Court File No. BK-26-03364251-0032

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF NATIONAL TRAFFIC SAFETY MANAGEMENT INC.**

# FACTUM OF THE PROPOSAL TRUSTEE

November 1, 2026

**Paliare Roland Rosenberg Rothstein LLP**
155 Wellington Street West
35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300

**Jeffrey Larry** (LSO#44608D)
Tel: 416.646.4330
Email: jeff.larry@paliareroland.com

**Dillon Gohil** (LSO#89738M)
Tel: 416.646.6353
Email: dillon.gohil@paliareroland.com

Lawyers for the Proposal Trustee

TO: **Service List**

## PART I. OVERVIEW

1. National Traffic Safety Management Inc. (the "**Company**") has been unable to successfully complete a proposal since first filing a Notice of Intention to Make a Proposal on April 5, 2024.

2. The Proposal Trustee now brings this motion seeking the approval of the Proposed Transaction (defined below) which, in its view, represents the best outcome for the Company's stakeholders in the circumstances.

3. In response, the Company is attempting once again to put a proposal before its creditors. As of today, the Company has no ability to fund the proposal. Even if it did, none of the stakeholders before the Court and entitled to vote on the proposal support it.

4. The Proposal Trustee recommends that the Court approve the Proposed Transaction and related relief for the reasons detailed in this factum.

## PART II. FACTS

### *A. Initial Proposal*

5. The Company's proposal was accepted by the creditors and approved by the Court on February 20, 2025 (the "**Initial Proposal**"). The Company defaulted under the Initial Proposal by failing to make required payments to the Canada Revenue Agency.[1]

[1] Fifth Report of the Proposal Trustee dated October 12, 2026 (**Fifth Report**"), Appendix A, Affidavit of Antonio Bruno dated October 2, 2026 ("**Bruno Affidavit**") at ¶¶4, 10, First Report of the Proposal Trustee dated June 13, 2026 ("**First Report**") at ¶17.

6. Oxygen Working Capital Corp. ("**Oxygen**") has, most recently, provided financing to the Company pursuant to a Factoring Agreement dated April 28, 2025 between Oxygen and the Company. Oxygen has comprehensive personal property security in the Company's assets.[2]

7. On April 12, 2026, the Company entered into a letter of intent ("**A2 LOI**") to sell all of its shares to A2 Environmental Group Inc. ("**A2**"), a company owned and operated by Antonio Bruno. In connection with this transaction, Mr. Bruno became the Company's sole officer and director.[3]

### *B. The Company's Second NOI proceedings*

8. The Company filed a second Notice of Intention to Make a Proposal on April 24, 2026 ("**Second NOI**"). The time to file a proposal was subsequently extended seven times, most recently to October 26, 2026, the last day in which the Company could make a proposal before it was deemed to make an assignment in bankruptcy pursuant to section 50.4(8) of the *Bankruptcy and Insolvency Act,* R.S.C., 1985, c. B-3 ("**BIA**").[4]

#### 1. Company's activities during the Second NOI proceedings

9. By May 2026, the Company's default to the Canada Revenue Agency had recurred. By October 2026, the Company owed approximately $300,000 in HST arrears and $25,000 in employee source deduction arrears.[5]

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[2] First Report at ¶13, see also Affidavit of John Levac dated October 30, 2026 at Exhibit B.
[3] First Report at ¶¶21-22.
[4] Sixth Report of the Proposal Trustee dated October 21, 2026 ("**Sixth Report**"), at ¶25.
[5] Third Report dated September 11, 2026 at ¶¶11 and 13 ("**Third Report**"), Fourth Report dated October 4, 2026 ("**Fourth Report**") at ¶15.

10. On September 4, 2026, CORFinancial Corp. ("**COR**") provided a conditional Commitment Letter to A2 ("**Commitment Letter #1**") in which COR committed to provide A2 with a loan of $2.1million for a stalking horse bid for the Company's assets. One of the conditions of this commitment letter was Court approval of a sale of the Company's assets to A2.[6]

11. As further detailed in the affidavits of Sammy Tinebra dated October 23 and 26, 2026, the Company has obligations to three locals[7] of the Labourers International Union of North America (the "**Unions**") that represent most of its employees pursuant to a Collective Agreement dated May 1, 2025 (the "**Collective Agreement**").[8] The Unions advise that the amounts owing to them include priority amounts consisting of pre-filing compensation and pension claims and post-filing obligations (the "**Employee Priority Obligations**").

12. Local 837 claims that the Employee Priority Obligations total approximately $575,000 since the Second NOI.[9] Locals 183 and 506 claim that the Employee Priority Obligations are $64,738.44 to Local 183 and $15,261.47 to Local 506.[10]

13. The Company also has various obligations to other secured and unsecured creditors, as set out in its Notice of Intention to Make a Proposal.

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[6] Third Report at ¶17.

[7] Local 837, Local 183, and Local 506.

[8] Affidavit of Sammy Tinebra dated October 23, 2026 ("**Tinebra Affidavit 1**") at ¶4; see also Affidavit of Sammy Tinebra dated October 30, 2026 at ¶11.

[9] Tinebra Affidavit 1 at ¶4.

[10] Factum of Local 183 and Local 506 dated October 24, 2026 at ¶6.

***C. Sale efforts***

14. A2 has been trying to acquire the Company's assets since the A2 LOI was first signed in April 2026.

15. Eventually, in late September 2026, A2 proposed a stalking horse bid and Asset Purchase Agreement to sell the Company's assets to A2. The Proposal Trustee advised that it could not recommend the sale of Company assets to A2 (a related party)[11] since it had been contacted by two other parties who were interested in the acquiring the Company's assets and business, and those parties' interest had not yet been assessed by the Proposal Trustee. In addition, the Proposal Trustee had concerns with the A2's proposed $250,000 break fee, representing approximately 10% of the proposed purchase price, as well as additional expense reimbursement of up to $50,000.[12]

16. Instead of simply supporting the A2 bid, the Proposal Trustee established an abbreviated sales process for the Company's assets to determine whether there were other potential interested parties. An abbreviated sales process was necessary because of the then-approaching deemed bankruptcy dated of October 26, 2026 (and the recognition that a bankruptcy would be prejudicial to the stakeholders).[13]

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[11] The Proposal Trustee was particularly mindful of s. 65.13(5) of the BIA which reads: "If the proposed sale or disposition is to a person who is related to the insolvent person, the court may, after considering the factors referred to in subsection (4), grant the authorization only if it is satisfied that
(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the insolvent person; and (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition."

[12] Fourth Report ¶¶19-26, First Supplement to the Seventh Report dated October 31, 2026 ("**First Supplement**") at ¶24.

[13] Fourth Report ¶27-29, Fifth Report at ¶¶21 and 38.

17. The Proposal Trustee set out the proposed sales process in its Fifth Report presented to the Court for an attendance on October 13, 2026 before Justice Dunphy. Neither the Company nor Mr. Bruno raised any objection to the sales process at the attendance on October 13, 2026.

### 1. The Sales Process

18. As detailed in the Sixth Report, the Proposal Trustee established a deadline of 12:00 pm on October 16, 2026 (the "**Bid Deadline**") for interested parties to submit binding offers for the Company's business and assets ("**Offers**"). The Proposal Trustee required that the Offers, among other things, be unconditional, other than Court approval and the granting of a vesting order, and be accompanied by a minimum deposit of $100,000 payable prior to the next Court attendance seeking approval of a transaction.[14]

19. The Proposal Trustee continued to communicate with three interested parties and their representatives, responded to inquiries, and facilitated their efforts to submit Offers.[15]

20. At the request of A2, the Proposal Trustee extended the Bid Deadline from 12:00 pm to 5:00 pm on October 16, 2026 (the "**Extended Bid Deadline**") for the submission of Offers. The Extended Bid Deadline was communicated by the Proposal Trustee to all interested parties.[16]

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[14] Sixth Report at ¶14.
[15] Sixth Report at ¶15.
[16] Sixth Report at ¶16.

21. Following the Extended Bid Deadline, two offerors submitted Offers: (1) A2 and (2) Ramudden Global (Canada) Inc. ("**Ramudden**").[17]

22. The Proposal Trustee invited both offerors to submit their highest and best Offers by no later than 12:00 pm on October 19, 2026 (the "**Bid Resubmission Deadline**").[18]

23. Following the Bid Resubmission Deadline, A2 submitted an amended Offer, and Ramudden did not.[19]

24. The Proposal Trustee ultimately determined that Ramudden's Offer (the "**Proposed Transaction**") represented the most favourable outcome for the Company's creditors and other stakeholders.[20]

25. On October 16, 2026, the Proposal Trustee informed the two offerors and the Company of its assessment of the Offers and confirmed that it intended to bring a motion for approval of the Proposed Transaction. The Company's counsel advised that Mr. Bruno opposed the completion of the Proposed Transaction.[21]

26. On October 21, 2026, Ramudden proposed and signed an Asset Purchase Agreement (the "**Ramudden APA**") to effect the purchase of the assets (the "**Purchased Assets**") in the Proposed Transaction.[22]

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[17] Sixth Report at ¶17.
[18] Sixth Report at ¶18.
[19] Sixth Report at ¶19.
[20] Sixth Report at ¶23.
[21] Sixth Report at ¶20.
[22] Ramudden APA, Schedule A to the draft Approval and Vesting Order.

27. On October 22, 2026, the Proposal Trustee appeared before the Court to seek a stay of the deemed assignment into bankruptcy as the parties required more time than the 30 minutes allotted to address the approval of the Proposed Transaction given Mr. Bruno's opposition. That stay was not granted, and the parties were directed to re-appear on October 26, 2026 (as noted above, the final day before the deemed assignment into bankruptcy).[23]

28. During the attendance on October 22, 2026, counsel for the Company advised that the Company may file a proposal prior to the expiry of the stay of proceedings.

**2. Proposal Trustee seeks approval and the Company files a proposal**

29. On the return of the motion on October 26, 2026, the Proposal Trustee sought approval of the Proposed Transaction and vesting of the Purchased Assets in Ramudden. However, since the Company did file a holding proposal that same day, the immediate time pressure for deciding the motion was relieved. Accordingly, the Court adjourned this motion to November 2, 2026 to allow for the filing of further materials including an amended proposal from the Company and an opportunity for the stakeholders and Proposal Trustee to respond to that new proposal.

30. The Ramudden offer expires on November 4, 2026.[24] Accordingly, the Proposal Trustee is concerned with the risks of pursuing any option that may not materialize and

[23] Sixth Report at ¶¶30-32.
[24] Ramudden APA at section 9.1(b).

will result in a bankruptcy of the Company which, as the Proposal Trustee has demonstrated, will result in materially reduced recoveries.[25]

31. The Proposal Trustee cannot support the Company's amended proposal for a variety of reasons, as detailed in its First Supplement. First, the Company claims that it has a conditional Commitment Letter dated October 26, 2026 from COR ("**Commitment Letter #2**") to fund the proposal and provide debtor-in-possession financing ("**DIP Loan**").[26]

32. COR failed to provide evidence that it had the ability to actually fund its obligations under Commitment Letter #2, despite the Proposal Trustee's request for same.[27]

33. In any case, on Saturday October 31, 2026, Mr. Bruno confirmed that "COR withdrew its Offer of Financing" and "Unless I have a credible letter of intent or commitment letter by Monday morning [i.e., the return of this motion], neither the Company nor A2 will object to the approval of the Ramudden transaction."[28]

34. The Proposal Trustee also notes that the proposal contains inaccurate statements about trade creditors and professional advisors being paid in the ordinary course, and the proposal seeks to thwart scrutiny of transactions that are reviewable under the BIA.[29]

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[25] First Supplement ¶32.
[26] First Supplement ¶¶26-28.
[27] First Supplement ¶30.
[28] Reply Affidavit of Antonio Bruno dated October 31, 2026 at ¶¶20-22.
[29] First Supplement at ¶¶26-40.

35. Finally, the Proposal Trustee notes that Oxygen and the Union oppose the proposal (and support the Proposed Transaction). In the alternative that this Court does not approve the Proposed Transaction pursuant to the Proposal Trustee's motion, then Oxygen moves for the appointment of TDB as Receiver and approval of the Proposed Transaction under the receivership. [30]

***D. Professional fees in a bankruptcy***

36. In the event of a bankruptcy of the Company, TDB agrees to act as trustee in bankruptcy ("**Bankruptcy Trustee**").[31]

37. The Bankruptcy Trustee will be required to undertake various activities in administering the estate, including the collection and realization of any remaining assets, the review and adjudication of creditor claims, the administration of remaining funds and the completion of other statutory obligations under the BIA.[32]

38. Therefore, the Proposal Trustee is seeking a Court-ordered charge to grant TDB, in its prospective capacity as Bankruptcy Trustee a priority charge (subordinate only to Oxygen's security) on all assets in the estate to secure its professional fees and disbursements, and those of its counsel (the "**Bankruptcy Trustee's Charge**").[33]

39. If the Court does not grant an Order approving the Bankruptcy Trustee's Charge, TDB respectfully requests an Order discharging the Proposal Trustee at the time of the

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[30] First Supplement at ¶¶44-48.
[31] Subject to affirmation at the first meeting of creditors, Seventh Report at ¶43.
[32] Seventh Report at ¶44.
[33] Seventh Report at ¶46.

Company's bankruptcy and directing the Proposal Trustee to pay any net proceeds from the Proposed Transaction, to the extent they are held by the Proposal Trustee, into Court at that time.[34]

## PART III. ISSUES

40. The issues on this motion are:

(a) Should the Proposed Transaction be approved?

(b) Should the Proposal Trustee be granted enhanced powers (if necessary) to complete the Proposed Transaction?

(c) In the alternative, should TDB be appointed as the Receiver of the Purchased Assets, and an approval and vesting order issue for same?

(d) Should the Professionals' fees and disbursements be approved?

(e) Should TDB be granted the Bankruptcy Trustee's Charge if appointed as trustee in bankruptcy?

(f) Should the confidential appendices to the Sixth Report, Seventh Report, and the First Supplement to the Seventh Report be sealed?

[34] Seventh Report at ¶49.

## PART IV. LAW AND ARGUMENT

### *A. The Proposed Transaction should be approved, and the Company's assets should vest in Ramudden*

#### 1. Statutory framework

41. The Court has jurisdiction to approve a sale of assets of a Notice of Intention debtor pursuant to section 65.13 of the BIA.

##### *(i) A Proposal Trustee may seek approval*

42. While the moving party seeking a sale approval pursuant to section 65.13 is often the debtor, the BIA does provide that only the debtor may apply to a court for sale approval pursuant to section 65.13(1), as it reads:

> An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

43. At the hearing on October 26, 2026, the Company belatedly asserted that the Proposal Trustee does not have jurisdiction to bring a motion under 65.13(1). Despite repeatedly asking the Company to explain its position, at the time of preparing this factum, the Proposal Trustee does not have the Company's explanation.

44. In any case, the Proposal Trustee submits that there is no issue about jurisdiction. In addition to the language referenced above, this Court has recently approved at least two sale approval motions pursuant to section 65.13 where the moving party was a

Proposal Trustee.[35] While the specific jurisdiction of a Proposal Trustee to bring a motion under s. 65.13(1) was not directly discussed in those cases, the Court, at least implicitly, accepted the Proposal Trustee's jurisdiction given that it granted the relief requested by the Proposal Trustee. Notably, counsel to the Proposal Trustee who brought the motion under 65.13(1) in *Cranbrook* is the same counsel who now argues that the Proposal Trustee's lacks jurisdiction in this case.

45. In this case, given that Mr. Bruno refused to cause the Company to bring this motion after participating in the sales process, it is appropriate that the Proposal Trustee, who has duties to impartially represent the interests of the body of creditors, seek the Court's approval of the transaction.[36] To hold otherwise would lead to the perverse result that a Proposal Trustee could run a Court-supervised sale process, only to be frustrated from its well-established duty under the BIA to impartially represent the interests of stakeholders by one related party stakeholder (the Company's director). Such a restrictive interpretation of s. 65.13(1) would run counter to the BIA's broad and remedial purpose to "provide timely, efficient and impartial resolution of the debtor's insolvency, to preserve and maximize the value of a debtor's assets, to ensure fair and equitable treatment of the claims against a debtor, to protect the public interest, and to balance the costs and benefits of restructuring or liquidating the debtor company."[37]

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[35] See, *In the Matter of the Notice of Intention to Make a Proposal of Cranbrook Glen Enterprises o/a Henry's*, Justice Gilmore's Order of July 28, 2020 ("***Cranbrook***"), Estate No. 31-2642597 and *Edgemount Manor (Re) and Sheridan Lodge (Re),* 2021 ONSC 7803, at ¶1.

[36] *White Oak Commercial Finance, LLC v. Nygård Holdings*, 2020 MBQB 58, at ¶18.

[37] *9354-9186 Québec inc. v. Callidus Capital Corp*., 2020 SCC 10 at ¶40, cited recently by Osborne J. (as he then was) in *Re Hudson's Bay Company*, 2025 ONSC 5998, at ¶42.

46. The interpretation urged by the Proposal Trustee in respect of section 65.13 of the BIA is also supported by jurisprudence under the *Companies' Creditor Arrangement Act* (CCAA)'s section 36, which mirrors section 65.13. Under that provision, this Court has approved sales on motion by the Court-appointed monitor.[38]

***(ii) Factors considered***

47. Subsection 65.13(4) of the BIA provides a non-exhaustive list of factors for the Court to consider in determining whether to approve a sale, which are generally highly similar to the factors in *Royal Bank v Soundair Corp.*[39]:

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the trustee approved the process leading to the proposed sale or disposition;

(c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

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[38] See *Royal Bank of Canada v. Chesswood Group Ltd. et al*., 2025 ONSC 1577, at ¶1.
[39] 1991 CanLII 2727 (Ont CA) ("***Soundair"***)

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

**2. The Proposed Transaction and the consequent vesting should be approved**

48. The Proposal Trustee's sales process was reasonable in the circumstances. In this case, the Proposal Trustee conducted a brief sales process on notice to all parties following the attendance on October 13, 2026. As noted in the Proposal Trustee's Fifth Report to the Court dated October 12, 2026, the Company's distressed financial position and the minimal amount of time remaining the Notice of Intention proceedings before a deemed assignment required a relatively fast and simple sales process. This Court has noted that these constraints justify a faster and simpler sales process.[40]

49. The Proposal Trustee's sales process was not opposed by any creditor or stakeholder at the attendance on October 13, 2026, and creditors have been provided with the Ramudden Letter of Intent and Ramudden APA for their consideration.

50. Although abbreviated, the sale process generated the offer from Ramudden (resulting in the Proposed Transaction) that is superior to the related-party bid from A2 that was then the only offer.

[40] *Edgemount Manor (Re) and Sheridan Lodge (Re),* 2021 ONSC 7803, at ¶15.

51. The Proposal Trustee has also conducted a liquidation analysis which demonstrates that the Proposed Transaction provides superior value for stakeholders as compared to a bankruptcy. [41]

52. Finally, the Proposal Trustee has conducted an analysis of the Proposed Transaction against the Company's proposal. As further detailed in the First Supplement, this analysis demonstrates that while the proposal represents a slightly greater aggregate financial value than the Proposed Transaction, the significant risks of funding not materializing, the damage to the integrity of the bidding process run by the Proposal Trustee, the execution risks, the risks of creditor rejection, the consequences of non-completion and prejudice to creditors, in favour of the conclusion that the Proposed Transaction is a superior option to a proposal. [42]

### 3. Payment of Employee Priority Obligations

53. The Proposed Transaction complies with the payment requirement in section 65.13(8) of the BIA.

54. As noted in the Proposal Trustee's draft Approval and Vesting Order, Ramudden and the Proposal Trustee propose that the Company will make the Employee Priority Obligations from the proceeds of the Proposed Transaction as required under section 65.13(8) of the BIA upon closing of the transaction.

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[41] Confidential Appendix to the Seventh Report.
[42] First Supplement at ¶¶53-56.

### *B. The Proposal Trustee should be granted enhanced powers to effect the sale if necessary*

55. In order to effect the Proposed Transaction, the Ramudden APA must be signed as well as various other contemplated transaction documents. At this stage, the Proposal Trustee is not aware whether Mr. Bruno will cause the Company to cooperate.

56. Accordingly, the Proposal Trustee seeks enhanced powers, if necessary, to complete the Proposed Transaction for and on behalf of the Company. As Peppall J.A. held in the context of a receivership, the court's power to approval a sale of assets must necessarily be accompanied by the authority to enter into an agreement to sell those assets, and to seek court approval to vest those assets in a purchaser. In that case, the Court held that the Court appointed officer could enter into an agreement to sell the assets of a debtor, seek a vesting order accordingly, even where a receiver "does not hold title to the assets and a receivership does not effect a transfer or vesting of title in the receiver." [43] This is precisely what is being sought in the present case and consistent with what Justice Peppall referred to as the insolvency regime's "hallmark" – the maximization of the realization of the debtor's assets, while ensuring that "third party interests are not improperly violated."[44]

### *C. In the alternative, the Proposal Trustee may be appointed as a receiver to effect the same outcome*

57. If the Court does not accept that the Proposal Trustee has jurisdiction to bring the motion or that it is appropriate to enhance the Proposal Trustee's powers to effect the

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[43] *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc*., 2019 ONCA 508, at ¶¶76-85 ("*Third Eye*").
[44] *Third Eye* at ¶86.

Proposed Transaction, then Oxygen has brought a motion to give effect to the Proposed Transaction through the appointment of TDB as receiver. The Union supports this alternative position as well if it is necessary.

58. A receiver may be appointed under s. 243 of the BIA where it is "just or convenient" to do so.

59. In determining whether it is "just" or "convenient" to appoint a receiver, the Court should have regard for all the circumstances of the case, including: (i) the nature of the property over which the receiver is to be appointed; (ii) the rights and interests of all parties in relation to the property over which the receiver is to be appointed; and (iii) whether the secured creditor has the right under the security agreement to appoint a receiver privately.[45]

60. In this case, the receivership proposed would be limited to completing the Proposed Transaction, in circumstances where a Court-appointed officer has already conducted a sale process and determined that the Proposed Transaction is in the interest of stakeholders, and in accordance with the *Soundair* test.[46] The appointment, approval, vesting, and completion of the Proposed Transaction are consistent with well-established powers of a Receiver appointed under the CJA and BIA.[47] The simultaneous appointment, approval, and vesting recognize that the Proposal Trustee has already completed substantial work that need not be duplicated by the Receiver.

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[45] See *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 at ¶10.
[46] *Royal Bank of Canada v. Soundair Corp.*
[47] *Third Eye* at ¶¶85-88.

### *D. The Professionals' fees should be approved*

61. The fees and disbursements of the Professionals, as set out in the Seventh Report, are fair and reasonable under the circumstances.

62. In evaluating the professional and legal fees, the standard to be applied is whether the compensation sought is holistically "fair and reasonable", with an emphasis on the value provided and what is accomplished by the professionals.[48]

63. In this case, the Professionals have incurred significant costs in the course of several court attendances during the restructuring efforts of the Company and in recent weeks in connection with the bidding process leading to the Proposed Transaction, as well as opposition to its completion.

64. Based on the Professionals' activities and the results achieved in this matter, the Professionals' fees and disbursements should be approved by this Court.

### *E. If TDB serves as Trustee in Bankruptcy, TDB should be granted a priority charge*

65. This Court should exercise its inherent jurisdiction to grant TDB a priority charge (subordinate only to Oxygen's security) to secure TDB's reasonable professional fees and those of its counsel in TDB's capacity as trustee in bankruptcy.

66. Such an Order would facilitate the efficient administration of the Company's estate for the benefit of all creditors.

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[48] *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at ¶44-45 and *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, 2023 ONSC 3400, at ¶53.

67. In the absence of such an order, TDB's compensation as a court-appointed officer the Company would be subject to the claims of secured creditors, which creditor claims exceed the net proceeds of the Proposed Transaction. In addition, the previously approved Administration Charge in the proposal proceedings secures the fees of the Company's counsel, *and* those of the Proposal Trustee and its counsel. In a bankruptcy, the fees of the Company's counsel would not be secured in this manner.

68. Section 183(1) of the BIA provides that this Court may exercise its inherent jurisdiction to make the order sought by the Proposal Trustee. [49]

69. Both of these two preconditions are satisfied in this case, and it is appropriate for the Court to exercise its inherent jurisdiction to grant the order sought by the Proposal Trustee.

70. First, case law establishes that the *BIA* does not exhaustively deal with the matter of priorities between secured creditors and trustees.[50] This recognizes that the Court is entitled to exercise its inherent jurisdiction in relation to the relative priority between secured creditor claims and the trustee's fees, where appropriate.

71. Second, the benefit of granting this relief outweighs the prejudice to those affected. While the charge would rank in priority to secured creditors claims, the charge would ultimately ensure that TDB is funded to maximize efficiency and minimize costs in the

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[49] Section 183 (1) provides: The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers: (a) in the Province of Ontario, the Superior Court of Justice.

[50] *Golfside Ventures Ltd (Re),* 2023 ABKB 86, at ¶48.

administration of the Company's estate – something that will ultimately result in greater distributions to creditors than if TDB were simply discharged and the proceeds of the Proposed Transaction were left without a steward. In such outcome, creditors would have to:

(a) appoint a different licensed insolvency trustee to act in respect of the estates of the Company (which insolvency trustee would either need to be paid for by a secured creditor or require a charge on the property of the Company, in any event); or

(b) proceed to enforce their security on an individual basis, which will result in duplicated work and confusion, in the absence of a centralized court officer to administer the same.

72. Both of these outcomes would be less efficient and would likely be more costly for the Company's estate than granting TDB the charge it now seeks.

73. Past decisions have taken note of the following factors in determining that it is appropriate to grant a trustee a priority charge on the property of a bankrupt: (1) the charge would affirm that trustees are a fundamental part of the bankruptcy system, such that they assist the Court and the parties in determining the validity and priority of claims; (2) the trustee will knowledgably and equitably ensure claimants obtain a share of a

bankrupt's property; and (3) the trustee is entitled to receive reasonable compensation for their problem solving and exercise of judgment.[51]

74. Courts have relied on this framework to make orders permitting trustees in bankruptcy to have their fees paid from a bankrupt's assets in priority to the claims of other creditors, including that of secured creditors.[52]

75. All of these factors are applicable to this case:

(a) TDB's control and administration of the proceeds of the Proposed Transaction as trustee in bankruptcy will be the most efficient means of adjudicating the various secured claims against the Company's assets;

(b) TDB has developed knowledge and familiarity with the business of the Company and its creditors. Its continued involvement in the bankruptcy of the Company will, accordingly, facilitate the most efficient means for distributing the proceeds of the Proposed Transaction to creditors,

(c) reasonable compensation of TDB and its counsel should be secured with a priority charge because the foregoing work is, ultimately, for the benefit of the Company's creditors.

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[51] *Golfside Ventures Ltd (Re),* 2023 ABKB 86, at ¶49.

[52] See generally *Golfside Ventures Ltd (Re),* 2023 ABKB 86; *Creative Wealth Media Finance Corp. et al*., 2025 ONSC 4326.

76. Accordingly, the Court should make an Order granting TDB a priority charge on the assets of the Company for its reasonable fees and disbursements as trustee in bankruptcy as well as the fees and disbursement of its counsel.

***F. The appendices should be sealed***

77. The Proposal Trustee seeks the sealing of the following Confidential Appendices until the sale of the Company's assets or further Order of this Court:

(a) Confidential Appendices 1 and 2 to the Sixth Report, which are (1) the Proposal Trustee's analysis of the material terms of the Offers; and (2) the Letter of Intent provided by Ramudden, respectively;

(b) the Confidential Appendix to the Seventh Report, which is a liquidation analysis of the Company; and

(c) the Confidential Appendix to the First Supplement, which is an analysis of the Proposed Transaction against the Company's proposal (the "**Confidential Appendices**").

78. Courts consider three factors in determining whether to grant a sealing order: (a) whether court openness poses a serious risk to an important public interest; (b) whether the order sought is necessary to prevent this serious risk to the identified interest because

reasonable alternative measures will not prevent this risk; and (c) whether, as a matter of proportionality, the benefits of the order outweigh its negative effects.[53]

79. Where assets are sold in a court process, it is common to seal commercially sensitive material such as bids that indicate value, or analyses on the material terms of those bids. This is done to maximize recoveries and preserve fairness in the sales process and where the salutary benefits of a time-limited and narrowly tailored sealing order would outweigh any deleterious effects from the sealing.[54]

80. Here, the indicators of value found in the Confidential Appendices, if made public, would compromise the bidding process by permitting prospective purchasers to know the supposed minimum price for the Company's assets (which may be offered for sale again in the event that the Proposed Transaction cannot close) and would permit assumptions as to value based on the bids received to date. The proposed sealing order would only be temporary and would end upon the completion of the sale of the Company's assets (through the Proposed Transaction or otherwise), or upon a further court order. Furthermore, the sealing orders are limited in scope, as the redacted Ramudden Letter of Intent and Ramudden APA has been disclosed to the parties in the Seventh Report.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 2nd day of November, 2026.

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[53] *Sherman Estate v. Donovan*, 2021 SCC 25, at ¶38; see also *Mizrahi Commercial (The One) LP et al*., 2025 ONSC 2672.

[54] See *Romspen Investment Corporation v Hargate Properties Inc*., 2012 ABQB 412 at ¶¶2, 11, 13 and *Kingsett Mortgage Corporation v. Churchill Lands United Inc*. 2024 ONSC 7127 at ¶6.



Jeffrey Larry/Dillon Gohil

**Paliare Roland Rosenberg Rothstein LLP**
155 Wellington Street West
35th Floor
Toronto ON  M5V 3H1
Tel:  416.646.4300

**Jeffrey Larry** (LSO#44608D)
Tel:  416.646.4330
Email:  jeff.larry@paliareroland.com

**Dillon Gohil** (LSO#89738M)
Tel:  416.646.6353
Email:  dillon.gohil@paliareroland.com

Lawyers for the Proposal Trustee, TDB Restructuring Limited

**SCHEDULE "A"**

**LIST OF AUTHORITIES**

1. *Edgemount Manor (Re) and Sheridan Lodge (Re),* 2021 ONSC 7803.

2. *White Oak Commercial Finance, LLC v. Nygård Holdings*, 2020 MBQB 58.

3. *9354-9186 Québec inc. v. Callidus Capital Corp*., 2020 SCC 10.

4. *Re Hudson's Bay Company*, 2025 ONSC 5998.

5. *Royal Bank of Canada v. Chesswood Group Ltd. et al*., 2025 ONSC 1577.

6. *Royal Bank of Canada v. Soundair Corp.* 1991 CanLII 2727 (Ont CA).

7. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc*., 2019 ONCA 508.

8. *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258.

9. *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851.

10. *Triple-I Capital Partners Limited v 12411300 Canada Inc.*, 2023 ONSC 3400.

11. *Golfside Ventures Ltd (Re),* 2023 ABKB 86.

12. *Creative Wealth Media Finance Corp. et al*., 2025 ONSC 4326.

13. *Sherman Estate v. Donovan*, 2021 SCC 25.

14. *Mizrahi Commercial (The One) LP et al*., 2025 ONSC 2672.

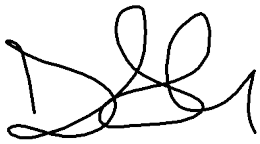
15. *Romspen Investment Corporation v Hargate Properties Inc.*, 2012 ABQB 412.

16. *Kingsett Mortgage Corporation v. Churchill Lands United Inc*. 2024 ONSC 7127.

I certify that I am satisfied as to the authenticity of every authority, and I am satisfied that every quotation from an authority that appears in the factum accurately reproduces the text of the authority.

*Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).*

Date November 1, 2026



*Signature*

## SCHEDULE “B”

## TEXT OF STATUTES, REGULATIONS & BY - LAWS

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

Restriction on disposition of assets

- **65.13** (1) An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Individuals

(2) In the case of an individual who is carrying on a business, the court may authorize the sale or disposition only if the assets were acquired for or used in relation to the business.

Notice to secured creditors

(3) An insolvent person who applies to the court for an authorization shall give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(4) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the trustee approved the process leading to the proposed sale or disposition;
- (c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(5) If the proposed sale or disposition is to a person who is related to the insolvent person, the court may, after considering the factors referred to in subsection (4), grant the authorization only if it is satisfied that

- (a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the insolvent person; and
- (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(6) For the purpose of subsection (5), a person who is related to the insolvent person includes

- (a) a director or officer of the insolvent person;
- (b) a person who has or has had, directly or indirectly, control in fact of the insolvent person; and
- (c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(7) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the insolvent person or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(8) The court may grant the authorization only if the court is satisfied that the insolvent person can and will make the payments that would have been required under paragraphs 60(1.3)(a) and (1.5)(a) if the court had approved the proposal.

Restriction — intellectual property

(9) If, on the day on which a notice of intention is filed under section 50.4 or a copy of the proposal is filed under subsection 62(1), the insolvent person is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (7), that sale or disposition does not affect the other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Courts vested with jurisdiction

- **183** (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:
    - (a) in the Province of Ontario, the Superior Court of Justice;

**Companies' Creditors Arrangement Act (R.S.C., 1985, c. C-36)**

Restriction on disposition of business assets

- **36** (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

- (a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and

- (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(5) For the purpose of subsection (4), a person who is related to the company includes

- (a) a director or officer of the company;
- (b) a person who has or has had, directly or indirectly, control in fact of the company; and
- (c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

Restriction — intellectual property

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Court File No. BK-26-03364251-0032

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF NATIONAL TRAFFIC SAFETY MANAGEMENT INC.**

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

PROCEEDING COMMENCED AT
TORONTO

**FACTUM OF THE PROPOSAL TRUSTEE**

**Paliare Roland Rosenberg Rothstein LLP**
155 Wellington Street West
35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300

**Jeffrey Larry** (LSO#44608D)
Tel: 416.646.4330
Email: jeff.larry@paliareroland.com

**Dillon Gohil** (LSO#89738M)
Tel: 416.646.6353
Email: dillon.gohil@paliareroland.com

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