on the part of the Company and its officers, directors and shareholders necessary for the authorization, execution and delivery of this Note and the issuance of the shares issuable upon conversion of this Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of

creditors' rights, the Company has taken all corporate action required to make all of the obligations of the Company reflected in the provisions of this Note valid and enforceable in accordance with its terms.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE HOLDER

In connection with the transactions contemplated by this Note, the Holder hereby represents and warrants to the Company as follows:

4.1 Authorization

The Holder has full power and authority to enter into this Note and to perform all obligations required to be performed by it hereunder. This Note, when executed and delivered by the Holder, will constitute the Holder's valid and legally binding obligation, enforceable in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

4.2 Purchase Entirely for Own Account

The Holder acknowledges that this Note is made with the Holder in reliance upon the Holder's representation to the Company, which the Holder hereby confirms by executing this Note, that this Note and any shares issuable upon conversion of this Note (collectively, the "**Securities**") will be acquired for investment for the Holder's own account, not as a nominee or agent and not with a view to the resale or distribution of any part thereof, and that the Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Note, the Holder further represents that the Holder does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to the Securities.

4.3 Accredited Investor

The Holder is an "accredited investor" as defined in section 73.3(1) of the *Securities Act* (Ontario). The Holder agrees to furnish any additional information requested by the Company to assure compliance with the applicable securities laws in connection with the purchase and sale of this Note and to execute, deliver and file or assist the Company in filing such reports, undertakings and other documents with respect to the issue of the Note as may be required under applicable securities laws.

4.4 Resale

The Holder has been advised that the offer and sale by the Company of this Note has not been qualified under the securities laws of any jurisdiction and, therefore, this Note is and any shares issuable upon conversion of this Note will be subject to resale and other transfer restrictions under applicable securities laws and the restrictions on transfer contained in Section 6.1.

ARTICLE 5 ENFORCEMENT

5.1 Event of Default

Each and every one of the following events constitutes an event of default under this Note (each an “**Event of Default**”):

- (a) if the Company defaults in payment or performance of any of the obligations hereunder and such default is not remedied within 10 days after written notice of such default is delivered to the Company by the Holder;
- (b) any representation or warranty made by the Company in this Note shall prove to have been incorrect in any material respect when made or deemed to be made;
- (c) if the Company shall fail to perform, observe or comply with any of the covenants contained in this Agreement and such failure is not cured within 10 days following notice of the default;
- (d) if any proceeding in respect of the Company or all or part of the assets, undertaking or property of the Company is commenced under the Bankruptcy and Insolvency Act (Canada) or *Companies' Creditors Arrangement Act* (Canada), or if any order is sought by any person or any resolution passed for the bankruptcy, restructuring, liquidation or sale outside of the ordinary course of business or winding-up of the Company or all or any part of its assets, undertaking or property, or if any appointment or proceeding for the appointment (whether by court or private appointment) of a receiver over or in respect of the Company or all or any part of the assets, undertaking or property of the Company is made or commenced;
- (e) if the Company ceases or threatens to cease to carry on its business, commits any act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors or makes an unauthorized sale in bulk of its assets or transfers or in any way parts with possession of all or a substantial part of its Collateral to any person; or
- (f) if in the reasonable opinion of the Holder, acting in good faith, there has occurred a material adverse change in the financial or any other condition of the Company which is likely to result in the impairment of the Company's ability to pay or perform its obligations hereunder or of the value of the Collateral or the Holder's ability to realize thereupon.

5.2 Remedies

On or after the occurrence of any Event of Default that is continuing, in addition to any remedies provided for under the Security Agreement, the outstanding Principal Amount of this Note together with unpaid accrued interest shall become immediately due and payable.

ARTICLE 6 MISCELLANEOUS

6.1 Successors and Assigns

Except as otherwise provided herein, the terms and conditions of this Note will inure to the benefit of, and be binding upon, the respective successors and assigns of the parties.

6.2 Choice of Law

This Note, and all matters arising out of or relating to this Note, whether sounding in contract, tort or statute, will be governed by and construed in accordance with the internal laws of the Province of Ontario.

6.3 Counterparts

This Note may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.4 Titles and Subtitles

The titles and subtitles used in this Note are included for convenience only and are not to be considered in construing or interpreting this Note.

6.5 Notices

All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email or confirmed facsimile; (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent to the respective parties at the addresses shown on the signature pages hereto (or to such email address, facsimile number or other address as subsequently modified by written notice given in accordance with this Section 6.5).

6.6 Expenses

The Company will pay all costs and expenses (including the reasonable legal fees, costs and disbursements of the Holder) that the Holder incurs with respect to the negotiation, execution, delivery and performance of this Note.

6.7 Entire Agreement; Amendments and Waivers

This Note and the Security Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof. Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the Holder. Any waiver or amendment effected in accordance with this Section 6.7 will be binding upon each future holder of this Note and the Company.

6.8 Severability

If one or more provisions of this Note are held to be unenforceable under applicable law, such provisions will be excluded from this Note and the balance of the Note will be interpreted as if such provisions were so excluded and this Note will be enforceable in accordance with its terms.

6.9 Anti-Dilution Acknowledgment and Agreement

The Company acknowledges and agrees that the Holder will be entitled to the benefit of all adjustments in the number of shares as a result of any splits, recapitalizations, combinations or other similar transactions affecting the shares that occur prior to the conversion of this Note. For certainty, and notwithstanding the generality of the foregoing provision, if any (i) capital reorganization of the Company, (ii) reclassification of the shares of the Company (including a change as a result of a dividend, subdivision or consolidation of shares), (iii) amalgamation or arrangement of the Company with or into another person, or (iv) other similar transaction, in each case which entitles the holders of shares to receive (either directly or upon subsequent liquidation) shares, securities or assets with respect to or in exchange for shares, this Note shall, immediately after such reorganization, reclassification, amalgamation, arrangement or similar transaction, thereafter, in lieu of or in addition to (as the case may be) the number of shares then-convertible for this Note, be exercisable for the kind and number of shares or other securities or assets of the Company or of the successor person resulting from such transaction to which this Note would have been entitled upon such reorganization, reclassification, amalgamation, arrangement or similar transaction if this Note had been converted in full immediately before the time of such reorganization, reclassification, amalgamation, arrangement or similar transaction and acquired the applicable number of shares then-issuable hereunder as a result of such conversion (without taking into account any limitations or restrictions on the convertibility of this Note, if any); and, in such case, appropriate adjustment shall be made with respect to such Holder's rights under this Note to ensure that the provisions of this Section 6.9 shall thereafter be applicable, as nearly as possible, to this Note in relation to any shares or other securities or assets thereafter acquirable upon conversion of this Note. The provisions of this Section 6.9 shall similarly apply to successive reorganizations, reclassifications, amalgamations, arrangements, sales or similar transactions. The Company shall not effect any such sale or similar transaction unless, before the consummation thereof, the successor person (if other than the Company) resulting from such transaction, shall assume, by written instrument substantially similar in form and substance to this Note, the obligation to deliver to the Holder such shares, other securities or assets that, in accordance with the foregoing provisions, such Holder shall be entitled to receive upon conversion of this Note.

6.10 Gross Up

Any and all payments made by or on behalf of the Company under this Note (including any shares issued pursuant to Section 2.2 hereof) shall be made free and clear of, and without deduction or withholding for or on account of, any taxes; provided, that if the Company shall be required by applicable law to deduct or withhold any taxes from such payments (such taxes required to be deducted or withheld, the “**Indemnified Taxes**”), then the Company shall (a) pay the Holder such additional amounts as may be necessary so that after making or allowing for all required withholdings and deductions for taxes (including withholdings and deductions applicable to additional amounts payable under this section), the Holder has received or receives an amount equal to that which the Holder would have had or received had no such withholdings or deductions been required (and, for greater certainty, where the payment is the issuance of shares of the Company, such that the Holder receives such shares as if no withholding or deduction for taxes had been imposed, and such that the Company fully bears any such taxes); (b) timely remit such taxes directly to the relevant governmental authority; and (c) furnish to the Holder, within a reasonable time, a copy of a receipt issued by such governmental authority evidencing such remittance, a copy of the return reporting such remittance or other evidence of such remittance reasonably satisfactory to the Holder.

6.11 Indemnity

The Company shall indemnify and hold harmless the Holder within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 6.11), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Company by the Holder shall be conclusive absent manifest error.

6.12 Relationship to Security Agreement.

This is the Note referred to in the Security Agreement. This Note is secured by the liens and security interests granted in the Security Agreement.

6.13 Further Assurances

From time to time, the parties will execute and deliver such additional documents and will provide such additional information as may reasonably be required to carry out the terms of this Note and any agreements executed in connection herewith.

[SIGNATURE PAGES FOLLOW]

O2 INDUSTRIES INC.

Per: 
Name: Rich Szasz
Title: CEO

Per: _____
Name:
Title:

Address:

Email:

Agreed to and accepted:

KENSINGTON PRIVATE EQUITY FUND, by its trustee and manager **KENSINGTON CAPITAL ADVISORS INC.**

Per: _____
Name: Richard Nathan
Title: Senior Managing Director

Per: _____
Name: Jennifer Woo
Title: General Counsel

Address: c/o 95 St Clair Ave W, Toronto, ON M4V 1N6

Email: rnathan@kcpl.ca and legal@kcpl.ca

O2 INDUSTRIES INC.

Per: _____

Name:

Title:

Per: _____

Name:

Title:

Address:

Email:

Agreed to and accepted:**KENSINGTON PRIVATE EQUITY FUND**, by its trustee and manager **KENSINGTON CAPITAL ADVISORS INC.**

Per: _____

Name: Richard Nathan

Title: Senior Managing Director

Per: _____

Name: Jennifer Woo

Title: General Counsel

Address: c/o 95 St Clair Ave W, Toronto, ON M4V 1N6

Email: rnathan@kcpl.ca and legal@kcpl.ca

C

**THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be 'A. Nathan', written over a horizontal line.

Commissioner for Taking Affidavits

THIS CONVERTIBLE PROMISSORY NOTE MAY ONLY BE SOLD TO PURCHASERS PURCHASING, OR DEEMED TO BE PURCHASING, AS PRINCIPAL, THAT ARE ACCREDITED INVESTORS, AS DEFINED IN NATIONAL INSTRUMENT 45-106 *PROSPECTUS EXEMPTIONS* OR SUBSECTION 73.3(1) OF THE *SECURITIES ACT* (ONTARIO).

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS CONVERTIBLE PROMISSORY NOTE MUST NOT TRADE THIS SECURITY OR THE SECURITIES ISSUABLE UPON THE CONVERSION OF THIS CONVERTIBLE PROMISSORY NOTE BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (I) THE DATE OF THE ISSUE OF THIS CONVERTIBLE PROMISSORY NOTE AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY OF CANADA.

CONVERTIBLE PROMISSORY NOTE

US\$650,000

Date of Issuance : April 13, 2021

FOR VALUE RECEIVED, O2 Industries Inc., an Ontario corporation (the “**Company**”), hereby promises to pay to the order of Kensington Private Equity Fund, (the “**Holder**”), the principal sum of US\$650,000 (the “**Principal Amount**”), together with interest thereon from the date of issuance of this convertible promissory note (this “**Note**”). Interest will accrue at a rate of 1% per month and shall be paid to the Holder on the Maturity Date (as defined below). Unless earlier converted into Convertible Securities pursuant to Section 2.2 of this Note, the Principal Amount and accrued interest on this Note will be due and payable by the Company in full on the Maturity Date.

This Note is issued in connection with the Financing Facility outlined in the term sheet dated as of March 30, 2021, by and among the Company and Kensington Private Equity Fund, any notes issued thereunder (together, the “**Related Notes**”) and the Security Agreement dated as of the date hereof, by and among Company and the Holder (as may be amended from time to time, the “**Security Agreement**”). Capitalized terms not otherwise defined in this Note will have the meanings set forth in Section 2.1.

ARTICLE 1 PAYMENT

Except as expressly required under the Security Agreement, all payments will be made in lawful money of the United States at the principal office of the Holder, or at such other place as the Holder may from time to time designate in writing to the Company. Payment will be credited first to accrued interest due and payable, with any remainder applied to principal. Prior to March 31, 2022, prepayment of principal, together with accrued interest, may not be made without the written consent of the Holder.

ARTICLE 2 CONVERSION

This Note may be convertible, at the option of the Holder, into securities of the Company pursuant to the following terms.

2.1 Definitions

- (a) “**Business Day**” means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal Canadian chartered banks in the City of Toronto, Ontario are open for business;
- (b) “**Collateral**” has the meaning given to such term in the Security Agreement;
- (c) “**Convertible Securities**” means either the Financing Shares or the Preferred Shares;
- (d) “**Event of Default**” has the meaning given to it in Section 5.1 of this Agreement;
- (e) “**Financing Shares**” means securities of the Company issued in connection with a Qualifying Financing;
- (f) “**Maturity Date**” means the earlier of (i) March 31, 2022, or (ii) the date upon which the Company completes an Qualifying Financing;
- (g) “**Preferred Shares**” means the Class A Preferred Shares of the Company;
- (h) “**Preferred Shares Conversion Price**” means the lesser of (i) US\$3.84; or (ii) the U.S. Dollar Equivalent of the price per share payable in connection with any Liquidation Event;
- (i) “**Qualifying Financing**” means an equity financing of the Company raising at least U.S. \$5,000,000;
- (j) “**Qualifying Financing Conversion Price**” means at a price equal to a 20% discount to the U.S. Dollar Equivalent of the price per security issued in connection with a Qualifying Financing;
- (k) “**U.S. Dollar Equivalent**” means, as of any particular Business Day, with reference to any amount (the “original amount”) expressed in Canadian dollars, the amount expressed in United States dollars which would be required to buy the original amount of Canadian dollars using the 4:30 p.m. rate of exchange for Canadian interbank transactions applied in converting United States dollars into Canadian dollars published by the Bank of Canada for the day prior to the day in question.

2.2 Conversion

In the event of a Qualifying Financing, the Holder may elect to convert all outstanding amounts under this Note into that number of Financing Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Qualifying Financing Conversion Price.

In the event of a Liquidation Event, (as such term or any similar term is defined in the Articles of Incorporation of the Company, as amended to the date hereof), the Holder may elect to convert effective immediately prior to such event, all outstanding amounts under this Note into that number of Preferred Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Preferred Shares Conversion Price.

Any conversion will be conditioned upon the Holder entering into any then current shareholders agreement between the Company and its shareholders (the “SHA”).

2.3 Certificates

As promptly as practicable after the conversion of this Note and the issuance of any shares issuable upon conversion, the Company (at its expense) will issue and deliver a certificate or certificates evidencing the shares (if certificated) to the Holder or, if the shares are not certificated, will deliver a true and correct copy of the Company’s share register reflecting the shares held by the Holder. The Company will not be required to issue or deliver the shares until the Holder has surrendered this Note to the Company (or provided an instrument of cancellation or affidavit of loss) and delivered a duly executed adoption or joinder to the SHA.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE COMPANY

In connection with the transactions contemplated by this Note, the Company hereby represents and warrants to the Holder as follows:

3.1 Due Organization; Qualification and Good Standing

The Company is a corporation duly organized and validly existing under the laws of the Province of Ontario and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business in each jurisdiction in which the failure to so qualify would have a material adverse effect on the Company.

3.2 Authorization and Enforceability

All corporate action has been taken on the part of the Company and its officers, directors and shareholders necessary for the authorization, execution and delivery of this Note and the issuance of the shares issuable upon conversion of this Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of

creditors' rights, the Company has taken all corporate action required to make all of the obligations of the Company reflected in the provisions of this Note valid and enforceable in accordance with its terms.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE HOLDER

In connection with the transactions contemplated by this Note, the Holder hereby represents and warrants to the Company as follows:

4.1 Authorization

The Holder has full power and authority to enter into this Note and to perform all obligations required to be performed by it hereunder. This Note, when executed and delivered by the Holder, will constitute the Holder's valid and legally binding obligation, enforceable in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

4.2 Purchase Entirely for Own Account

The Holder acknowledges that this Note is made with the Holder in reliance upon the Holder's representation to the Company, which the Holder hereby confirms by executing this Note, that this Note and any shares issuable upon conversion of this Note (collectively, the "**Securities**") will be acquired for investment for the Holder's own account, not as a nominee or agent and not with a view to the resale or distribution of any part thereof, and that the Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Note, the Holder further represents that the Holder does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to the Securities.

4.3 Accredited Investor

The Holder is an "accredited investor" as defined in section 73.3(1) of the *Securities Act* (Ontario). The Holder agrees to furnish any additional information requested by the Company to assure compliance with the applicable securities laws in connection with the purchase and sale of this Note and to execute, deliver and file or assist the Company in filing such reports, undertakings and other documents with respect to the issue of the Note as may be required under applicable securities laws.

4.4 Resale

The Holder has been advised that the offer and sale by the Company of this Note has not been qualified under the securities laws of any jurisdiction and, therefore, this Note is and any shares issuable upon conversion of this Note will be subject to resale and other transfer restrictions under applicable securities laws and the restrictions on transfer contained in Section 6.1.

ARTICLE 5 ENFORCEMENT

5.1 Event of Default

Each and every one of the following events constitutes an event of default under this Note (each an “**Event of Default**”):

- (a) if the Company defaults in payment or performance of any of the obligations hereunder and such default is not remedied within 10 days after written notice of such default is delivered to the Company by the Holder;
- (b) any representation or warranty made by the Company in this Note shall prove to have been incorrect in any material respect when made or deemed to be made;
- (c) if the Company shall fail to perform, observe or comply with any of the covenants contained in this Agreement and such failure is not cured within 10 days following notice of the default;
- (d) if any proceeding in respect of the Company or all or part of the assets, undertaking or property of the Company is commenced under the Bankruptcy and Insolvency Act (Canada) or *Companies' Creditors Arrangement Act* (Canada), or if any order is sought by any person or any resolution passed for the bankruptcy, restructuring, liquidation or sale outside of the ordinary course of business or winding-up of the Company or all or any part of its assets, undertaking or property, or if any appointment or proceeding for the appointment (whether by court or private appointment) of a receiver over or in respect of the Company or all or any part of the assets, undertaking or property of the Company is made or commenced;
- (e) if the Company ceases or threatens to cease to carry on its business, commits any act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors or makes an unauthorized sale in bulk of its assets or transfers or in any way parts with possession of all or a substantial part of its Collateral to any person; or
- (f) if in the reasonable opinion of the Holder, acting in good faith, there has occurred a material adverse change in the financial or any other condition of the Company which is likely to result in the impairment of the Company's ability to pay or perform its obligations hereunder or of the value of the Collateral or the Holder's ability to realize thereupon.

5.2 Remedies

On or after the occurrence of any Event of Default that is continuing, in addition to any remedies provided for under the Security Agreement, the outstanding Principal Amount of this Note together with unpaid accrued interest shall become immediately due and payable.

ARTICLE 6 MISCELLANEOUS

6.1 Successors and Assigns

Except as otherwise provided herein, the terms and conditions of this Note will inure to the benefit of, and be binding upon, the respective successors and assigns of the parties.

6.2 Choice of Law

This Note, and all matters arising out of or relating to this Note, whether sounding in contract, tort or statute, will be governed by and construed in accordance with the internal laws of the Province of Ontario.

6.3 Counterparts

This Note may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.4 Titles and Subtitles

The titles and subtitles used in this Note are included for convenience only and are not to be considered in construing or interpreting this Note.

6.5 Notices

All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email or confirmed facsimile; (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent to the respective parties at the addresses shown on the signature pages hereto (or to such email address, facsimile number or other address as subsequently modified by written notice given in accordance with this Section 6.5).

6.6 Expenses

The Company will pay all costs and expenses (including the reasonable legal fees, costs and disbursements of the Holder) that the Holder incurs with respect to the negotiation, execution, delivery and performance of this Note.

6.7 Entire Agreement; Amendments and Waivers

This Note and the Security Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof. Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the Holder. Any waiver or amendment effected in accordance with this Section 6.7 will be binding upon each future holder of this Note and the Company.

6.8 Severability

If one or more provisions of this Note are held to be unenforceable under applicable law, such provisions will be excluded from this Note and the balance of the Note will be interpreted as if such provisions were so excluded and this Note will be enforceable in accordance with its terms.

6.9 Anti-Dilution Acknowledgment and Agreement

The Company acknowledges and agrees that the Holder will be entitled to the benefit of all adjustments in the number of shares as a result of any splits, recapitalizations, combinations or other similar transactions affecting the shares that occur prior to the conversion of this Note. For certainty, and notwithstanding the generality of the foregoing provision, if any (i) capital reorganization of the Company, (ii) reclassification of the shares of the Company (including a change as a result of a dividend, subdivision or consolidation of shares), (iii) amalgamation or arrangement of the Company with or into another person, or (iv) other similar transaction, in each case which entitles the holders of shares to receive (either directly or upon subsequent liquidation) shares, securities or assets with respect to or in exchange for shares, this Note shall, immediately after such reorganization, reclassification, amalgamation, arrangement or similar transaction, thereafter, in lieu of or in addition to (as the case may be) the number of shares then-convertible for this Note, be exercisable for the kind and number of shares or other securities or assets of the Company or of the successor person resulting from such transaction to which this Note would have been entitled upon such reorganization, reclassification, amalgamation, arrangement or similar transaction if this Note had been converted in full immediately before the time of such reorganization, reclassification, amalgamation, arrangement or similar transaction and acquired the applicable number of shares then-issuable hereunder as a result of such conversion (without taking into account any limitations or restrictions on the convertibility of this Note, if any); and, in such case, appropriate adjustment shall be made with respect to such Holder's rights under this Note to ensure that the provisions of this Section 6.9 shall thereafter be applicable, as nearly as possible, to this Note in relation to any shares or other securities or assets thereafter acquirable upon conversion of this Note. The provisions of this Section 6.9 shall similarly apply to successive reorganizations, reclassifications, amalgamations, arrangements, sales or similar transactions. The Company shall not effect any such sale or similar transaction unless, before the consummation thereof, the successor person (if other than the Company) resulting from such transaction, shall assume, by written instrument substantially similar in form and substance to this Note, the obligation to deliver to the Holder such shares, other securities or assets that, in accordance with the foregoing provisions, such Holder shall be entitled to receive upon conversion of this Note.

6.10 Gross Up

Any and all payments made by or on behalf of the Company under this Note (including any shares issued pursuant to Section 2.2 hereof) shall be made free and clear of, and without deduction or withholding for or on account of, any taxes; provided, that if the Company shall be required by applicable law to deduct or withhold any taxes from such payments (such taxes required to be deducted or withheld, the “**Indemnified Taxes**”), then the Company shall (a) pay the Holder such additional amounts as may be necessary so that after making or allowing for all required withholdings and deductions for taxes (including withholdings and deductions applicable to additional amounts payable under this section), the Holder has received or receives an amount equal to that which the Holder would have had or received had no such withholdings or deductions been required (and, for greater certainty, where the payment is the issuance of shares of the Company, such that the Holder receives such shares as if no withholding or deduction for taxes had been imposed, and such that the Company fully bears any such taxes); (b) timely remit such taxes directly to the relevant governmental authority; and (c) furnish to the Holder, within a reasonable time, a copy of a receipt issued by such governmental authority evidencing such remittance, a copy of the return reporting such remittance or other evidence of such remittance reasonably satisfactory to the Holder.

6.11 Indemnity

The Company shall indemnify and hold harmless the Holder within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 6.11), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Company by the Holder shall be conclusive absent manifest error.

6.12 Relationship to Security Agreement.

This is the Note referred to in the Security Agreement. This Note is secured by the liens and security interests granted in the Security Agreement.

6.13 Further Assurances

From time to time, the parties will execute and deliver such additional documents and will provide such additional information as may reasonably be required to carry out the terms of this Note and any agreements executed in connection herewith.

[SIGNATURE PAGES FOLLOW]

O2 INDUSTRIES INC.

Per: _____

Name: _____

Title: _____

Per: _____

DocuSigned by:

6DA0C8DB16464D5...

Name: Rich Szasz

Title: CEO

Address:

Email:

Agreed to and accepted:

KENSINGTON PRIVATE EQUITY FUND, by its trustee and manager KENSINGTON CAPITAL ADVISORS INC.

Per: _____

Name: Richard Nathan

Title: Senior Managing Director

Per: _____

Name: Jennifer Woo

Title: General Counsel

Address: c/o 95 St Clair Ave W, Toronto, ON M4V 1N6

Email: rnathan@kcpl.ca and legal@kcpl.ca

D

**THIS IS EXHIBIT "D"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be 'A. Nathan', written over a horizontal line.

Commissioner for Taking Affidavits

THIS CONVERTIBLE PROMISSORY NOTE MAY ONLY BE SOLD TO PURCHASERS PURCHASING, OR DEEMED TO BE PURCHASING, AS PRINCIPAL, THAT ARE ACCREDITED INVESTORS, AS DEFINED IN NATIONAL INSTRUMENT 45-106 *PROSPECTUS EXEMPTIONS* OR SUBSECTION 73.3(1) OF THE *SECURITIES ACT* (ONTARIO).

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS CONVERTIBLE PROMISSORY NOTE MUST NOT TRADE THIS SECURITY OR THE SECURITIES ISSUABLE UPON THE CONVERSION OF THIS CONVERTIBLE PROMISSORY NOTE BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (I) THE DATE OF THE ISSUE OF THIS CONVERTIBLE PROMISSORY NOTE AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY OF CANADA.

CONVERTIBLE PROMISSORY NOTE

US\$350,000

Date of Issuance : May 10, 2021

FOR VALUE RECEIVED, O2 Industries Inc., an Ontario corporation (the “**Company**”), hereby promises to pay to the order of Kensington Private Equity Fund, (the “**Holder**”), the principal sum of US\$350,000 (the “**Principal Amount**”), together with interest thereon from the date of issuance of this convertible promissory note (this “**Note**”). Interest will accrue at a rate of 1% per month and shall be paid to the Holder on the Maturity Date (as defined below). Unless earlier converted into Convertible Securities pursuant to Section 2.2 of this Note, the Principal Amount and accrued interest on this Note will be due and payable by the Company in full on the Maturity Date.

This Note is issued in connection with the Financing Facility outlined in the term sheet dated as of March 30, 2021, by and among the Company and Kensington Private Equity Fund, any notes issued thereunder (together, the “**Related Notes**”) and the Security Agreement dated as of the date hereof, by and among Company and the Holder (as may be amended from time to time, the “**Security Agreement**”). Capitalized terms not otherwise defined in this Note will have the meanings set forth in Section 2.1.

ARTICLE 1 PAYMENT

Except as expressly required under the Security Agreement, all payments will be made in lawful money of the United States at the principal office of the Holder, or at such other place as the Holder may from time to time designate in writing to the Company. Payment will be credited first to accrued interest due and payable, with any remainder applied to principal. Prior to March 31, 2022, prepayment of principal, together with accrued interest, may not be made without the written consent of the Holder.

ARTICLE 2 CONVERSION

This Note may be convertible, at the option of the Holder, into securities of the Company pursuant to the following terms.

2.1 Definitions

- (a) “**Business Day**” means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal Canadian chartered banks in the City of Toronto, Ontario are open for business;
- (b) “**Collateral**” has the meaning given to such term in the Security Agreement;
- (c) “**Convertible Securities**” means either the Financing Shares or the Preferred Shares;
- (d) “**Event of Default**” has the meaning given to it in Section 5.1 of this Agreement;
- (e) “**Financing Shares**” means securities of the Company issued in connection with a Qualifying Financing;
- (f) “**Maturity Date**” means the earlier of (i) March 31, 2022, or (ii) the date upon which the Company completes an Qualifying Financing;
- (g) “**Preferred Shares**” means the Class A Preferred Shares of the Company;
- (h) “**Preferred Shares Conversion Price**” means the lesser of (i) US\$3.84; or (ii) the U.S. Dollar Equivalent of the price per share payable in connection with any Liquidation Event;
- (i) “**Qualifying Financing**” means an equity financing of the Company raising at least U.S. \$5,000,000;
- (j) “**Qualifying Financing Conversion Price**” means at a price equal to a 20% discount to the U.S. Dollar Equivalent of the price per security issued in connection with a Qualifying Financing;
- (k) “**U.S. Dollar Equivalent**” means, as of any particular Business Day, with reference to any amount (the “original amount”) expressed in Canadian dollars, the amount expressed in United States dollars which would be required to buy the original amount of Canadian dollars using the 4:30 p.m. rate of exchange for Canadian interbank transactions applied in converting United States dollars into Canadian dollars published by the Bank of Canada for the day prior to the day in question.

2.2 Conversion

In the event of a Qualifying Financing, the Holder may elect to convert all outstanding amounts under this Note into that number of Financing Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Qualifying Financing Conversion Price.

In the event of a Liquidation Event, (as such term or any similar term is defined in the Articles of Incorporation of the Company, as amended to the date hereof), the Holder may elect to convert effective immediately prior to such event, all outstanding amounts under this Note into that number of Preferred Shares equal to the quotient (rounded down to the nearest whole share) obtained by dividing (x) the outstanding Principal Amount of this Note together with unpaid accrued interest on the date of such conversion by (y) the Preferred Shares Conversion Price.

Any conversion will be conditioned upon the Holder entering into any then current shareholders agreement between the Company and its shareholders (the “SHA”).

2.3 Certificates

As promptly as practicable after the conversion of this Note and the issuance of any shares issuable upon conversion, the Company (at its expense) will issue and deliver a certificate or certificates evidencing the shares (if certificated) to the Holder or, if the shares are not certificated, will deliver a true and correct copy of the Company’s share register reflecting the shares held by the Holder. The Company will not be required to issue or deliver the shares until the Holder has surrendered this Note to the Company (or provided an instrument of cancellation or affidavit of loss) and delivered a duly executed adoption or joinder to the SHA.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE COMPANY

In connection with the transactions contemplated by this Note, the Company hereby represents and warrants to the Holder as follows:

3.1 Due Organization; Qualification and Good Standing

The Company is a corporation duly organized and validly existing under the laws of the Province of Ontario and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business in each jurisdiction in which the failure to so qualify would have a material adverse effect on the Company.

3.2 Authorization and Enforceability

All corporate action has been taken on the part of the Company and its officers, directors and shareholders necessary for the authorization, execution and delivery of this Note and the issuance of the shares issuable upon conversion of this Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of

creditors' rights, the Company has taken all corporate action required to make all of the obligations of the Company reflected in the provisions of this Note valid and enforceable in accordance with its terms.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE HOLDER

In connection with the transactions contemplated by this Note, the Holder hereby represents and warrants to the Company as follows:

4.1 Authorization

The Holder has full power and authority to enter into this Note and to perform all obligations required to be performed by it hereunder. This Note, when executed and delivered by the Holder, will constitute the Holder's valid and legally binding obligation, enforceable in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

4.2 Purchase Entirely for Own Account

The Holder acknowledges that this Note is made with the Holder in reliance upon the Holder's representation to the Company, which the Holder hereby confirms by executing this Note, that this Note and any shares issuable upon conversion of this Note (collectively, the "**Securities**") will be acquired for investment for the Holder's own account, not as a nominee or agent and not with a view to the resale or distribution of any part thereof, and that the Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Note, the Holder further represents that the Holder does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to the Securities.

4.3 Accredited Investor

The Holder is an "accredited investor" as defined in section 73.3(1) of the *Securities Act* (Ontario). The Holder agrees to furnish any additional information requested by the Company to assure compliance with the applicable securities laws in connection with the purchase and sale of this Note and to execute, deliver and file or assist the Company in filing such reports, undertakings and other documents with respect to the issue of the Note as may be required under applicable securities laws.

4.4 Resale

The Holder has been advised that the offer and sale by the Company of this Note has not been qualified under the securities laws of any jurisdiction and, therefore, this Note is and any shares issuable upon conversion of this Note will be subject to resale and other transfer restrictions under applicable securities laws and the restrictions on transfer contained in Section 6.1.

ARTICLE 5 ENFORCEMENT

5.1 Event of Default

Each and every one of the following events constitutes an event of default under this Note (each an “**Event of Default**”):

- (a) if the Company defaults in payment or performance of any of the obligations hereunder and such default is not remedied within 10 days after written notice of such default is delivered to the Company by the Holder;
- (b) any representation or warranty made by the Company in this Note shall prove to have been incorrect in any material respect when made or deemed to be made;
- (c) if the Company shall fail to perform, observe or comply with any of the covenants contained in this Agreement and such failure is not cured within 10 days following notice of the default;
- (d) if any proceeding in respect of the Company or all or part of the assets, undertaking or property of the Company is commenced under the Bankruptcy and Insolvency Act (Canada) or *Companies' Creditors Arrangement Act* (Canada), or if any order is sought by any person or any resolution passed for the bankruptcy, restructuring, liquidation or sale outside of the ordinary course of business or winding-up of the Company or all or any part of its assets, undertaking or property, or if any appointment or proceeding for the appointment (whether by court or private appointment) of a receiver over or in respect of the Company or all or any part of the assets, undertaking or property of the Company is made or commenced;
- (e) if the Company ceases or threatens to cease to carry on its business, commits any act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors or makes an unauthorized sale in bulk of its assets or transfers or in any way parts with possession of all or a substantial part of its Collateral to any person; or
- (f) if in the reasonable opinion of the Holder, acting in good faith, there has occurred a material adverse change in the financial or any other condition of the Company which is likely to result in the impairment of the Company's ability to pay or perform its obligations hereunder or of the value of the Collateral or the Holder's ability to realize thereupon.

5.2 Remedies

On or after the occurrence of any Event of Default that is continuing, in addition to any remedies provided for under the Security Agreement, the outstanding Principal Amount of this Note together with unpaid accrued interest shall become immediately due and payable.

ARTICLE 6 MISCELLANEOUS

6.1 Successors and Assigns

Except as otherwise provided herein, the terms and conditions of this Note will inure to the benefit of, and be binding upon, the respective successors and assigns of the parties.

6.2 Choice of Law

This Note, and all matters arising out of or relating to this Note, whether sounding in contract, tort or statute, will be governed by and construed in accordance with the internal laws of the Province of Ontario.

6.3 Counterparts

This Note may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.4 Titles and Subtitles

The titles and subtitles used in this Note are included for convenience only and are not to be considered in construing or interpreting this Note.

6.5 Notices

All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email or confirmed facsimile; (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent to the respective parties at the addresses shown on the signature pages hereto (or to such email address, facsimile number or other address as subsequently modified by written notice given in accordance with this Section 6.5).

6.6 Expenses

The Company will pay all costs and expenses (including the reasonable legal fees, costs and disbursements of the Holder) that the Holder incurs with respect to the negotiation, execution, delivery and performance of this Note.

6.7 Entire Agreement; Amendments and Waivers

This Note and the Security Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof. Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the Holder. Any waiver or amendment effected in accordance with this Section 6.7 will be binding upon each future holder of this Note and the Company.

6.8 Severability

If one or more provisions of this Note are held to be unenforceable under applicable law, such provisions will be excluded from this Note and the balance of the Note will be interpreted as if such provisions were so excluded and this Note will be enforceable in accordance with its terms.

6.9 Anti-Dilution Acknowledgment and Agreement

The Company acknowledges and agrees that the Holder will be entitled to the benefit of all adjustments in the number of shares as a result of any splits, recapitalizations, combinations or other similar transactions affecting the shares that occur prior to the conversion of this Note. For certainty, and notwithstanding the generality of the foregoing provision, if any (i) capital reorganization of the Company, (ii) reclassification of the shares of the Company (including a change as a result of a dividend, subdivision or consolidation of shares), (iii) amalgamation or arrangement of the Company with or into another person, or (iv) other similar transaction, in each case which entitles the holders of shares to receive (either directly or upon subsequent liquidation) shares, securities or assets with respect to or in exchange for shares, this Note shall, immediately after such reorganization, reclassification, amalgamation, arrangement or similar transaction, thereafter, in lieu of or in addition to (as the case may be) the number of shares then-convertible for this Note, be exercisable for the kind and number of shares or other securities or assets of the Company or of the successor person resulting from such transaction to which this Note would have been entitled upon such reorganization, reclassification, amalgamation, arrangement or similar transaction if this Note had been converted in full immediately before the time of such reorganization, reclassification, amalgamation, arrangement or similar transaction and acquired the applicable number of shares then-issuable hereunder as a result of such conversion (without taking into account any limitations or restrictions on the convertibility of this Note, if any); and, in such case, appropriate adjustment shall be made with respect to such Holder's rights under this Note to ensure that the provisions of this Section 6.9 shall thereafter be applicable, as nearly as possible, to this Note in relation to any shares or other securities or assets thereafter acquirable upon conversion of this Note. The provisions of this Section 6.9 shall similarly apply to successive reorganizations, reclassifications, amalgamations, arrangements, sales or similar transactions. The Company shall not effect any such sale or similar transaction unless, before the consummation thereof, the successor person (if other than the Company) resulting from such transaction, shall assume, by written instrument substantially similar in form and substance to this Note, the obligation to deliver to the Holder such shares, other securities or assets that, in accordance with the foregoing provisions, such Holder shall be entitled to receive upon conversion of this Note.

6.10 Gross Up

Any and all payments made by or on behalf of the Company under this Note (including any shares issued pursuant to Section 2.2 hereof) shall be made free and clear of, and without deduction or withholding for or on account of, any taxes; provided, that if the Company shall be required by applicable law to deduct or withhold any taxes from such payments (such taxes required to be deducted or withheld, the “**Indemnified Taxes**”), then the Company shall (a) pay the Holder such additional amounts as may be necessary so that after making or allowing for all required withholdings and deductions for taxes (including withholdings and deductions applicable to additional amounts payable under this section), the Holder has received or receives an amount equal to that which the Holder would have had or received had no such withholdings or deductions been required (and, for greater certainty, where the payment is the issuance of shares of the Company, such that the Holder receives such shares as if no withholding or deduction for taxes had been imposed, and such that the Company fully bears any such taxes); (b) timely remit such taxes directly to the relevant governmental authority; and (c) furnish to the Holder, within a reasonable time, a copy of a receipt issued by such governmental authority evidencing such remittance, a copy of the return reporting such remittance or other evidence of such remittance reasonably satisfactory to the Holder.

6.11 Indemnity

The Company shall indemnify and hold harmless the Holder within 15 Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 6.11), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Company by the Holder shall be conclusive absent manifest error.

6.12 Relationship to Security Agreement.

This is the Note referred to in the Security Agreement. This Note is secured by the liens and security interests granted in the Security Agreement.

6.13 Further Assurances

From time to time, the parties will execute and deliver such additional documents and will provide such additional information as may reasonably be required to carry out the terms of this Note and any agreements executed in connection herewith.

[SIGNATURE PAGES FOLLOW]

O2 INDUSTRIES INC.

Per:  DocuSigned by:
6DA0C8DB16464D5...
 Name: Rich Szasz
 Title: CEO

Per: _____
 Name:
 Title:

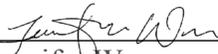
Address:

Email:

Agreed to and accepted:

KENSINGTON PRIVATE EQUITY FUND, by its trustee and manager **KENSINGTON CAPITAL ADVISORS INC.**

Per: 
 Name: Richard Nathan
 Title: Senior Managing Director

Per: 
 Name: Jennifer Woo
 Title: General Counsel

Address: c/o 95 St Clair Ave W, Toronto, ON M4V 1N6

Email: rnathan@kcpl.ca and legal@kcpl.ca

E

THIS IS EXHIBIT "E"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021



Commissioner for Taking Affidavits

EXECUTION COPY

GENERAL SECURITY AGREEMENT

THIS AGREEMENT is made as of the 31st day of March, 2021.

BETWEEN:

O2 INDUSTRIES INC., a corporation formed under the laws of the Province of Ontario (the “**Debtor**”),

AND

KENSINGTON PRIVATE EQUITY FUND, a trust existing under the laws of the Province of British Columbia (the “**Secured Party**”),

RECITALS:

A. The Debtor has agreed to grant a security interest and assignment, mortgage, hypothecation and charge in the Collateral as provided herein in order to secure the performance of its Obligations (as hereinafter defined) to the Secured Party.

NOW THEREFORE, in consideration of the foregoing and the representations, warranties, covenants, conditions, agreements and promises contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties to this Agreement, the parties agree as follows:

**ARTICLE I
INTERPRETATION**

1.1 Definitions

Throughout this Agreement, the following terms shall have the following corresponding meanings:

“**Accessions**” has the meaning given to it in the PPSA.

“**Account**” has the meaning given to it in the PPSA.

“**Agreement**”, “**this Agreement**”, “**the Agreement**”, “**herein**”, “**hereby**”, “**hereof**”, “**hereunder**” and similar expressions mean this General Security Agreement, including all schedules, and all instruments amending or restating this Agreement. All references to “**Articles**”, “**Sections**”, “**Schedules**” mean and refer to the specified article, section and schedule of this Agreement.

“**BIA**” means the *Bankruptcy and Insolvency Act* (Canada).

“**Bridge Financing Facility**” means the financing facility provided to the Company for up to an aggregate of US\$4,000,000 as set forth in the term sheet dated March 31, 2021.

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“**Business Day**” means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal Canadian chartered banks in the City of Toronto, Ontario are open for business.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**Certificated Security**” has the meaning given to it in the STA.

“**Chattel Paper**” has the meaning given to it in the PPSA.

“**Collateral**” has the meaning given to it in Section 2.1.

“**Control**” means, with respect to a specified form of Investment Property, “control” as defined in Sections 23 through 26 of the STA as applicable to such form of Investment Property.

“**Control Agreement**” means: (a) with respect to any Uncertificated Securities included in the Collateral, an agreement between the Issuer of such Uncertificated Securities and another Person whereby such Issuer agrees to comply with instructions that are originated by such Person in respect of such Uncertificated Securities, without the further consent of the Debtor; and (b) with respect to any Security Entitlements in respect of Financial Assets included in the Collateral, an agreement between the Securities Intermediary in respect of such Security Entitlements and another Person pursuant to which such Securities Intermediary agrees to comply with any Entitlement Orders with respect to such Security Entitlements that are originated by such Person, without the further consent of the Debtor.

“**Document of Title**” has the meaning given to it in the PPSA.

“**Entitlement Order**” has the meaning given to it in the STA.

“**Equipment**” has the meaning given to it in the PPSA.

“**Event of Default**” has the meaning given to it in the Promissory Note.

“**Financial Asset**” has the meaning given to it in the STA.

“**Goods**” has the meaning given to it in the PPSA.

“**Governmental Authority**” means any governmental, regulatory or administrative authority, department, agency, commission, board, panel, tribunal, Crown corporation, Crown ministry or court or other law, rule or regulation-making or enforcing entity having or purporting to have jurisdiction on behalf of any nation, or province, territory or state or other subdivision thereof or any municipality, district or other subdivision thereof.

“**Instrument**” has the meaning given to it in the PPSA.

“**Intangible**” has the meaning given to it in the PPSA.

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“Intellectual Property” means (a) patents, and applications therefor; (b) registered and unregistered trade-marks, service marks and other indicia of origin, pending trade-mark and service mark registration applications, and intent-to-use registrations or similar reservations of marks; (c) registered and unregistered copyrights and mask works, and applications for registration of either; (d) internet domain names, applications and reservations for internet domain names, uniform resource locators and the corresponding Internet sites; (e) trade secrets and proprietary information not otherwise listed in (a) through (d) above, including, without limitation, unpatented inventions, invention disclosures, moral and economic rights of authors and inventors (however denominated), confidential information, technical data, customer lists, corporate and business names, trade names, trade dress, brand names, know-how, show-how, mask works, circuit topography, formulae, methods (whether or not patentable), designs, processes, procedures, technology, source codes, object codes, computer software programs, databases, data collections and other proprietary information or material of any type, and all derivatives, improvements and refinements thereof, howsoever recorded, or unrecorded; and (f) any goodwill associated with any of the foregoing.

“Inventory” has the meaning given to it in the PPSA.

“Investment Property” has the meaning given to it in the PPSA.

“Issuer” has the meaning given to it in the STA.

“Money” has the meaning given to it in the PPSA.

“Notice” has the meaning given to it in Section 6.2 of this Agreement.

“Obligations” means all obligations, debts and liabilities of the Debtor to the Secured Party, present or future, direct or indirect, absolute or contingent, matured or not, all interest, commissions, legal (including legal fees on a substantial indemnity basis) and other costs, charges and expenses, whenever and however incurred, in any currency at any time owing by the Debtor to the Secured Party or remaining unpaid by the Debtor to the Secured Party, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether arising from dealings between the Secured Party and the Debtor or from other dealings or proceedings by which the Secured Party may be or become in any manner whatsoever a creditor of the Debtor and wherever incurred and whether incurred by the Debtor alone or with another or others and whether as principal, surety or guarantor, pursuant to the Bridge Financing Facility, including the Promissory Note, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any proceeding with respect to the Debtor under the BIA, the CCAA or any similar statute in any jurisdiction.

“Permitted Encumbrances” has the meaning given to it in Section 4.2 of this Agreement.

“Person” means any individual, sole proprietorship, limited or unlimited liability corporation or company, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, body corporate, joint venture, trust, pension fund, union, Governmental Authority, and a natural person, including in such person’s capacity as trustee, heir, beneficiary, executor, administrator or other legal representative.

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“**PPSA**” means the *Personal Property Security Act* (Ontario).

“**Proceeds**” has the meaning given to it in the PPSA.

“**Promissory Note**” means the promissory note dated as of the date hereof in the principal amounts of US\$1,001,216.44 made by the Debtor in favour of the Secured Party, as such note may be amended, supplemented, restated or replaced from time to time.

“**Receivables**” means all future payments made by cash, cheque, automatic clearing houses, direct or pre-authorized debit, wire transfer, electronic money transfers, PayPal money transfers, credit card, debit card, charge card or other forms of payment related to the Debtor’s business, including for goods, services or facilities provided by the Debtor.

“**Receiver**” means any receiver, interim receiver, receiver and manager or agent of all or any part of the Collateral appointed by the Secured Party.

“**Securities Account**” has the meaning given to it in the STA.

“**Securities Entitlement**” has the meaning given to it in the STA.

“**Securities Intermediary**” has the meaning given to it in the STA.

“**Security**” means an obligation of an Issuer or a share, participation or other interest in an Issuer or in property or an enterprise of an Issuer, (a) that is represented by a security certificate in bearer form or registered form, or the transfer of which may be registered on books maintained for that purpose by or on behalf of the Issuer; (b) that is one of a class or series, or by its terms is divisible into a class or series, of shares, participations, interests or obligations; and (c) that, (i) is, or is of a type, dealt in or traded on securities exchanges or securities markets, or (ii) is a medium for investment and by its terms expressly provides that it is a security for the purposes of the *Securities Transfer Act*.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario).

“**Uncertificated Security**” has the meaning given to it in the STA.

1.2 Certain Rules of Interpretation

In this Agreement and the Schedules:

- (a) **Time** - Time is of the essence in and of this Agreement.
- (b) **Calculation of Time** - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends. Where the last day of any such time period is not a Business Day, such time period shall be extended to the next Business Day following the day on which it would otherwise end.

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- (c) **Business Days** - Whenever any action to be taken or payment to be made pursuant to this Agreement would otherwise be required to be made on a day that is not a Business Day, such action shall be taken or such payment shall be made on the first Business Day following such day.
- (d) **Currency** - Unless otherwise specified, all references to amounts of money in this Agreement refer to the lawful currency of the United States of America.
- (e) **Headings** - The descriptive headings preceding Articles and Sections of this Agreement are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of the content of such Articles or Sections. The division of this Agreement into Articles and Sections shall not affect the interpretation of this Agreement.
- (f) **Including** – Where the word “including” or “includes” is used in this Agreement, it means “including without limitation” or “includes without limitation”.
- (g) **Plurals and Gender** - The use of words in the singular or plural, or referring to a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such Persons or circumstances as the context otherwise permits.
- (h) **Statutory References** - Any reference to a statute shall mean the statute in force as at the date of this Agreement (together with all regulations promulgated thereunder), as the same may be amended, re-enacted, consolidated or replaced from time to time, and any successor statute thereto, unless otherwise expressly provided.

1.3 Applicable Law and Attornment

This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. The Debtor hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

1.4 Accounting Principles

All references to generally accepted accounting principles or “GAAP” mean Canadian generally accepted accounting principles applied on a consistent basis and which are in accordance with the recommendations made from time to time by the Chartered Professional Accountants of Canada, or any successor institute, including those recommended in the Handbook of the Chartered Professional Accountants of Canada, on the date on which such generally accepted accounting principles are applied.

1.5 Schedules

The Schedules described below and appended to this Agreement shall be deemed to be integral parts of this Agreement:

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Schedule 3.1(b)	Place(s) of Business and Location(s) of Records and Collateral
Schedule 3.1(d)	Intellectual Property
Schedule 3.1(e)	Instruments and Investment Property
Schedule 4.2(j)	Permitted Encumbrances

ARTICLE II GRANT OF SECURITY INTEREST

2.1 Security Interest

As general and continuing security for the payment and performance of all Obligations of the Debtor to the Secured Party, the Debtor grants to the Secured Party a security interest in the present and future assets, undertaking and property, both real and personal, including those acquired by amalgamation, of the Debtor (collectively, the “**Collateral**”), and as further general and continuing security for the payment and performance of the Obligations, the Debtor assigns the Collateral to the Secured Party and mortgages and charges the Collateral (excluding Contractual Rights and Intellectual Property which are subject to the security interest only) as and by way of a fixed and specific mortgage and charge to the Secured Party. Without limiting the generality of the foregoing, the Collateral will include all right, title and interest of the Debtor in all property of the following kinds:

- (a) Accounts;
- (b) Chattel Paper;
- (c) Documents of Title;
- (d) Equipment;
- (e) Goods;
- (f) Intangibles;
- (g) Intellectual Property;
- (h) Inventory;
- (i) Investment Property and Financial Assets;
- (j) Money;
- (k) Securities and Instruments;
- (l) all books and records of the Debtor, including all books, papers, business plans, accounts, invoices, documents and other records in any form evidencing or relating to any of the property described in this Section 2.1 and all contracts and other rights and benefits in respect thereof;

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- (m) all replacements of, substitutions for and increases, additions and Accessions to any of the property described in this Section 2.1; and
- (n) all Proceeds of any Collateral in any form derived directly or indirectly from any dealing with the Collateral or that indemnifies or compensates for the loss of or damage to the Collateral.

2.2 Exception for Receivables

The security interest created hereby does not and shall not extend to, and Collateral shall not include, Receivables.

2.3 Exception for Last Day of Leases

This assignment and mortgage and charge will not (a) extend or apply to the last day of the term of any lease or any agreement to lease now held or hereafter acquired by the Debtor, but should the Secured Party enforce this assignment and mortgage and charge, the Debtor will thereafter stand possessed of such last day and must hold it in trust to assign it to the Secured Party or to any Person acquiring such term in the course of the enforcement of this assignment and mortgage and charge, or (b) render the Secured Party liable to observe or perform any term, covenant or condition of any agreement, document or instrument to which the Debtor is a party or by which it is bound.

2.4 Exception for Contractual Rights

The security interest created hereby does not and shall not extend to, and Collateral shall not include, any contract, right or licence (the “**Contractual Rights**”) of the Debtor, including any right of the Debtor as security holder, shareholder or holder of a partnership interest, if pursuant to the terms of such Contractual Right, or pursuant to the terms of any agreement affecting such Contractual Right, the Contractual Right would automatically terminate if it was part of the Collateral charged hereby, or would be terminable at the option of the other party or of the grantor, or would be subject to disposition, alteration or amendment at the option of another party including another security holder, shareholder or holder of a partnership interest. The Debtor shall hold its interest in the Contractual Rights in trust for the Secured Party and the security interest granted hereby shall automatically extend to such Contractual Rights once the appropriate consents of the other parties to such Contractual Rights are obtained.

2.5 Enforcement of Contractual Rights

On or after the occurrence of any Event of Default which is continuing, in order that the full value of the beneficial interest in the Contractual Rights not assigned to the Secured Party pursuant to this Agreement but held in trust for the Secured Party pursuant to Section 2.4 hereof, may be realized for the benefit of the Secured Party, the Debtor shall, at the request and expense and under the direction of the Secured Party, in the name of the Debtor, take all such action and do or cause to be done all such things as are desirable in order that the obligations of the Debtor under such Contractual Rights may be performed in such manner that the beneficial interest in such Contractual Rights shall be preserved and shall enure to the benefit of the Secured Party or as the Secured Party may direct in writing and the collection of any monies due and payable and

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to become due and payable shall be facilitated and the Debtor will promptly pay over to the Secured Party or as the Secured Party may direct in writing all monies collected by or paid to the Debtor in respect of the beneficial interest in every such Contractual Right.

2.6 Attachment of Security Interest

The Debtor acknowledges and agrees that: (a) value has been given by the Secured Party, (b) it has rights in the Collateral or the power to transfer rights in the Collateral, (c) the security interest will attach when the Debtor signs this Agreement, and (d) it has not otherwise agreed to postpone the time of attachment.

ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEBTOR

3.1 Representations and Warranties

The Debtor represents and warrants that:

- (a) Debtor's Legal Name: The Debtor's correct legal name is O2 Industries Inc., and it has no French form or combined English/French form of name;
- (b) Places of Business and Location of Collateral: The Debtor's chief executive office and principal place of business, the location of the office where it keeps its corporate records and records respecting the Accounts, and all locations, warehouses and premises where Collateral is stored or located, are set out in Schedule 3.1(b);
- (c) Ownership: The Debtor is the sole direct and beneficial owner of the Collateral and has good direct and marketable title thereto, free and clear of any liens or encumbrances other than those created by this Agreement or any Permitted Encumbrances and the Debtor has the right and requisite authority to grant the security interest provided herein to the Secured Party and consummate the transactions contemplated hereunder and the Debtor is under no contractual or legal restriction or limitation that would prevent any of the foregoing;
- (d) Intellectual Property: All of the Debtor's Intellectual Property is set out in Schedule 3.1(c);
- (e) Investment Property:
 - (i) Each of the partnership agreements, articles of association or other constating documents, as applicable, of each Issuer which is a partnership or limited liability company and which equity interest in such partnership or limited liability company may form part of the Collateral of the Debtor, expressly states that such equity interest thereof is a "Security" for the purposes of the STA;

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- (ii) All of the Debtor's Instruments and Investment Property (including all Securities, Securities Entitlements and Securities Accounts) is set out in Schedule 3.1(e) to this Agreement;
- (f) No Consumer Goods: The Debtor does not own any Consumer Goods (as defined in the PPSA) which are material in value or which are material to the business, operations or property of the Debtor; and
- (g) Enforceability: The Debtor has taken all necessary corporate action and steps required to make this Agreement a legal, binding and valid obligation of the Debtor enforceable against the Debtor in accordance with its terms, and to create a valid and continuing security interest in favour of the Secured Party.

3.2 Covenants

The Debtor covenants as follows:

- (a) Condition of Collateral: The Debtor shall keep the Collateral in good condition and repair, normal wear and tear excepted.
- (b) Rents, Taxes, etc.: The Debtor shall pay all rents, taxes, rates, levies, assessments and other charges lawfully levied, imposed upon or assessed against or in respect of the Collateral, or the income and profits of the Debtor, when the same become payable.
- (c) Accessions/Fixtures: The debtor shall not permit the Collateral to be affixed to real or personal property so as to become a fixture or accession without the prior written consent of the Secured Party.
- (d) Maintenance of Records: The Debtor shall keep and maintain accurate and complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Accounts.
- (e) Right to Inspect the Collateral: The Debtor shall permit a representative of the Secured Party to inspect the Collateral and the operations of the Debtor and for that purpose to enter the Debtor's premises (and any other location where the Collateral may be situated) during reasonable business hours and upon reasonable notice.
- (f) Insurance: The Debtor shall maintain, at its own expense, insurance against such risks of loss as are customarily insured against on this type of Collateral, in an amount not less than the full replacement value thereof, in such form and with such insurers as are reasonably satisfactory to the Secured Party, and shall, at the Secured Party's request, provide a copy of any policy of insurance and certificate of insurance or other evidence satisfactory to the Secured Party that such insurance coverage is in effect. The Debtor shall also name the Secured Party as loss payee, mortgagee or additional insured, as the Secured Party's interest may appear, and provide evidence of such satisfactory to the Secured Party. Such insurance policies shall contain provisions pursuant to which the insurer agrees to

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provide fifteen (15) days prior notice to the Secured Party in the event of any (i) non-renewal, (ii) cancellation, or (iii) material adverse amendment of any of the insurance policies. The Secured Party may apply any proceeds of such insurance which it is entitled to receive towards payment of the Obligations, whether or not due, in such order of application as the Secured Party may determine.

- (g) Delivery and Execution of Documents, etc.: The Debtor shall from time to time forthwith at the request of the Secured Party execute and deliver all such financing statements, schedules, assignments and documents, and do all such further acts and things as may be reasonably required by the Secured Party to effectively carry out the full intent and meaning of this Agreement or to better evidence and perfect the security interest, assignment and mortgage and charge granted, and after the occurrence of an Event of Default and for so long as such Event of Default is continuing, the Debtor irrevocably constitutes and appoints the Secured Party, or any Receiver appointed by the court or the Secured Party, the true and lawful attorney of the Debtor, with full power of substitution, to do any of the foregoing in the name of the Debtor whenever and wherever the Secured Party or any such Receiver may consider it to be necessary or expedient. Without limiting the generality of the foregoing, the Debtor shall also take all action the Secured Party deems advisable to cause the Secured Party to have Control of any Investment Property included in the Collateral including:
- (i) entering into Control Agreements with the Secured Party, and any applicable Securities Intermediary or Issuer, in form and substance satisfactory to the Secured Party;
 - (ii) causing the Collateral to be transferred to or registered in the name of the Secured Party or its nominee or otherwise as the Secured Party may direct (and causing such transfer and registration to be recorded on the books and records of the Issuer);
 - (iii) endorsing any Certificated Securities to the Secured Party or in blank by an effective endorsement;
 - (iv) delivering the Collateral to the Secured Party or someone on its behalf as the Secured Party may direct; and
 - (v) delivering to the Secured Party any and all consents or other documents or agreements which may be necessary to effect the transfer of any Collateral to the Secured Party or any third party.
- (h) Change of Name and certain other changes: The Debtor shall advise the Secured Party, in reasonable detail, of:
- (i) any change of name or the addition of any new business names or French names, by providing at least ten (10) Business Days prior written notice of the change to the Secured Party;

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- (ii) any merger or amalgamation or intention to merge or amalgamate with any other Person(s) or any arrangement or agreement which, either separately or in combination with any other transactions, arrangements or agreements would have the effect of the Debtor merging, amalgamating or entering into any joint venture or co-tenancy arrangement with any other Person, and the Debtor shall obtain the written prior consent of the Secured Party to do so;
 - (iii) any change in the location of any place of business (including any additional locations) or the chief executive office of the Debtor, or the location of any of the Collateral (including additional locations) by providing at least ten (10) Business Days prior written notice of the change to the Secured Party including a revised Schedule 3.1(b);
 - (iv) any additional jurisdiction in which material account debtors of the Debtor are located by providing immediate notice in writing to the Secured Party;
 - (v) any material loss or damage to any of the Collateral by providing immediate notice in writing to the Secured Party;
 - (vi) any change (including additions) to the Intellectual Property listed in Schedule 3.1(d) by providing to the Secured Party at least ten (10) Business Days prior written notice of the change including a revised Schedule 3.1(d); and
 - (vii) any change (including additions) to the Securities, Instruments or Investment Property listed in Schedule 3.1(e) by providing to the Secured Party at least ten (10) Business Days prior written notice of the change including a revised Schedule 3.1(e).
- (i) Investment Property: The Debtor shall, promptly upon the request of the Secured Party, (i) deliver (or cause to be delivered) to the Secured Party any and all Instruments, Certificated Securities (duly endorsed or with such power of attorney that the Secured Party requests in order to obtain Control over such Certificated Securities), Documents of Title and Chattel Paper included in or relating to the Collateral as the Secured Party may specify in its request, (ii) provide to the Secured Party a complete and accurate copy of each statement, confirmation, notice, proxy statement, proxy and other communication relating to any Investment Property included in the Collateral and received by the Debtor from any Person (including any Securities Intermediary or broker) obligated with respect to such Investment Property, (iii) deliver to any Securities Intermediary designated by the Secured Party any Certificated Securities included in the Collateral (together with each endorsement or power of attorney that such Securities Intermediary requests to accomplish the assignment or other transfer of such Certificated Security to such Securities Intermediary) and instruct such Securities Intermediary to hold such Certificated Security for the account of the Secured Party and until such delivery, hold such Certificated Security in trust for the Secured Party and cause any security interest in any Intangible or Investment

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Property included in the Collateral that is not represented by Certificated Security to be registered or otherwise reflected in the name of the Secured Party or any other Person designated by the Secured Party.

- (j) Control Agreements and Control: The Debtor shall not (i) modify, terminate or attempt or agree to otherwise incur any obligation to modify or terminate any Control Agreement or any contract with a Securities Intermediary under which any Securities Account included in the Collateral is established or maintained, (ii) give Control of any Investment Property included in the Collateral to any Person other than the Secured Party, whether by entering into any agreement, instrument or document with a Securities Intermediary for the purpose of giving a Person other than the Secured Party Control of any Investment Property.
- (k) Claims and Assertions: The Debtor shall defend the Collateral against each demand, claim, counterclaim, setoff and defence asserted by any Person (including but not limited to any Account debtor, Issuer or Securities Intermediary) other than the Secured Party, and shall promptly notify the Secured Party of any threat or commencement of any action or other legal proceeding, or entry of any judgment or order of any Governmental Authority, or any assertion by any Person (including, but not limited to, any Account debtor, Issuer, Securities Intermediary) other than the Secured Party of any demand, claim, counterclaim, setoff or defence, relating to the Collateral.
- (l) Payment of Expenses: The Debtor shall pay to the Secured Party forthwith upon demand all reasonable costs and expenses (including, without limiting the generality of the foregoing, all legal, Receiver's and accounting fees and expenses) incurred by or on behalf of the Secured Party in connection with the preparation, execution and perfection of this Agreement and the carrying out of any of the provisions of this Agreement, including protecting and preserving the security interest, assignment and mortgage and charge granted and enforcing by legal process or otherwise the remedies provided in this Agreement; and all such costs and expenses shall be added to and form part of the Obligations secured under this Agreement.

ARTICLE IV DEALING WITH COLLATERAL

4.1 Dealing with Collateral by the Debtor

The Debtor shall not sell, lease or otherwise dispose of any of the Collateral without the prior written consent of the Secured Party, except that the Debtor may, unless an Event of Default has occurred and is continuing, deal with its Money or sell items of Inventory and obsolete Equipment, in each case in the ordinary course of its business so that the purchaser thereof takes title thereto free and clear of the security interest, assignment and mortgage and charge granted hereby. All Proceeds of any such sale will continue to be subject to the security interest, assignment and mortgage and charge granted hereby.

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4.2 Permitted Encumbrances

The Debtor will not, without the prior written consent of the Secured Party, create, incur, assume, or suffer to exist any mortgage, deed of trust, pledge, lien, security interest, assignment, charge or encumbrance (including any conditional sale, or other title retention agreement or finance lease) of any nature, upon or with respect to the Collateral, now owned or hereafter acquired, other than:

- (a) undetermined or inchoate liens, rights of distress and charges incidental to current operations which have not at such time been filed or exercised and of which the Secured Party has not been given notice, or which relate to obligations not due or payable or, if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- (b) the right reserved to, or vested in, any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person, or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (c) liens resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
- (d) liens given to a public utility or any Governmental Authority when required by such utility or Governmental Authority in connection with the operations of that Person in the ordinary course of its business;
- (e) liens for taxes, rates, assessments and/or other charges or levies made by any Governmental Authority not yet subject to penalties for non-payment or which are being contested in good faith and by appropriate proceedings, but only if and to the extent such liens do not result in an Event of Default;
- (f) the liens created by a judgment of a court of competent jurisdiction, as long as the judgment is being contested diligently and in good faith by appropriate proceedings by that Person and does not result in an Event of Default;
- (g) liens securing purchase money security obligations;
- (h) encumbrances in favour of the Secured Party;
- (i) liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of combination of accounts or similar rights in the ordinary course of conducting day-to-day banking business in relation to deposit accounts or other funds maintained with a creditor depository institution, provided that such liens (A) do not relate to any deposit account that is a dedicated cash

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collateral account which is subject to restrictions against access by the depositor or account holder, (B) do not relate to any deposit account intended by the depositor or account holder to provide collateral to the depository institution, and (C) are not intended directly or indirectly to secure the payment or performance of Debt or any other obligation; and

- (j) other liens or encumbrances expressly consented to in writing by the Secured Party, which shall include without limitation the liens and encumbrances set out in Schedule 4.2(j);

(the encumbrances described in Sections 4.2(a) – 4.2(j) above are collectively referred to as “**Permitted Encumbrances**”). The Debtor will not, without the prior written consent of the Secured Party, sign or file under the PPSA or similar registry system of any jurisdiction a financing statement which names the Debtor as a debtor, other than in favour of the Secured Party, or sign any security agreement authorizing any secured party under the security agreement to file such a financing statement other than in favour of the Secured Party.

4.3 Rights and Duties of the Secured Party

- (a) The Secured Party may perform any of its rights and duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance upon the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.
- (b) Should the Secured Party or any agent or nominee on its behalf take possession or delivery of all or any part of the Collateral pursuant to this Agreement, the PPSA or otherwise at law, it is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own of similar value held in the same place. The Secured Party and any nominee on its behalf will be deemed to have exercised reasonable care with respect to the custody and preservation of the Collateral if it takes such action for that purpose as the Debtor reasonably requests in writing, but failure of the Secured Party or its nominee to comply with any such request will not of itself be deemed a failure to exercise reasonable care.
- (c) The Secured Party will not be responsible for any loss occasioned by its exercise of any of such rights or by failure to exercise the same within the time limited for the exercise of such rights, except where such loss results from the gross negligence or wilful misconduct of the Secured Party.
- (d) There is no obligation on the Secured Party to keep fungible Collateral in their possession identifiable.
- (e) The Secured Party has no obligation to protect or preserve any Collateral from depreciating in value or becoming worthless and is released from all responsibility for any loss of value, whether such Collateral is in the possession of, is a Security Entitlement of, or is subject to the Control of, the Secured Party, a Securities Intermediary, the Debtor or any other Person.

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- (f) The Secured Party may, upon the occurrence and during the continuance of an Event of Default, sell, transfer, use or otherwise deal with the Collateral, on such conditions and in such manner as the Secured Party in its sole discretion may determine.

4.4 Registration of Securities

The Secured Party may have any Investment Property registered in its name or in the name of its nominee and will be entitled but not bound or required to exercise any of the rights that any holder of such Investment Property may at any time have, provided that until an Event of Default has occurred and is continuing, the Debtor will be entitled to exercise, in a manner not prejudicial to the interests of the Secured Party or which would violate or be inconsistent with this Agreement, all voting power from time to time exercisable in respect of the Investment Property (excluding, for greater certainty, any voting power relating to any ULC Shares). The Debtor must from time to time forthwith upon the request of the Secured Party deliver to the Secured Party the Investment Property requested by the Secured Party duly endorsed for transfer to the Secured Party or its nominee to be held by the Secured Party subject to the terms of this Agreement.

4.5 Notification of Account Debtors

On or after the occurrence of any Event of Default that is continuing, the Secured Party may give notice of this Agreement and the security interest and assignment granted hereby to any account debtors of the Debtor or to any other Person liable to the Debtor and may give notice to any such account debtors or other Person to make all further payments to the Secured Party, and, on or after the occurrence of any Event of Default that is continuing, any payment or other proceeds of Collateral received by the Debtor from account debtors or from any other Person liable to the Debtor whether before or after any notice is given by the Secured Party must be held by the Debtor in trust for the Secured Party and paid over to the Secured Party on request.

4.6 Application of Funds

All Money collected or received by the Secured Party in respect of the Collateral, on or after the occurrence of any Event of Default that is continuing, may be applied on account of such parts of the Obligations as the Secured Party in its sole discretion determines, or may be held unappropriated in a collateral account, or in the discretion of the Secured Party may be released to the Debtor, all without prejudice to the Secured Party's rights against the Debtor.

ARTICLE V ENFORCEMENT

5.1 Remedies

- (a) On or after the occurrence of any Event of Default that is continuing,
 - (i) any or all of the Obligations will at the option of the Secured Party become immediately due and payable or be subject to immediate performance, as the case may be, without presentment, protest or notice of dishonour, all of which are expressly waived;

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- (ii) the obligation, if any, of the Secured Party to extend further credit to the Debtor will cease;
- (iii) any or all security granted hereby will, at the option of the Secured Party, become immediately enforceable; and
- (iv) in addition to any right or remedy provided by law, the Secured Party will have the rights and remedies set out below, all of which rights and remedies will be enforceable and may be exercised from time to time separately or in combination and are not in substitution for any other rights, powers and remedies the Secured Party may have at law or otherwise:
 - (A) the Secured Party may by appointment in writing appoint a Receiver of the Collateral (which term when used in this Section 5.1 will include the whole or any part of the Collateral) and may remove or replace such Receiver from time to time or may institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Collateral; and the term "Secured Party" when used in this Section 5.1 will include any Receiver so appointed and the agents, officers and employees of such Receiver; and the Secured Party will not be in any way responsible for any misconduct or negligence of any such Receiver;
 - (B) the Secured Party may take possession of the Collateral and require the Debtor to assemble the Collateral and deliver or make the Collateral available to the Secured Party at such place or places as may be specified by the Secured Party;
 - (C) the Secured Party may take such steps as it considers desirable to maintain, preserve or protect the Collateral;
 - (D) the Secured Party may transfer any of the Collateral into the name of the Secured Party (or such other Person as the Secured Party may designate), and may notify each Person (including any account debtor or Securities Intermediary) obligated with respect to any Collateral of the interest of the Secured Party, to direct payments with respect thereto directly and solely to the Secured Party, take control of all Proceeds thereof and deliver any notice of exclusive Control pursuant to any Control Agreement(s);
 - (E) the Secured Party may carry on or concur in the carrying on of all or any part of the business of the Debtor;
 - (F) the Secured Party may enforce any rights of the Debtor in respect of the Collateral by any manner permitted by law;

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- (G) the Secured Party may sell, lease or otherwise dispose of the Collateral at public auction, by private tender, by private sale or otherwise either for cash or upon credit upon such terms and conditions as the Secured Party may determine and without notice to the Debtor unless, in each case, otherwise required by law;
 - (H) the Secured Party may accept the Collateral in satisfaction of the Obligations upon notice to the Debtor of its intention to do so in the manner required by law;
 - (I) the Secured Party may, for any purpose specified in this Agreement, borrow money on the security of the Collateral in priority to the security interest, assignment and mortgage and charge granted by this Agreement;
 - (J) the Secured Party may enter upon, occupy and use all or any of the premises, buildings and plants occupied by the Debtor and use all or any of the Equipment and other personal property of the Debtor for such time as the Secured Party requires to facilitate the realization of the Collateral, free of charge, and the Secured Party will not be liable to the Debtor in so doing except for any loss arising from the gross negligence or wilful misconduct of the Secured Party or in respect of any rent, charges, depreciation or damages in connection with such actions;
 - (K) the Secured Party may charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered in connection with the exercise of the rights and remedies of the Secured Party under this Agreement, including, reasonable legal, Receiver and accounting fees and expenses, and in every such case the amounts so paid together with all costs, charges and expenses incurred in connection therewith, including interest thereon at such rate as the Secured Party deems reasonable, shall be added to and form part of the Obligations secured; and
 - (L) the Secured Party may discharge any claim, lien, mortgage, charge, security interest, encumbrance or any rights of others that may exist or be threatened against the Collateral, and in every such case the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Obligations secured.
- (b) The Secured Party may, without prejudice to the liability of the Debtor to the Secured Party or the Secured Party's rights under this Agreement:
- (i) grant extensions of time;
 - (ii) take and perfect or abstain from taking and perfecting security;

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- (iii) give up securities;
 - (iv) accept compositions or compromises;
 - (v) grant releases and discharges;
 - (vi) release any part of the Collateral; or
 - (vii) otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Collateral and other security as the Secured Party sees fit.
- (c) The Secured Party will not be liable or responsible for any failure to seize, collect, realize, or obtain payment with respect to the Collateral and is not bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment with respect to the Collateral or for the purpose of preserving any rights of the Secured Party, the Debtor or any other Person, in respect of the Collateral.
- (d) The Secured Party may apply any proceeds of realization of the Collateral to payment of expenses in connection with the preservation and realization of the Collateral as above described and the Secured Party may apply any balance of such proceeds to payment of the Obligations in such order as the Secured Party sees fit. If there is any surplus remaining, the Secured Party may elect, in its sole discretion, to (i) pay the surplus into a court of competent jurisdiction, or (ii) pay it to any Person having a claim thereto in priority to the Debtor of whom the Secured Party has knowledge and any balance remaining must be paid to the Debtor. If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement and expenses relating thereto, the Debtor shall be liable to pay any deficiency to the Secured Party forthwith on demand.

ARTICLE VI GENERAL

6.1 Costs and Indemnification

The Debtor shall pay all costs on demand (including fees and disbursements of legal counsel, accounting advisors, Receiver and other advisors, together with any interest thereon that may accrue) incurred by the Secured Party in connection with (a) the negotiation, preparation, execution and enforcement of this Agreement; (b) the Secured Party obtaining and maintaining delivery, possession, Control, perfection and priority with respect to the Collateral; and (c) the realization, disposition, retention, preservation or collection of the Collateral or enforcement of the rights and remedies of the Secured Party in respect of the Debtor or the Collateral under this Agreement, the PPSA, the STA or otherwise at law. All such costs shall, from the date of such costs being incurred by the Secured Party through to the date such costs are repaid by the Debtor, be deemed advanced to the Debtor and shall form part of the Obligations secured.

In addition, the Debtor irrevocably and unconditionally agrees to indemnify and save harmless the Secured Party from all costs (including fees and disbursements of legal counsel, accounting advisors, Receiver and other advisors, together with any interest thereon that may accrue)

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incurred in connection with any enforcement of rights and remedies of the Secured Party in respect of the Debtor or the Collateral under this Agreement, the PPSA, the STA or otherwise at law. This indemnity is independent of and in addition to any right the Secured Party may have to seek recovery of costs in any litigation that may result in respect of this Agreement, and shall form part of the Obligations secured.

6.2 Notices

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement (each, a “**Notice**”) shall be given in writing and delivered by personal delivery or delivery by recognized national courier, sent by facsimile transmission or delivered by registered mail, postage prepaid, or by electronic communication (including e-mail) addressed as follows:

- (a) If to O2 Industries Inc.:

5 Michael Street,
Kitchener, ON
N2G 1L7

Attention: Peter Lionel Whitby

E-Mail: peter@o2canada.ca

With a copy to:

Gowling WLG (Canada) LLP,
50 Queen Street North, Suite 1020
Kitchener, Ontario, Canada
N2H 6P4

Attention: Todd Bissett

E-Mail: Todd.Bissett@gowlingwlg.com

- (b) If to Kensington Private Equity Fund:

95 St. Clair Avenue West, Suite 905,
Toronto, Ontario, Canada
M4V 1N6

Attention: Richard Nathan

E-Mail: accounting@kcpl.ca and legal@kcpl.ca

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or at such other address or facsimile number or e-mail address at which the addressee may from time to time notify the addressor. Any Notice delivered by personal delivery or by courier to the party to whom it is addressed as provided above shall be deemed to have been given and received on the day it is so delivered at such address. If such day is not a Business Day, or if the Notice is received after 4:00 p.m. (addressee's local time), then the Notice shall be deemed to have been given and received on the next Business Day.

6.3 Waiver

Except as otherwise expressly set out herein, no waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence, forbearance or other accommodation by a party shall constitute a waiver of such party's right to insist on performance in full and in a timely manner of all covenants in this Agreement or in any document delivered pursuant to this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter, or any other provision of this Agreement at any time.

6.4 Severability

If any provision of this Agreement or portion thereof or the application thereof to any Person or circumstance shall to any extent be illegal, invalid or unenforceable: (a) the remainder of this Agreement or the application of such provision or portion thereof to any other Person or circumstance shall not be affected thereby; and (b) the parties will negotiate in good faith to amend this Agreement to implement the intentions set forth in this Agreement. Each provision of this Agreement shall be legal, valid and enforceable to the fullest extent permitted by law.

6.5 Assignment and Enurement

Neither this Agreement nor any benefits or burdens under this Agreement shall be assignable by the Debtor, without the prior written consent of the Secured Party, which consent may be unreasonably withheld or delayed. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns hereunder.

6.6 Additional Continuing Security

This Agreement and the security interest, assignment and mortgage and charge granted are in addition to and not in substitution for any other security now or hereafter held by the Secured Party and this Agreement is a continuing agreement and security that will remain in full force and effect until discharged by the Secured Party.

6.7 Further Assurances

The parties shall do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each party shall provide such further documents or instruments required by the other party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

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6.8 Power of Attorney

On or after the occurrence of any Event of Default that is continuing, the Debtor irrevocably constitutes and appoints the Secured Party the true and lawful attorney of the Debtor, with full power of substitution, to do, make and execute all such statements, assignments, documents, acts, matters or things with the right to use the name of the Debtor whenever and wherever the officer may deem necessary or expedient and from time to time to exercise all rights and powers and to perform all acts of ownership in respect to the Collateral in accordance with this Agreement.

6.9 Set Off

Without in any way limiting any other rights or remedies available to the Secured Party, the Secured Party shall have the right (but shall not be obligated), at any time and from time to time on or after the occurrence of any Event of Default and without notice to the Debtor (such notice being expressly waived by the Debtor), to set off against the Obligations or any of the deposits (general or special) or Money then held by the Secured Party or any other indebtedness owing by the Secured Party to, or held by the Secured Party for the credit of, the Debtor, regardless of the currency in which such indebtedness is denominated and notwithstanding that such indebtedness would not then be due but for the occurrence of an Event of Default. For the avoidance of doubt, any set off rights available to the Secured Party prior to the occurrence of an Event of Default shall not be deemed to be waived by reason of the grant to the Secured Party of set off rights after the occurrence of an Event of Default pursuant to the previous sentence of this Section 6.9.

6.10 Discharge

The Debtor will not be discharged from any of the Obligations or from this Agreement except by a release or discharge signed in writing by the Secured Party. The Secured Party shall, upon the indefeasible payment and performance of all Obligations in full, execute such releases and discharges as the Debtor may reasonably require, all at the request and sole cost and expense of the Debtor.

6.11 Copy of Verification Statement

To the extent permitted by law, the Debtor hereby waives its right to receive a copy of any financing statement, financing change statement or verification statement filed or received by or on behalf of the Secured Party in connection with the Secured Party's interest in the Collateral.

6.12 Execution by Electronic Transmission

The signature of any of the parties hereto may be evidenced by a facsimile, scanned email or internet transmission copy of this Agreement bearing such signature.

6.13 Counterparts

This Agreement may be signed in one or more counterparts, each of which so signed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument. Notwithstanding the date of execution or transmission of any counterpart, each counterpart shall be deemed to have the effective date first written above.

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6.14 Executed Copy

The Debtor acknowledges receipt of a fully executed copy of this Agreement.

[SIGNATURE PAGES TO IMMEDIATELY FOLLOW]

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IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first written above.

O2 INDUSTRIES INC.

Per: 
DocuSigned by: 6DA0C8DB16464D5...
 Name: Rich Szasz
 Title: CEO

Per: _____
 Name: _____
 Title: _____

KENSINGTON PRIVATE EQUITY FUND, by its trustee and manager **KENSINGTON CAPITAL ADVISORS INC.**

Per: _____
 Name: Richard Nathan
 Title: Senior Managing Director

Per: _____
 Name: Tom Kennedy
 Title: Senior Managing Director

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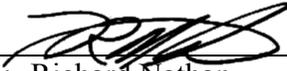
IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first written above.

O2 INDUSTRIES INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

KENSINGTON PRIVATE EQUITY FUND, by its trustee and manager **KENSINGTON CAPITAL ADVISORS INC.**

Per:  _____
Name: Richard Nathan
Title: Senior Managing Director

Per:  _____
Name: Tom Kennedy
Title: Senior Managing Director

SCHEDULE 3.1(b)**PLACE(S) OF BUSINESS AND LOCATION(S) OF RECORDS AND COLLATERAL****Chief Executive Office:****Place(s) of business:**

- 5 Michael Street, Units 201 and 202, Kitchener, Ontario, N2G 1L7

Location of books and records:

- 5 Michael Street, Units 201 and 202, Kitchener, Ontario, N2G 1L7

Location(s) of Collateral:

- 5 Michael Street, Units 201 and 202, Kitchener, Ontario, N2G 1L7
- U-Freight America, Inc
950 N. IL-83, Suite K
Wood Dale, Illinois 60191
U.S.A.
- U-Freight Logistics (HK) Ltd.
No. 15-23 Kin Hong Street
Ground floor, Chuan Kei Factory Building (Entrance at Kin Chuan Street)
Kwai Chung, N.T., Hong Kong
Hong Kong
- ShipBob Bethlehem, PA
4779 Hanoverville Road
Bethlehem, PA 18020
United States
- ShipBob
5900 W OGDEN AVE
Cicero, IL 60804
USA
- ShipBob
O2 Canada
28010 Eucalyptus Ave
Building #1
Moreno Valley, CA 92555
USA
- ShipBob
1270 HUMBER PL

- 2 -

Ottawa, ON K1B 3W3
CANADA

- JOMI Technical Services
5 - 72 Churchill Dr.
Barrie, ON L4N 8Z5
Canada
- U-Freight Shanghai
上海市浦东新区机场镇物流大道310号日达仓储办公楼1楼北侧 201202
, Shanghai
China
- Sigma Manufacturing (Dongguan) Co., Ltd.
Building 1, Number 2 Lane 1 Xiyu Road
Hengli Town
Dongguan City, Guanddong Province 523460
China
- Superior Felt and Filtration
1150 Ridgeview Dr.
McHenry, IL 60050
USA

SCHEDULE 3.1(d)**Intellectual Property****1. Patents**

Country	Name	Current Owner	Application No.	Application Date	Registration No.	Registration Date
Canada	FACE MASK SHELL	O2 Industries Inc.	180359	Mar 16, 2018	180359	Dec 28, 2018
United States of America	FACE MASK SHELL	O2 Industries Inc.	29/640392	Mar 14, 2018	848075	May 07, 2019
United States of America	TACTICAL RESPIRATOR	O2 Industries Inc.	29/718116	Dec 20, 2019		
European Union	TACTICAL RESPIRATOR	O2 Industries Inc.			008011720-0001	June 19, 2020
United States of America	RESPIRATOR MASK	O2 Industries Inc.				
Canada	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	3036270	Mar 08, 2019		

- 2 -

Country	Name	Current Owner	Application No.	Application Date	Registration No.	Registration Date
China	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	201780062101.3	Apr 08, 2019		
European Patent Application	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	17847844.2	Apr 11, 2019		
India	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	201917014613	Apr 11, 2019		
Japan	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	2019-535424	Mar 11, 2019		
South Korea / Republic of Korea	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	10-2019-7010625	Apr 12, 2019		

- 3 -

Country	Name	Current Owner	Application No.	Application Date	Registration No.	Registration Date
PCT Application	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	PCT/CA2017/051039	Sep 05, 2017		
United States of America	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	62/393266	Sep 12, 2016		
United States of America	FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	O2 Industries Inc.	16/331675	Mar 08, 2019		
Canada	A SCENT POD AND A FACE MASK HAVING A SCENT POD	O2 Industries Inc.	3076054	Mar 17, 2020		
PCT Application	A SCENT POD AND A FACE MASK HAVING A SCENT POD	O2 Industries Inc.	PCT/CA2018/051152	Sep 17, 2018		

- 4 -

Country	Name	Current Owner	Application No.	Application Date	Registration No.	Registration Date
United States of America	A SCENT POD AND A FACE MASK HAVING A SCENT POD	O2 Industries Inc.	62/559709	Sep 18, 2017		
United States of America	A SCENT POD AND A FACE MASK HAVING A SCENT POD	O2 Industries Inc.	16/648201	Mar 17, 2020		
PCT Application	FACE MASK AND METHOD FOR CONFORMING A FACE MASK TO A FACE	O2 Industries Inc.	PCT/CA2019/050244	Mar 01, 2019		
Canada	FACE MASK AND METHOD FOR CONFORMING A FACE MASK TO A FACE	O2 Industries Inc.	3092903	March 1, 2019		
United States of America	FACE MASK AND METHOD FOR CONFORMING A FACE MASK TO A FACE	O2 Industries Inc.	62/637467	Mar 02, 2018		

- 5 -

Country	Name	Current Owner	Application No.	Application Date	Registration No.	Registration Date
PCT Application	SYSTEMS, APPARATUS AND METHODS FOR SEPARATING OXYGEN FROM AIR	O2 Industries Inc.	PCT/CA2019/050288	Mar 08, 2019		
Canada	SYSTEMS, APPARATUS AND METHODS FOR SEPARATING OXYGEN FROM AIR	O2 Industries Inc.	3093302	Mar 08, 2019		
United States of America	FACE MASK FOR FILTERING AIR WITH OXYGEN SUPPLY	O2 Industries Inc.	62/858596	Jun 07, 2019		
United States of America	TACTICAL RESPIRATOR MASK	O2 Industries Inc.	62/963375	Jan 20, 2020		
United States of America	FACE MASK WITH SECONDARY FILTER	O2 Industries Inc.	63/001030	Mar 27, 2020		

2. Trademarks:

- 6 -

Registration or Application Number	Trademark Name	Location	Date
1852371	AirPollution TV & Circle and Dots Design	Canada	Registered July 11, 2019
1876840	Better Air. Better You	Canada	Registered February 14, 2019
5810041	BETTER AIR. BETTER YOU.	United States	Registered July 23, 2019
1015142	BREATHE LIFE IN.	Canada	Registered February 14, 2019
5810040	BREATHE LIFE IN.	United States	Registered July 23, 2019
1776055	Circle and Two Dots Design	Canada	Registered August 15, 2017
1912858	Circle and Two Dots Design	Canada	Filed August 1, 2018
40-1562641	Circle and Two Dots Design	Korea	Registered January 9, 2020
87/015617	Circle and Two Dots Design	United States	Registered December 26, 2017
1848304	CURVE	Canada	Registered February 14, 2019
5809922	CURVE	United States	Registered July 23, 2019
2010487	Isotoxal Star Design	Canada	Filed February 6, 2020
88838470	Isotoxal Star Design	United States	Filed March 18, 2020
1737444	O2 INSIDE	Canada	Registered January 15, 2018
86/695411	O2 INSIDE	United States	Registered February 26, 2019

- 7 -

Registration or Application Number	Trademark Name	Location	Date
1737443	O2 CANADA	Canada	Registered August 25, 2017
86/695421	O2 CANADA	United States	Registered February 27, 2018
1951281	O2 PROJECT BLACK	Canada	Filed March 13, 2019
88/400204	O2 PROJECT BLACK	United States	Filed April 24, 2019
2003040	PROJECT BLACK	Canada	Filed December 23, 2019
88/760109	PROJECT BLACK	United States	Filed January 15, 2020
2010494	TR2 DESIGN	Canada	Filed February 6, 2020
88838436	TR2 DESIGN	United States	Filed March 18, 2020
2033143	BREATHE ON	Canada	Filed June 9, 2020
2046071	PROTECT THE FIGHTER	Canada	Filed August 17, 2020
20618259	O2 Canada Logo	China	September 7, 2017
2030346	O2 CONNECT	Canada	Filed May 25, 2020

3. Industrial Design

Patent or Application Number	Description of Intellectual Property	Location	Date

- 8 -

180359	Face Mask Shell	Canada	Registered December 28, 2018
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SCHEDULE 3.1(E)
INSTRUMENTS AND
INVESTMENT PROPERTY

I – Securities

Issuer	Class of Securities	Certificated (Y/N)	Share Certificate No. (Nos.)	Par Value	No. of Shares	% of O/S Shares of the Issuer
Hangzhou Oxygen Technology Co. Ltd.	Registered Capital	N	n/a	n/a	n/a	100%

II – Partnership Interests

Partnership	Type of Partnership (i.e. general or limited)	Certificated (Y/N)	Certificate No. (if any)	% of O/S Partnership Interests of the Partnership

III – LLC Interests

LLC	Certificated (Y/N)	Certificate No. (if any)	No. of Pledged Interests	% of O/S LLC Interests of the LLC

IV – Instruments

Issuer	Original Principal Amount	O/S Principal Balance	Issue Date	Maturity Date

- 2 -

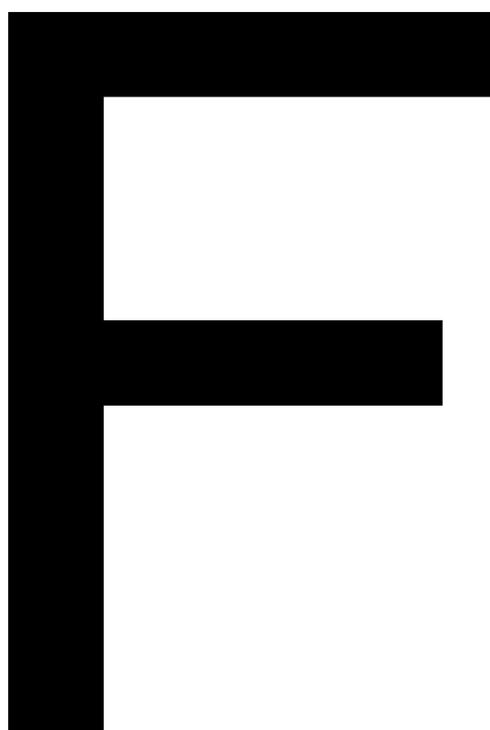
V – Securities Accounts

Securities Intermediary	Account No.	Type of Securities Account	[Governing Law of Securities Agreement]

SCHEDULE 4.2(J)

PERMITTED ENCUMBRANCES

1. Security interest granted by the Corporation in favour of Shopify Inc. pursuant to the Shopify Capital Agreement between the Corporation and Shopify Inc.
2. Sale by the Corporation to Clear Finance Technology Corporation all of its right, title, and interest in Receivables, pursuant to the Revenue Share Agreement between the Corporation and Clear Finance Technology Corporation.
3. Pursuant to the Convertible Promissory Note dated July 18, 2018 between the Corporation and Ontario Centres of Excellence Inc. (the “**OCE Note**”), if the Corporation issues convertible debt securities on terms more favourable to the terms more favourable than the terms of the OCE Note, the OCE Note shall be deemed to have been amended to include those terms, including but not limited to the granting of a security interest by the Corporation in favour of Ontario Centres of Excellence Inc.



**THIS IS EXHIBIT "F"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

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

Commissioner for Taking Affidavits

NOTICE OF SECURITY INTEREST IN CANADIAN INTELLECTUAL PROPERTY

WHEREAS, O2 Industries Inc. (“**O2**”), an Ontario corporation, having its chief executive office located at 5 Michael Street, Kitchener, Ontario, Canada, N2G 1L7 is the owner of the Canadian intellectual property, and the registrations and applications therefor, set forth in Schedule “A”, and of the underlying goodwill associated with the business in association with which such intellectual property is used (collectively, the “**Canadian Intellectual Property**”);

AND WHEREAS Kensington Private Equity Fund (the “**Lender**”), whose full address is 95 St. Clair Avenue West, Suite 905, Toronto, Ontario, M4V 1N6 entered into, *inter alia*, a general security agreement with O2 dated March 31, 2021, by which O2 granted to the Lender a general security interest and lien in all of its property, including the Canadian Intellectual Property (the “**Security Agreement**”);

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in accordance with the terms and obligations set forth in the Security Agreement, O2 hereby confirms the granting of a security interest and lien in the Canadian Intellectual Property to the Lender.

AND THEREFORE, this notice is governed by and is to be construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

DATED: March 31, 2021

O2 INDUSTRIES INC.

By: 
6DA0C8DB16464D5...
Name: Rich Szasz
Title: CEO

Schedule "A"**Patents**

Patent	Registration/Application No.
SYSTEMS, APPARATUS AND METHODS FOR SEPARATING OXYGEN FROM AIR	3093302
FACE MASK AND METHOD FOR CONFORMING A FACE MASK TO A FACE	3092903
FACE MASK FOR FILTERING AIR AND AIR MONITORING SYSTEM	3036270
A SCENT POD AND A FACE MASK HAVING A SCENT POD	3076054

Trademarks

Trademark	Registration/Application No.
AirPollution TV & Circle and Dots Design	TMA1040272
Better Air. Better You	TMA1015146
BREATHE LIFE IN.	TMA1015142
Circle and Two Dots Design	TMA978534
Circle and Two Dots Design	1912858
CURVE	TMA1015148
Isotoxal Star Design	2010487
O2 INSIDE	TMA988561
O2 CANADA	TMA979409
O2 PROJECT BLACK	1951281

Trademark	Registration/Application No.
PROJECT BLACK	2003040
TR2 DESIGN	2010494
BREATHE ON	2033143
PROTECT THE FIGHTER	2046071
O2 CONNECT	2030346

Industrial Design

Industrial Design	Registration No.
Face Mask Shell	180359

G

**THIS IS EXHIBIT "G"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be the name 'A. Nathan', written over a horizontal line.

Commissioner for Taking Affidavits

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: O2 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

RESPONSE CONTAINS: APPROXIMATELY 3 FAMILIES and 5 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 02 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 3 ENQUIRY PAGE : 1 OF 5

SEARCH : BD : 02 INDUSTRIES INC.

00 FILE NUMBER : 768252906 EXPIRY DATE : 03DEC 2026 STATUS :
 01 CAUTION FILING : PAGE : 001 OF 001 MV SCHEDULE ATTACHED :
 REG NUM : 20201203 0949 1862 6319 REG TYP: P PPSA REG PERIOD: 6
 02 IND DOB : IND NAME:
 03 BUS NAME: 02 INDUSTRIES INC.
 OCN :
 04 ADDRESS : 8 MICHAEL STREET, UNIT 002
 CITY : KITCHENER PROV: ON POSTAL CODE: N2G 1L7
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 1537638 ONTARIO LIMITED
 09 ADDRESS : 726 THIRD STREET
 CITY : LONDON PROV: ON POSTAL CODE: N5V 5J2
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10 X 9132 30NOV2026
 YEAR MAKE MODEL V.I.N.

11
 12

GENERAL COLLATERAL DESCRIPTION

13 1- TOSHIBA E-STUDIO 2010AC S/N CNAK24843 AND ACCESSORIES

14
 15

16 AGENT: 1537638 ONTARIO LIMITED

17 ADDRESS : 726 BARANSWAY DRIVE

CITY : LONDON PROV: ON POSTAL CODE: N5V 5J2

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 02 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 1 OF 3 ENQUIRY PAGE : 2 OF 5

SEARCH : BD : O2 INDUSTRIES INC.

FILE NUMBER 768252906

PAGE TOT REGISTRATION NUM REG TYPE
 01 CAUTION : 001 OF 001 MV SCHED: 20210112 1124 1862 8904

21 REFERENCE FILE NUMBER : 768252906

22 AMEND PAGE: NO PAGE: X CHANGE: A AMNDMNT REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: O2 INDUSTRIES INC

25 OTHER CHANGE:

26 REASON: ADDITIONAL DEVICE ADDED TO REGISTRATION

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY :	PROV :	POSTAL CODE :	DATE OF	NO FIXED
CONS.	MV		MATURITY OR	MAT DATE
GOODS	INVTRY	EQUIP	ACCTS	OTHER
10	X		9132	30NOV2026

11

12

13 1 - TOSHIBA ESTUDIO 2010AC S/N CNAK24843

14 1 - TOSHIBA ESTUDIO 2010AC S/N CNAK24835

15

16 NAME : CYBERBAHN

17 ADDRESS : 4610-199 BAY STREET

CITY : TORONTO PROV : ON POSTAL CODE : M5L 1E9

END OF FAMILY

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 02 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 3 ENQUIRY PAGE : 3 OF 5

SEARCH : BD : 02 INDUSTRIES INC.

00 FILE NUMBER : 769142223 EXPIRY DATE : 11JAN 2026 STATUS :
 01 CAUTION FILING : PAGE : 01 OF 001 MV SCHEDULE ATTACHED :
 REG NUM : 20210111 1943 1531 1528 REG TYP: P PPSA REG PERIOD: 5
 02 IND DOB : IND NAME:
 03 BUS NAME: 02 INDUSTRIES INC.
 OCN :
 04 ADDRESS : 2-5 MICHAEL ST
 CITY : KITCHENER PROV: ON POSTAL CODE: N2G 1L7
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 THE TORONTO-DOMINION BANK - 27642
 09 ADDRESS : 381 KING ST W 2ND FLOOR
 CITY : KITCHENER PROV: ON POSTAL CODE: N2G 1B8
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10 X X X X X X X
 YEAR MAKE MODEL V.I.N.

11
 12

GENERAL COLLATERAL DESCRIPTION

13
 14
 15

16 AGENT: D+H LIMITED PARTNERSHIP
 17 ADDRESS : SUITE 200, 4126 NORLAND AVENUE
 CITY : BURNABY PROV: BC POSTAL CODE: V5G 3S8

END OF FAMILY

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 02 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 3 ENQUIRY PAGE : 4 OF 5

SEARCH : BD : 02 INDUSTRIES INC.

00 FILE NUMBER : 771185313 EXPIRY DATE : 06APR 2024 STATUS :
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :
 REG NUM : 20210406 0837 1590 8021 REG TYP: P PPSA REG PERIOD: 3
 02 IND DOB : IND NAME:
 03 BUS NAME: 02 INDUSTRIES INC.
 OCN :
 04 ADDRESS : 5 MICHAEL STREET
 CITY : KITCHENER PROV: ON POSTAL CODE: N2G 1L7
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 KENSINGTON PRIVATE EQUITY FUND
 09 ADDRESS : 95 ST. CLAIR AVENUE WEST, SUITE 905
 CITY : TORONTO PROV: ON POSTAL CODE: M4V 1N6
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10 X X X X X
 YEAR MAKE MODEL V.I.N.

11
 12

GENERAL COLLATERAL DESCRIPTION

13
 14
 15

16 AGENT: GOODMAN'S LLP (TH/MB)

17 ADDRESS : 3400-333 BAY STREET

CITY : TORONTO PROV: ON POSTAL CODE: M5H 2S7

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: 02 INDUSTRIES INC.

FILE CURRENCY: May 24, 2021

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 3 OF 3 ENQUIRY PAGE : 5 OF 5

SEARCH : BD : O2 INDUSTRIES INC.

FILE NUMBER 771185313

PAGE TOT REGISTRATION NUM REG TYPE
 01 CAUTION : 001 OF 1 MV SCHED: 20210505 0911 1590 1165

21 REFERENCE FILE NUMBER : 771185313

22 AMEND PAGE: NO PAGE: X CHANGE: A AMNDMNT REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: O2 INDUSTRIES INC.

25 OTHER CHANGE:

26 REASON: AMENDMENT TO CORRECT THE SPELLING OF THE SECURED PARTY'S NA

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

KENSINGTON PRIVATE EQUITY FUND

09 ADDRESS :

CITY :	PROV :	POSTAL CODE :	DATE OF	NO FIXED
CONS.	MV		MATURITY OR	MAT DATE
GOODS	INVTRY	EQUIP	ACCTS	OTHER
INCL	AMOUNT			
10				
11				
12				
13				
14				
15				

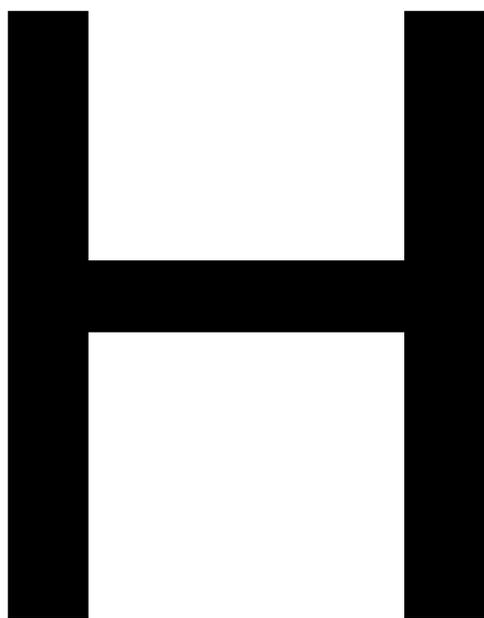
16 NAME : GOODMANS LLP (JD/MB)

17 ADDRESS : 3400-333 BAY STREET

CITY : TORONTO PROV : ON POSTAL CODE : M5H 2S7

LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***



**THIS IS EXHIBIT "H"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be 'A. H.', written over a horizontal line.

Commissioner for Taking Affidavits

TERM SHEET**PROPOSED BRIDGE FINANCING FACILITY FOR O2 INDUSTRIES INC.**

This Term Sheet summarizes the key terms of a proposed financing facility and, if accepted, this Term Sheet constitutes a legally binding agreement that will be supplemented and, to the extent applicable and expressly stated, superseded by additional legally binding agreements to be negotiated and executed by the parties. All dollar amounts are references to USD unless otherwise indicated. Governed by Ontario Law.

- Borrower:** O2 Industries Inc., an Ontario corporation (the “**Corporation**”).
- Lender:** Kensington Private Equity Fund, or its designees including related funds at its discretion (the “**Lender**”), and such other persons as the Lender accepts in its discretion. The Lender shall have the right to syndicate any portion of the financing facility set out in this Term Sheet (the “**Bridge Financing**”) to other persons in its discretion, including existing shareholders of the Corporation, as further set out below under the heading “**Participation by Additional Lenders.**”
- Amount of Financing Facility:** Up to an aggregate of \$4,000,000, including \$2,000,000 from the Lender, subject to the drawdown conditions set out in this Term Sheet, plus any additional amounts to be lent by other shareholders of the Corporation (and others) as set out below under the heading “**Participation by Additional Lenders.**”
- Evidence of Drawdown:** Any amounts drawdown pursuant to the Bridge Financing shall be evidenced by Convertible Promissory Notes (the “**Notes**”) having the terms set out below under the Section “**Terms of the Notes.**”
- Term:** 12 months (the “**Term**”), subject to earlier termination upon completion of a Qualifying Financing or certain other events, as set out in this Term Sheet. A “**Qualifying Financing**” means an equity financing that raises at least \$5,000,000 for the Corporation (in addition to all amounts raised under this Bridge Financing). All amounts under the Bridge Financing shall be due on this date regardless of the specific dates that individual amounts were drawn down.
- Availability of Facility:** This Bridge Financing facility shall be available to the Corporation for drawdowns, at its discretion, upon completion of the following conditions to the satisfaction of the Lender, acting reasonably:
- (a) Common shares of the Corporation held by the Lender or its associates shall be converted into Class A Preferred Shares of the Corporation (“**Class A Preferred Shares**”) on the following basis: for each \$1 of this financing facility, the Lender or its associates shall be entitled to convert one

common share into one Class A Preferred Share (the “**Conversion Ratio**”). As a result of this conversion right, the Lender or its associates (including, without limitation, One 9 Ventures O2 LP, Kensington Venture Fund II, LP and One Nine Investments Inc.) may convert up to an aggregate of 2,000,000 common shares of the Corporation into Class A Preferred Shares. This conversion shall occur as soon as practicable through the repurchase of the common shares in exchange for Class A Preferred Shares or the creation of new entity to facilitate such conversion in manner agreeable to both parties, acting reasonably);

- (b) An agreement is reached by the Corporation with Peter Whitby (the “**Co-founder**”), on terms and conditions satisfactory to the Lender, providing, *inter alia*, that: (i) he shall retain not more than 500,000 of his common shares of the Corporation with the remainder being repurchased by the Corporation for aggregate consideration of CAD \$1,500,000 payable upon a qualifying sale of the Corporation concurrently with the distribution of proceeds to common shareholders; (ii) the resignation of the Co-founder as a nominee to the Board of Directors of the Corporation (the “**Board**”) and the acknowledgement that the Co-founder no longer has any right to appoint a nominee to the Board under the Corporation’s Shareholder’s Agreement as a result of his share ownership falling below 10% of the Corporation’s outstanding shares; and (iii) a full and final mutual release among the Co-founder, on the one hand, and the Corporation and the Lender and affiliates, on the other hand; and
- (c) the Corporation shall provide a direction to the Lender to pay the first \$100,000 (plus applicable interest) drawn down under this Bridge Financing facility to repay the bridge loan previously provided by Kensington Private Equity Fund and to cancel the related Demand Promissory Note.

Each drawdown under this financing facility shall also be subject to the drawdown conditions set out below under the heading “**Drawdown Conditions.**”

Participation by Additional Lenders:

Upon satisfying the conditions set out under the heading “**Availability of Facility**” above, the Corporation shall provide an offer to its common shareholders, and such other persons acceptable to the Lender in its discretion, to participate as an additional lender to the Corporation under the financing facility. Each common shareholder shall, upon receipt of such offer, have a period of time expiring no later than April 30, 2021, or such longer period as is acceptable to the Lender in its discretion (the “**Offer Period**”) to elect to participate in the Bridge Financing facility by responding in writing to the Corporation and the

Lender. Each such participating shareholder shall be referred to as an “**Additional Lender**”.

Each Additional Lender shall, within the Offer Period, advance the full amount of its loan under the Bridge Financing to the Corporation in exchange for a Note issued by the Corporation, and shall irrevocably appoint the Lender as its representative to take any actions on its behalf under the Note including, without limitation, to demand repayment or to convert the Note in accordance with its terms, provided that the Lender shall act for all Additional Lenders in a consistent manner and take any actions under the Note consistently and concurrently for the Lender and all Additional Lenders.

Upon advancing its loan amount and executing the related documentation as described above, each Additional Lender shall be entitled to convert common shares of the Corporation held by the Additional Lender to Class A Preferred Shares in accordance with the Conversion Ratio. Each Additional Lender shall also be entitled to a warrant to acquire additional common shares of the Corporation as described under the heading “Warrants” below.

Drawdown Conditions:

Any drawdown from the Lender shall be made as required by the Corporation upon providing no less than five business days advance notice to the Lender, subject in each case to the following conditions:

- (a) The continuing financial review of the Corporation by Ani Tourian, Contract CFO, which shall confirm and update the financial condition of the Corporation to the satisfaction of the Lender, in its sole discretion;
- (b) The Corporation continues to take all actions required in accordance with the remedial business plans as approved by the Board to the satisfaction of the Lender, in its sole discretion; and
- (c) the Corporation continues to provide full and complete disclosure of all developments affecting, in any material respect, its business, operations or prospects, and certifies in writing in connection with any drawdown that there has not been any materially adverse effect on the Corporation’s business, operations or prospects. A materially adverse effect shall include learning new information relating to past events if such information could materially adversely affect the Corporation’s business, operations or prospects.

Negative Covenants:

While any Notes are outstanding under the financing (including any Notes to Additional Lenders) the Corporation shall not, without the express approval of the Board, incur any indebtedness or obligation which was not set out in a budget that has been approved by the Board subsequent to the date hereof, if

such expense or obligation: (a) could cost or result in an obligation or liability exceeding \$100,000; (b) is materially outside the ordinary course of business for the Corporation; or (c) would result in any failure by the Corporation to collect any receivable when due. The Corporation shall forthwith notify the Lender in writing of any breach of such covenants and, if possible, use all reasonable efforts to immediately cure such breach.

Warrants:

In consideration for each drawdown made by the Corporation under this financing facility, the Corporation shall execute and deliver to the Lender and, separately, each Additional Lender, a warrant (collectively, “**Warrants**”) entitling the holder to purchase the number of common shares equal to the aggregate amount such holder has advanced under this financing facility in such drawdown to the Corporation, divided by \$1.60, at a price per share of \$0.01. If the Lender, for example, ultimately advances \$1,600,000 to the Corporation under the financing facility, the Lender’s Warrant shall accordingly allow the Corporation to acquire up to 1,000,000 common shares of the Corporation. Similarly, if an Additional Lender advances an aggregate of \$50,000 to the Corporation under the financing facility, such Additional Lender’s Warrant shall be exercisable for 31,250 common shares of the Corporation. Warrants shall expire 10 years after issuance date.

TERMS OF THE NOTES

Initial Drawdown:

\$100,000 plus applicable interest (the “**Initial Drawdown**”), which shall be used to repay the Demand Promissory Note of Kensington Private Equity Fund.

Maximum Drawdown Amount:

\$2,000,000 from the Lender, plus the aggregate of any amounts advanced by Additional Lenders in accordance with the conditions set out in the heading “Drawdown Conditions” above.

Interest:

The Notes shall bear cumulative interest at the rate of 1% per month on amounts outstanding, payable upon conversion or repayment of the Notes.

Optional Conversion Rights:

In the event of a Qualifying Financing, the Lender shall have the right to convert all outstanding amounts under the Notes into the securities issued in connection with the Qualifying Financing, at a discount equal to 20% of the price per security in such Qualifying Financing.

In addition, in the event of a merger or other sale transaction of the Corporation, the Lender shall be entitled to convert the Notes, effective immediately prior to such event, into Class A Preferred Shares at a price per share equal to the lesser of: (i) the price per share payable in connection with such merger or sale

transaction; and (ii) a 20% discount to the price per share in the 2020 Class A Preferred Share financing of the Corporation.

Repayment:

The Notes shall be repayable at the end of the Term or concurrently with the closing of a Qualifying Financing. The Notes may be repaid at any time, at the discretion of the Corporation, but amounts previously drawn down and repaid may not be re-advanced during the Term. The Lender may also terminate the drawdowns under the Notes and demand immediate repayment upon any breach of the drawdown conditions or any negative covenants set out in this Term Sheet or definitive documentation which, if possible of being cured, remains uncured for more than ten business days after the Corporation or Lender becomes aware of such occurrence.

Special Dividends:

Upon the occurrence of a sale of any assets of the business of the Corporation, other than in the ordinary course of business, including without limitation any product line of the Corporation, the proceeds of such sale shall be used to pay, by special dividend or as otherwise directed by the Board, the holders of the Notes and Class A Preference Shares an amount in respect of the liquidation preference attached to such securities. All such payment amounts shall, when paid, permanently reduce the liquidation preference attached to such securities on a dollar for dollar basis.

Security

The Notes shall be secured by a General Security Agreement over the assets of the Corporation.

OTHER MATTERS**Information rights:**

The Corporation will provide the Lender with information rights sufficient to allow the Lender to remain informed on developments in the business, including financial reports, and to report to the Lender's limited partners and investors as reasonably required to allow sufficient reporting to their underlying stakeholders.

Shareholders' Agreement:

Prior to or concurrently with the Corporation's next equity financing, even if such financing is not a Qualifying Financing, if for any reason the Co-founder retains a right to nominate a member of the Board of Directors at that time then the Shareholders' Agreement shall be amended to provide the Lender with the right to appoint an additional representative of the Board of Directors or to remove the right of the Co-founder to appoint a nominee to the Board.

Note Purchase Agreement:

The Corporation and the Lender (and each Additional Lender, as applicable) will enter into a subscription agreement containing standard representations and warranties and covenants from the Corporation, with a survival period of two years, subject to customary exceptions.

Expenses and Fees:

Subject to the completion of the offering, the Corporation will reimburse the Lender for out of pocket expenses incurred in connection with the offering, including for fees of legal counsel, up to a maximum cap of \$30,000.

Conditions of Closing:

Closing is conditional upon:

- (a) Completion of a satisfactory due diligence investigation of the Corporation by the Lender;
- (b) Completion of the conditions set out under the heading "Availability of Facility" above;
- (c) The absence of any adverse material change in the business of the Corporation; and
- (d) Approval by the Lender's Investment Committee.

The foregoing conditions are solely for the benefit of the Lender and may be waived, in whole or in part, by the Lender.

Binding Terms and Confidentiality: This Term Sheet is intended to be legally binding on the parties and governed by the laws of Ontario. The contents of this Term Sheet are confidential and, without the consent of the Lender, the Corporation will not disclose these terms to anyone other than its officers and directors and potential professional advisors in connection with this transaction.

This Term Sheet may be executed in counterparts, which together will constitute one document. Electronic signatures shall have the same legal effect as original signatures. The Term Sheet remains open for acceptance until March 30th at 12:00 noon after which, if not executed by the Corporation, this Term Sheet shall automatically expire.

Dated as of March 31, 2021

O2 INDUSTRIES INC.

KENSINGTON PRIVATE EQUITY FUND

Per: _____
Authorized Signatory

Per:  _____

Per:  _____

Conditions of Closing:

Closing is conditional upon:

- (a) Completion of a satisfactory due diligence investigation of the Corporation by the Lender;
- (b) Completion of the conditions set out under the heading "Availability of Facility" above;
- (c) The absence of any adverse material change in the business of the Corporation; and
- (d) Approval by the Lender's Investment Committee.

The foregoing conditions are solely for the benefit of the Lender and may be waived, in whole or in part, by the Lender.

Binding Terms and Confidentiality: This Term Sheet is intended to be legally binding on the parties and governed by the laws of Ontario. The contents of this Term Sheet are confidential and, without the consent of the Lender, the Corporation will not disclose these terms to anyone other than its officers and directors and potential professional advisors in connection with this transaction.

This Term Sheet may be executed in counterparts, which together will constitute one document. Electronic signatures shall have the same legal effect as original signatures. The Term Sheet remains open for acceptance until March 30th at 12:00 noon after which, if not executed by the Corporation, this Term Sheet shall automatically expire.

Dated as of March 3/30/2021, 2021

O2 INDUSTRIES INC.

KENSINGTON PRIVATE EQUITY FUND

Per:  _____
 Authorized Signatory

Per: _____

Per: _____



**THIS IS EXHIBIT "I"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be 'A. Nathan', written over a horizontal line.

Commissioner for Taking Affidavits



BY COURIER AND EMAIL

May 14, 2021

O2 Industries Inc.
 5 Michael Street, Suite #2
 Kitchener, Ontario
 N2G 1L7

Attention: Richard Szasz, Chief Executive Officer (rich@o2industries.com)

Dear Sir:

Re: Indebtedness Owing by O2 Industries Inc. Pursuant to Promissory Notes

We are writing with respect to the indebtedness owing by O2 Industries Inc. (the “**Company**”) pursuant to the:

- (a) Convertible Promissory Note dated March 31, 2021 in the principal amount of US\$1,001,216.44 issued by the Company to Kensington Private Equity Fund (the “**Agent**”) (as amended, amended and restated, extended, supplemented, replaced or otherwise modified from time to time, the “**March Promissory Note**”);
- (b) Convertible Promissory Note dated April 13, 2021 in the principal amount of US\$650,000.00 issued by the Company to the Agent (as amended, amended and restated, extended, supplemented, replaced or otherwise modified from time to time, the “**April Promissory Note**”); and
- (c) Convertible Promissory Note dated May 10, 2021 in the principal amount of US\$350,000.00 issued by the Company to the Agent (as amended, amended and restated, extended, supplemented, replaced or otherwise modified from time to time, the “**May Promissory Note**” and, together with the March Promissory Note and the April Promissory Note, the “**Promissory Notes**”).

Reference is also made to the Assignment and Agency Agreement dated May 10, 2021 among the Agent, Kensington Venture Fund II, L.P. (“**KVFII**”), Kensington (Parallel) Venture Fund II, LP (“**KVFII Parallel**” and, together with KVFII, the “**Holders**”), and the Company (the “**Assignment and Agency Agreement**”) pursuant to which, *inter alia*, the Agent confirmed the assignment to the Holders of certain pro rata interests in the Promissory Notes and the Holders confirmed their appointment of the Agent to act as agent and to service the Promissory Notes and the General Security Agreement (as defined below) on their behalf.

According to the Agent's records, as of the date of this letter, the Company is indebted to the Agent pursuant to the Promissory Notes in the amount of US\$2,023,473.20, which amount is inclusive of interest through the date hereof, but exclusive of expenses and other costs, charges and fees to date.

The Company and the Agent are parties to a General Security Agreement dated as of March 31, 2021 (the "**General Security Agreement**"). As security for the Obligations (as defined in the General Security Agreement), including without limitation the obligations of the Company pursuant to the Promissory Notes, the Company granted to the Agent a general and continuing security interest in the present and future assets, undertaking and property of the Company (the "**Security**").

Events of Default have occurred and are continuing under the Promissory Notes, including, without limitation, the Company has become insolvent and a material adverse change in the financial or other condition of the Company has occurred which is likely to result in the impairment of the Company's ability to pay or perform its obligations under the Promissory Notes or the value of the Collateral (as defined in the General Security Agreement) or the Agent's ability to realize thereupon.

The Agent hereby declares, pursuant to the terms of the Promissory Notes and the General Security Agreement (collectively, the "**Loan Documents**"), that all Obligations owing by the Company to the Agent are now immediately due and payable, including any part thereof which is not, by its terms, payable upon demand.

The Agent hereby demands immediate payment in full of the Obligations. Payment of the Obligations is to be made forthwith to the Agent at the following address:

95 St. Clair Avenue West, Suite 905
Toronto, Ontario
M4V 1N6

If payment in full of the Obligations is not received forthwith, the Agent shall have the right to exercise on its own behalf and on behalf of the Holders all rights and remedies available to it and the Holders under the Loan Documents or applicable law.

In that regard, we enclose herewith a Notice of Intention to Enforce Security pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**Notice**").

The Agent reserves the right to proceed with the enforcement of its Security at any time prior to the time specified in the enclosed Notice in those circumstances where such earlier enforcement may be permitted by law. The Agent specifically reserves the right to take such proceedings as may be necessary to protect its interest in the collateral subject to the Security.

Yours very truly,

**KENSINGTON PRIVATE EQUITY FUND, by
its trustee, KENSINGTON CAPITAL
ADVISORS INC.**

Per: 
Name: Richard Nathan
Title: Senior Managing Director

Per: 
Name: Tom Kennedy
Title: Chairman & Senior Managing Director

**NOTICE OF INTENTION TO ENFORCE A SECURITY
(Rule 124)**

TO: O2 Industries Inc., an insolvent person

TAKE NOTICE THAT:

1. Kensington Private Equity Fund (the "**Agent**"), a secured creditor, intends to enforce its security on the insolvent person's property described below:

All "Collateral" as such term is defined in the General Security Agreement dated March 31, 2021 (as amended, amended and restated, extended, supplemented, replaced or otherwise modified from time to time, the "**General Security Agreement**").

2. The security that is to be enforced is the following:

General Security Agreement and any other security given by the insolvent person to the Agent, including, without limitation, any security agreement, mortgage, hypothec, charge or security interest of whatever nature or kind.

3. As of the date hereof, the total amount of indebtedness secured by the security is US\$2,023,473.20, which amount is exclusive of expenses, enforcement costs and other costs, charges and fees.
4. The Agent will not have the right to enforce the security until after the expiry of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

Dated at Toronto, Ontario, this 14th day of May, 2021.

**KENSINGTON PRIVATE EQUITY FUND, as
agent and secured creditor, by its trustee
KENSINGTON CAPITAL ADVISORS INC.**

Per:



Name: Richard Nathan
Title: Senior Managing Director

Per:



Name: Tom Kennedy
Title: Chairman & Senior Managing Director

J

**THIS IS EXHIBIT "J"
TO THE AFFIDAVIT OF RICHARD NATHAN
SWORN BEFORE ME BY TWO-WAY VIDEOCONFERENCE
THIS 25th DAY OF MAY, 2021**

A handwritten signature in black ink, appearing to be 'A.H.', written over a horizontal line.

Commissioner for Taking Affidavits

IRREVOCABLE CONSENT AND WAIVER

TO: **KENSINGTON PRIVATE EQUITY FUND** (the “**Secured Creditor**”)
FROM: **O2 INDUSTRIES INC.** (the “**Debtor**”)

The Debtor hereby acknowledges receipt from the Secured Creditor of a Notice of Intention to Enforce A Security dated May 14, 2021 (the “**Notice**”) given under subsection 244(1) of the *Bankruptcy and Insolvency Act* pursuant to which the Secured Party gave notice that it intended to enforce its security on the Collateral after the expiry of the ten (10) day notice period following the sending of the Notice unless the Debtor consented to an earlier enforcement. Capitalized terms used and not defined herein have the meanings given to them in the Notice.

The Debtor hereby irrevocably and unconditionally waives its rights to the ten (10) day notice period and consents to immediate enforcement by the Secured Creditor of its security on the Collateral. Without limiting the generality of the foregoing, the Debtor hereby consents to the appointment by the Secured Creditor, or by a court of competent jurisdiction on the application of the Secured Creditor, of a receiver or receiver and manager over the business, assets, property and undertaking of the Debtor.

Dated at Kitchener, Ontario, this ____ day of May, 2021.

5/18/2021

O2 INDUSTRIES INC.

Per: 
Name: Rich Szasz
Title: CEO

KENSINGTON PRIVATE EQUITY FUND**O2 INDUSTRIES INC.**

Court File No.: _____

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF RICHARD NATHAN
(sworn May 25, 2021)**GOODMANS LLP**Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7**Bradley Wiffen** LSO#: 64279L
bwiffen@goodmans.ca**Trish Barrett** LSO#: 77904U
tbarrett@goodmans.caTel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicant

3

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

THURSDAY, THE 27TH

JUSTICE CONWAY

)

DAY OF MAY, 2021

)

KENSINGTON PRIVATE EQUITY FUND

Applicant

- and -

O2 INDUSTRIES INC.

Respondent

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

RECEIVERSHIP ORDER

THIS APPLICATION made by Kensington Private Equity Fund (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing RSM Canada Limited (“**RSM**”), as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of O2 Industries Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Nathan sworn May 25, 2021 and the Exhibits thereto and the pre-filing report of RSM in its capacity as proposed Receiver dated May 26, 2021 (the “**Pre-Filing Report**”), and on hearing the submissions of counsel for the Applicant and RSM, no one appearing for the Debtor although duly served, and on reading the consent of RSM to act as the Receiver,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, RSM is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”).

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to market the Property pursuant to the sale procedures attached to the Pre-Filing Report (the “**Sale Procedures**”);
- (b) to monitor the business of the Debtor;
- (c) to control the Debtor’s cash receipts and disbursements;
- (d) to cause the Debtor to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (f) to receive and collect all funds, monies, cheques, instruments, accounts and payments (collectively, "**Funds**") now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such Funds, including, without limitation, to enforce any security held by the Debtor;
- (g) with the consent of the Applicant, to cause the Debtor to settle, extend or compromise any indebtedness or claims owing to, or by, the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to cause the Debtor to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) with the consent of the Applicant and without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$200,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (k) subject to the Sale Procedures, to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property; and
- (n) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person.

4. **THIS COURT ORDERS** that, notwithstanding anything to the contrary in this Order, the Receiver shall not (a) manage or operate the business of the Debtor, or (b) take possession or control of any Property of the Debtor other than the Funds in the Post Receivership Accounts (as defined below). Nothing in this Order shall be construed as resulting in the Receiver being an officer, director, employer, responsible person or operator in respect of the Debtor or its business

within the meaning of any statute, regulation or law (including the common law) for any purpose whatsoever.

SALE PROCEDURES

5. **THIS COURT ORDERS** that the Sale Procedures are hereby approved, subject to any amendments to the Sale Procedures that may be made in accordance therewith.

6. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to carry out the Sale Procedures and to take such steps and execute such documentation, whether in the Receiver's name or in the name and on behalf of the Debtor, as may be necessary or incidental to the Sale Procedures.

7. **THIS COURT ORDERS** that the Receiver and the Debtor are hereby authorized to execute an asset purchase agreement among the Receiver, the Debtor and 2841551 Ontario Limited (the "**Stalking Horse Bidder**"), substantially in the form attached to the Pre-Filing Report, with such amendments or modifications as the Stalking Horse Bidder and the Receiver may agree (the "**Stalking Horse Agreement**"). The transaction contemplated pursuant to the Stalking Horse Agreement is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the Sale Procedures, provided that nothing herein approves the sale or vesting of any Property to the Stalking Horse Bidder and that the sale and vesting of any Property pursuant to the Stalking Horse Agreement shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Bidder is the Successful Bidder pursuant to the Sale Procedures.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. **THIS COURT ORDERS** that the Receiver shall have unfettered access to any Property or Records (as defined below) of the Debtor that the Receiver shall request for the purpose of fulfilling its duties under this Order.

9. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, representatives, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all

of the foregoing, collectively, being “Persons” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control and shall grant immediate and continued access to the Property to the Receiver as the Receiver may request.

10. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, information technology, cloud storage, software and physical facilities relating thereto, provided however that nothing in this paragraph 10 or in paragraph 11 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

11. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage (including any cloud system), whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

12. **THIS COURT ORDERS** that the Debtor shall provide each of the relevant landlords with notice of the Debtor's 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 Debtor's 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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

13. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

14. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor 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 all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (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 THE RECEIVER

16. **THIS COURT ORDERS** that no Person shall discontinue, suspend, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence or permit in favour of, for the benefit of, or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor 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 Debtor, and that the Debtor shall be entitled to the continued use of its current 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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

18. **THIS COURT ORDERS** that all Funds received or collected by the Debtor or the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

19. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Debtor, or the Receiver on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA or otherwise, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

20. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall be permitted to disclose personal information of identifiable individuals to prospective purchasers or bidders and their advisors in connection with the Sale Procedures, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

21. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver 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 Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’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.

LIMITATION ON THE RECEIVER’S LIABILITY

22. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER’S ACCOUNTS

23. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts (including statutory, deemed and constructive trusts), liens, charges and encumbrances, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal

counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

25. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

26. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant, or another Person with the prior written consent of the Applicant, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$700,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the business of the Debtor or the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all Encumbrances in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

27. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

28. **THIS COURT ORDERS** that the Receiver is at liberty to and shall issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

29. **THIS COURT ORDERS** that until all obligations in respect of a particular Receiver's Certificate (a "**Prior Issued Certificate**") shall have been repaid in full, the obligations under any Receiver's Certificate issued subsequent in time to the Prior Issued Certificate shall rank subordinate in priority to the obligations under the Prior Issued Certificate, unless otherwise agreed to by the holder of the Prior Issued Certificate.

30. **THIS COURT ORDERS** that any secured creditor that did not receive notice of the within Application and objects to the granting or priority of the Receiver's Charge or the Receiver's Borrowings Charge pursuant to this Order shall bring a motion before the Court returnable not later than ten (10) days from the date of this Order in respect of such objection.

31. **THIS COURT ORDERS** that this Order is subject to provisional execution and that if any of the provisions of this Order relating to the Receiver's Borrowings Charge or the Receiver's Certificates shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (a "**Variation**"), such Variation shall not in any way impair, limit or lessen the protections, rights or priorities of the Applicant with respect to any funding advanced to the Receiver pursuant to Receiver's Certificates prior to such Variation, and the Applicant shall be entitled to rely on this Order as issued for all advances so made.

SERVICE AND NOTICE

32. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04. Subject to Rule 3.01(d), service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.rsmcanada.com/o2-industries>.

33. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is 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 electronic message to the Debtor's creditors or other interested parties and their advisors at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by (i) electronic message or personal delivery shall be deemed to be received on the date of transmission or delivery, as applicable, (ii) courier shall be deemed to be received on the next business day following the date of forwarding thereof, or (iii) ordinary mail shall be deemed to be received on the third business day after mailing. For greater certainty, any such electronic distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

34. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

35. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

36. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or a jurisdiction outside Canada to give effect to this Order and to assist the Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

37. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal or 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 Receiver 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.

38. **THIS COURT ORDERS** that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

39. **THIS COURT ORDERS** that, except for any objection described in paragraph 30 hereof (which shall be brought within the time period required pursuant to paragraph 30), any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver, the Applicant and any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that RSM Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties of O2 Industries Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated May 27, 2021 (the "**Order**") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

RSM Canada Limited, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____
Name:
Title:

4

Revised: January 21, 2014
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE _____)
JUSTICE _____ CONWAY) ~~WEEKDAY~~ THURSDAY, THE #27TH
DAY OF ~~MONTH~~ MAY, ~~20YR~~ 2021

~~PLAINTIFF~~[†]

Plaintiff

KENSINGTON PRIVATE EQUITY FUND

Applicant

- and -

~~DEFENDANT~~

Defendant

O2 INDUSTRIES INC.

Respondent

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

[†]The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application.
This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

RECEIVERSHIP ORDER
(~~appointing Receiver~~)

THIS ~~MOTION~~APPLICATION made by ~~the Plaintiff~~²Kensington Private Equity Fund (the "**Applicant**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing ~~[RECEIVER'S NAME]~~RSM Canada Limited ("RSM"), as receiver ~~[and manager]~~ (in such ~~capacities~~capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~O2 Industries Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Richard Nathan sworn ~~[DATE]~~May 25, 2021 and the Exhibits thereto and the pre-filing report of RSM in its capacity as proposed Receiver dated May 26, 2021 (the "Pre-Filing Report"), and on hearing the submissions of counsel for ~~[NAMES]~~the Applicant and RSM, no one appearing for ~~[NAME]~~the Debtor although duly served ~~as appears from the affidavit of service of [NAME] sworn [DATE]~~, and on reading the consent of ~~[RECEIVER'S NAME]~~RSM to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion Application and the Motion Application is hereby abridged and validated³ so that this motion Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~RSM is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

²Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

³If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to market the Property pursuant to the sale procedures attached to the Pre-Filing Report (the "Sale Procedures");
- (b) to monitor the business of the Debtor;
- (c) ~~(a) to take possession of and exercise control over the Property and any and all proceeds, Debtor's cash receipts and disbursements arising out of or from the Property;~~
 - ~~(b) — to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;~~
- (d) ~~(e) to manage, operate, and carry on the business of~~ cause the Debtor, ~~including the powers~~ to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (e) ~~(d)~~ to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
 - ~~(e) — to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;~~

- (f) to receive and collect all funds, monies ~~and, cheques, instruments,~~ accounts and payments (collectively, "Funds") now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such ~~monies~~ Funds, including, without limitation, to enforce any security held by the Debtor;
- (g) with the consent of the Applicant, to cause the Debtor to settle, extend or compromise any indebtedness or claims owing to, or by, the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature ~~in respect of any of the Property~~, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- ~~(j) — to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;~~
- (j) ~~(k)~~ to cause the Debtor to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
- (i) with the consent of the Applicant and without the approval of this Court in respect of any transaction not exceeding \$ 100,000, provided that the aggregate consideration for all such transactions does not exceed \$ 200,000; and

⁴~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,]⁵ shall not be required, ~~and in each case the Ontario *Bulk Sales Act* shall not apply.~~

- (k) ~~(h) subject to the Sale Procedures,~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- ~~(o) — to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;~~
- ~~(p) — to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;~~

⁵ If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.

~~(q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;~~ and

(n) ~~(+)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons ~~(as defined below)~~, including the Debtor, and without interference from any other Person.

4. THIS COURT ORDERS that, notwithstanding anything to the contrary in this Order, the Receiver shall not (a) manage or operate the business of the Debtor, or (b) take possession or control of any Property of the Debtor other than the Funds in the Post Receivership Accounts (as defined below). Nothing in this Order shall be construed as resulting in the Receiver being an officer, director, employer, responsible person or operator in respect of the Debtor or its business within the meaning of any statute, regulation or law (including the common law) for any purpose whatsoever.

SALE PROCEDURES

5. THIS COURT ORDERS that the Sale Procedures are hereby approved, subject to any amendments to the Sale Procedures that may be made in accordance therewith.

6. THIS COURT ORDERS that the Receiver is hereby authorized and directed to carry out the Sale Procedures and to take such steps and execute such documentation, whether in the Receiver's name or in the name and on behalf of the Debtor, as may be necessary or incidental to the Sale Procedures.

7. THIS COURT ORDERS that the Receiver and the Debtor are hereby authorized to execute an asset purchase agreement among the Receiver, the Debtor and 2841551 Ontario Limited (the "Stalking Horse Bidder"), substantially in the form attached to the Pre-Filing Report, with such amendments or modifications as the Stalking Horse Bidder and the Receiver may agree (the "Stalking Horse Agreement"). The transaction contemplated pursuant to the Stalking Horse Agreement is hereby approved as the Stalking Horse Bid pursuant to and for

purposes of the Sale Procedures, provided that nothing herein approves the sale or vesting of any Property to the Stalking Horse Bidder and that the sale and vesting of any Property pursuant to the Stalking Horse Agreement shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Bidder is the Successful Bidder pursuant to the Sale Procedures.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. THIS COURT ORDERS that the Receiver shall have unfettered access to any Property or Records (as defined below) of the Debtor that the Receiver shall request for the purpose of fulfilling its duties under this Order.

9. 4-**THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, representatives, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons") and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, and shall grant immediate and continued access to the Property to the Receiver, ~~and shall deliver all such Property to~~ as the Receiver upon the Receiver's request.

10. 5-**THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, information technology, cloud storage, software and physical facilities relating thereto, provided however that nothing in this paragraph 510 or in paragraph 611 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

11. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage (including any cloud system), whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

12. ~~7.~~ **THIS COURT ORDERS** that the ~~Receiver~~ Debtor shall provide each of the relevant landlords with notice of the ~~Receiver~~ Debtor's 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 ~~Receiver~~ Debtor's 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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

13. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

14. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (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 THE RECEIVER

16. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, suspend, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence or permit in favour of, for the benefit of, or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

17. ~~12.~~ **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor 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 ~~Receiver~~Debtor, and that the ~~Receiver~~Debtor shall be entitled to the continued use of ~~the~~

~~Debtor's~~sits current 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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

18. ~~13.~~ **THIS COURT ORDERS** that all ~~funds, monies, cheques, instruments, and other forms of payments~~Funds received or collected by the Debtor or the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

19. ~~14.~~ **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Debtor, or the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA or otherwise, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

20. ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall be permitted to disclose personal information of identifiable individuals to prospective purchasers or bidders ~~for the Property~~ and ~~to~~ their advisors in connection with the Sale Procedures, but only to the extent

desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

21. ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver 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 Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

LIMITATION ON THE RECEIVER'S LIABILITY

22. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this

Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

23. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "~~Receiver's Charge~~") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts (including statutory, deemed and constructive trusts), liens, charges and encumbrances, statutory or otherwise (collectively, "Encumbrances"), in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

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

25. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

26. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant, or another Person with the prior written consent of the Applicant, by way of a revolving credit or otherwise, such monies from time to time as it may consider

⁶~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~700,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the business of the Debtor or the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all ~~security interests, trusts, liens, charges and encumbrances, statutory or otherwise,~~Encumbrances in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

27. ~~22.~~ **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

28. ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty to and ~~authorized to~~shall issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

~~24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis~~

29. **THIS COURT ORDERS** that until all obligations in respect of a particular Receiver's Certificate (a "Prior Issued Certificate") shall have been repaid in full, the obligations under any Receiver's Certificate issued subsequent in time to the Prior Issued Certificate shall rank subordinate in priority to the obligations under the Prior Issued Certificate, unless otherwise agreed to by the ~~holders of any prior issued Receiver's Certificates.~~ holder of the Prior Issued Certificate.

30. **THIS COURT ORDERS** that any secured creditor that did not receive notice of the within Application and objects to the granting or priority of the Receiver's Charge or the

Receiver's Borrowings Charge pursuant to this Order shall bring a motion before the Court returnable not later than ten (10) days from the date of this Order in respect of such objection.

31. THIS COURT ORDERS that this Order is subject to provisional execution and that if any of the provisions of this Order relating to the Receiver's Borrowings Charge or the Receiver's Certificates shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (a "Variation"), such Variation shall not in any way impair, limit or lessen the protections, rights or priorities of the Applicant with respect to any funding advanced to the Receiver pursuant to Receiver's Certificates prior to such Variation, and the Applicant shall be entitled to rely on this Order as issued for all advances so made.

SERVICE AND NOTICE

32. ~~25.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/> <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (Ontario) (the "Rules"), 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 Protocol~~, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ~~<@>~~: <http://www.rsmcanada.com/o2-industries>.

33. ~~26.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is 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 ~~faesimile transmission~~ electronic message to the Debtor's creditors or other interested parties and their advisors at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by ~~courier~~ (i) electronic message or personal delivery ~~or~~

~~facsimile~~ shall be deemed to be received on the date of transmission or delivery, as applicable, (ii) courier shall be deemed to be received on the next business day following the date of forwarding thereof, or ~~if sent by (iii) ordinary mail,~~ shall be deemed to be received on the third business day after mailing. For greater certainty, any such electronic distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

34. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

35. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

36. ~~29.~~ **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~~ jurisdiction outside Canada to give effect to this Order and to assist the Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

37. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, ~~or~~ or 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 Receiver 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.

38. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~ Applicant shall have its costs of this ~~motion~~ Application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~ Applicant's security or, if not so provided by the ~~Plaintiff~~ Applicant's security, then

on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

39. ~~32.~~ **THIS COURT ORDERS** that, except for any objection described in paragraph 30 hereof (which shall be brought within the time period required pursuant to paragraph 30), any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver, the Applicant and ~~to~~ any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~RSM Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~of O2 Industries Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~the ___ day of _____~~May 27, 2021 (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ RSM Canada Limited,
solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

5

Court File No. _____

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

BETWEEN

KENSINGTON PRIVATE EQUITY FUND

Applicant

-and-

O2 INDUSTRIES INC.

Respondent

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

CONSENT

The undersigned, RSM Canada Limited (“**RSM**”), hereby consents to act as Court-appointed receiver of the assets, undertakings and properties of O2 Industries Inc., pursuant to the provisions of subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B03, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, C. c.43, as amended, on the terms of an order substantially in the form filed in the above proceeding.

DATED at Toronto, this 25 day of May, 2021

RSM CANADA LIMITED

Per:



Name: Bryan A. Tannenbaum

Title: President

KENSINGTON PRIVATE EQUITY FUND**O2 INDUSTRIES INC.**

Court File No.: _____

Applicant

Respondent

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

Proceeding commenced at Toronto

CONSENT TO ACT AS RECEIVER**GOODMANS LLP**

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Lawyers for the Applicant

**KENSINGTON PRIVATE EQUITY
FUND**

O2 INDUSTRIES INC.

Court File No.: _____¹⁹¹

Applicant

Respondent

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

Proceeding commenced at Toronto

**APPLICATION RECORD
(Returnable May 27, 2021)**

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