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**Court File No. BK-24-03064916-0031**

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

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

**IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**FIFTH REPORT THE PROPOSAL TRUSTEE**

**June 26, 2024**

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## 1.0 INTRODUCTION

1. This report is being submitted by TDB Restructuring Limited in its capacity as proposal trustee (the “**Proposal Trustee**”) of National Traffic Safety Management Inc. (“**NTSM**” or the “**Company**”) under the Notice of Intention to Make a Proposal (the “**NOI**”) filed by NTSM on April 5, 2024, pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*.
2. The NOI was filed by the Company to create a stabilized environment for NTSM to continue to operate in the ordinary course, while allowing the Company the opportunity to restructure its financial affairs.
3. The Certificate of Filing, together with Court documents related to the NOI proceeding has been posted on the Proposal Trustee’s website, which can be found at:

<https://tdbadvisory.ca/insolvency-case/NTSM/>

### 1.1 Purpose of the Report

4. The purpose of this report to Court (the “**Fifth Report**”) is to provide the Court with information and the Proposal Trustee’s views on:
  - a) the Company’s cash flow forecast for the period June 22, 2024 to September 20, 2024; and
  - b) the motion by the Company for approval of an interim financing term sheet with FundThrough Inc. (the “**FundThrough Financing Facility**”), along with a charge to secure the FundThrough Financing Facility, to provide working capital for the Company to address its immediate and ongoing post-filing obligations.

### 1.2 Terms of Reference

5. In preparing this Fifth Report and making the comments herein, the Proposal Trustee has relied upon information from third-party sources, including NTSM’s management (collectively, the “**Information**”). Certain of the information contained in the Fifth Report may refer to, or is based on, the Information. As the

Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Proposal Trustee has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance in respect of the Information.

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

## **2.0 BACKGROUND**

7. The details of NTSM's background and the events leading up to the filing of the NOI can be found in the Affidavit of Michael Spencley sworn April 11, 2024. A copy of the Affidavit of Michael Spencley, without exhibits, is attached as **Appendix "A"** to this report.

## **3.0 CASHFLOW FORECAST**

8. The Company, with the assistance of the Proposal Trustee, prepared a weekly cashflow forecast for the 13-week period from June 22, 2024 to September 20, 2024 (the "**Cashflow Forecast**") The Company's receipts during the thirteen weeks forecasted consist primarily of accounts receivables collected in the normal course of business, as well as funds advanced pursuant to the FundThrough Financing Facility. The Company's disbursements are comprised mostly of payroll, rent, professional fees and general operating expenses. A copy of the Cashflow Forecast is attached as **Appendix "B"** to this report.

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9. The following table provides a summary of the Cashflow Forecast:

<b>Cash Receipts</b>		
Pre-Filing A/R Collections		473,916
Post-Filing A/R Collections		1,225,000
A/R Factoring		2,364,000
Advance from Lender		100,000
Total Receipts		4,162,916
<b>Cash Disbursements</b>		
Rent		26,001
Insurance		105,696
Vehicle Leases		186,000
Payroll & Benefits		1,507,955
Operating Costs		458,400
Professional Fees		50,000
Repayment - A/R Factoring		980,000
Interest & Fees		85,110
HST		209,183
Total Disbursements		3,608,345
<b>Cash - Opening</b>		42,225
<b>Net cash inflow/(outflow)</b>		554,571
<b>Cash - Closing</b>		596,796

10. The Proposal Trustee has reviewed the Cashflow Forecast and the Company's underlying assumptions, and notes the following:

- a) During the period covered by the Cashflow Forecast, net cash flows are projected to be \$554,571, due largely to an approximate balance of \$2,364,000 to be received through the FundThrough Financing Facility, if approved by the Court; and
- b) The Cashflow Forecast assumes that the Company will continue to operate in the normal course.

11. It is the Proposal Trustee's view that the Cashflow Forecast and the assumptions contained therein are reasonable.

## 4.0 FUNDTHROUGH FINANCING FACILITY

12. On April 16, 2024, Justice Cavanagh approved a bridge interim financing loan (the “**Interim Financing Loan**”) in the amount of \$150,000 pursuant to a term sheet dated April 10, 2024, between the Company and a non-arm’s length party, J9 Investments Inc. (“**J9**”) to finance the Company’s working capital requirements and general corporate purposes. As security for the Interim Financing Loan, J9 was granted a debtor-in-possession charge (the “**DIP Charge**”) in the amount of \$150,000.
13. On May 3, 2024, Justice Cavanagh approved the amended and restated DIP term sheet between the Company and J9 dated April 30, 2024, increasing the Interim Financing Loan to \$350,000. Justice Cavanagh also granted an increase to the DIP Charge to \$350,000.
14. On June 10, 2024, Justice Conway approved the second amended and restated DIP term sheet between the Company and J9 dated June 6, 2024, increasing the Interim Financing Loan to \$550,000. Justice Conway also granted an increase to the DIP Charge to \$550,000.
15. At the June 10, 2024 appearance before Justice Conway, the Company advised the Court it was negotiating with a third-party lender for additional financing.
16. As demonstrated in the Cashflow Forecast, the Company requires financing to meet its ongoing post-filing obligations while it prepares a proposal to its creditors. FundThrough Inc. (“**FundThrough**”) has agreed to provide the FundThrough Financing Facility. FundThrough has provided a term sheet to the Company which sets out the terms upon which FundThrough is prepared to provide a factoring facility to the Company (the “**FundThrough Term Sheet**”). A copy of the FundThrough Term Sheet, which has been executed by FundThrough and the Company subject to Court approval, is attached as **Appendix “C”** to this report.

17. The material terms of the FundThrough Term Sheet include:

<b>Key Terms</b>	<b>Description</b>
Borrower	National Traffic Safety Management Inc.
Lender	FundThrough Inc.
Facility	A super-priority, debtor-in-possession recourse factoring facility up to a maximum of \$2,000,000.
Purchase Advance Rate	80% of Eligible Receivables, as defined in the FundThrough Term Sheet.
Funding Fees	A 0.10% daily fee multiplied by the face value of the invoices due and payable at the invoice due date.  A default fee of 0.1315% daily fee after the invoice due date.
Facility Fee	A Facility fee equal to \$20,000, which shall be fully earned upon Court approval of the FundThrough Term Sheet.
Upfront Fee	The greater of 1% of the initial advance or \$10,000 due prior to funding.
Security	FundThrough requires a court-ordered charge over all present and future Eligible Receivables of the Company.

18. The Proposal Trustee believes that the terms offered by FundThrough are reasonable in the circumstances.

19. The Company is seeking a charge (the “**FundThrough DIP Charge**”) to secure the FundThrough Financing Facility. The FundThrough DIP Charge is intended to be secured by all present and future Eligible Receivables (as defined in the FundThrough Term Sheet) and the FundThrough DIP Charge, as it relates to Eligible Receivables, shall rank in priority to any and all encumbrances. The DIP Charge granted to J9 shall continue to rank in priority to: i) all other property and assets of the Company; and ii) the second tranche of the charge granted to the directors and officers of the Company (the “**D&O Charge**”) in an amount not exceeding \$250,000 to secure obligations they may incur in those capacities. The DIP Charge shall continue to rank subordinate to: i) the charge granted in favour of the professionals to secure the fees and disbursements of the Company’s counsel, the Proposal Trustee’s counsel and the

Proposal Trustee in an amount not exceeding \$100,000 and ii) the first tranche of the D&O Charge in an amount not exceeding \$100,000.

20. The Proposal Trustee is of the view that the Company's request for approval of the FundThrough Financing Facility and the FundThrough DIP Charge are reasonable in the circumstances.
21. The Proposal Trustee respectfully recommends that the Court approve the FundThrough Financing Facility and the FundThrough DIP Charge for the following reasons:
  - a) the FundThrough Term Sheet is the result of extensive arms-length negotiations between the Company and FundThrough, and represents the best terms that the Company was able to negotiate in the circumstances in order to continue operating as a going concern and preserve value for the Company's stakeholders;
  - b) the Proposal Trustee understands that J9 supports the terms of the FundThrough Financing Facility and the FundThrough DIP Charge; and
  - c) the FundThrough Financing Facility is required to provide the Company with the necessary financing to maintain ongoing operations while it formulates a proposal to its creditors; and
  - d) should the FundThrough Financing Facility not be approved and the corresponding FundThrough DIP Charge not be granted, the Company will not be able to meet its post-filing obligations.

## **5.0 THE BRIDGE LOAN**

22. To continue the Company's operations this week and for the period until the Company receives the funds from the FundThrough Financing Facility, J9 will provide a bridge loan to the Company in the amount of \$100,000 (the "**Bridge Loan**").
23. The Bridge Loan will be secured by an existing security agreement between the Company and J9, and for greater certainty, the Bridge Loan shall also be subordinate to the FundThrough DIP Charge but is to be repaid from the initial advance under the FundThrough Financing Facility.



## 5.0 PROPOSAL TRUSTEE RECOMMENDATION

24. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court grant the relief sought by the Company as described in paragraph 4 above.

All of which is respectfully submitted to this Court as of this 26<sup>th</sup> day of June 2024.

**TDB RESTRUCTURING LIMITED**, solely in its capacity  
as Proposal Trustee *re* National Traffic Safety Management  
Inc. and not in its personal or corporate capacity

Per:



Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT  
Managing Director

# Appendix “A”

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
NATIONAL TRAFFIC SAFETY MANAGEMENT INC.  
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**AFFIDAVIT OF MICHAEL SPENCLEY  
(sworn April 11, 2024)**

I, Michael Spencley, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the President and Chief Executive Officer of National Traffic Safety Management Inc. (the “**Company**”). As such, I have knowledge of the matters to which I depose in this affidavit, save and except for such facts or matters which are stated to be based on information and belief, and where so stated, I believe same to be true.

2. This affidavit is sworn in support of a motion by the Company seeking an order approving the DIP Facility and granting the DIP Charge in favour of J9 Investments Inc.

**OVERVIEW OF THE COMPANY AND OPERATIONS**

The Company

3. The Company is a private company incorporated under the Ontario *Business Corporations Act* whose registered head office is located in Toronto, Ontario. Attached hereto as **Exhibit “A”** is a copy of the Corporate Profile Search.

## The Business

4. The Company is in the business of providing end-to-end traffic management solutions including traffic management solutions to ensure construction and infrastructure workers are safe at job sites. The Company operates throughout the province of Ontario.

5. The Company currently has 3 long-term multi-year contracts with Aecon, Ellis-Don and West Quarter to provide traffic control services. In addition to these long-term contracts, the Company has several short-term contracts (lasting a year or less). The Company usually has 4-8 of these short-term contracts going on at any one time.

## Employees

6. The Company currently employs approximately 25 hourly employees. Of these employees, only 5 are non-unionized. The Company also employs 8 salaried employees.

7. Unionized employees are members of Laborers' International Union of North America (“**LIUNA**”) and four local branches: Local 837; Local 183; Local 1059 and Local 506. On the 15<sup>th</sup> day of each month, the Company remits health benefits, pension benefits, 10% vacation pay and administrative fees to the respective Local, in arrears. Union dues are deducted from the wages of each employee and are remitted to the corresponding Local.

8. For the past two months, the Company’s weekly payroll for its hourly employees has been approximately \$20,000 to \$25,000. As the Company enters its busier time of year, it anticipates this payroll will increase to approximately \$80,000 per week. The Company’s payroll for its salaried employees is \$30,000, and is due every two weeks.

## **THE COMPANY’S CREDITORS**

### PPSA Registrations

9. I am advised by the Company’s insolvency counsel, Chaitons LLP, that a search of the Personal Property Security Registration System in Ontario (“**PPRS**”) as of March 31, 2024 shows that there are registrations against the Company as follows:

- (a) Neli Financial Incorporated registered a financing statement on June 22, 2018, listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included” in respect of certain vehicles and freightliners. The amount owing to Neli Financial Incorporated in connection with this registration has been paid off in full;
- (b) Mercedes-Benz Financial Services Canada Corporation registered a financing statement of July 5, 2019 listing collateral classified as “equipment”, “other” and “motor vehicle included” in respect of certain motor vehicles and related equipment financed by Mercedes-Benz;
- (c) J9 Investments Ltd. registered a financing statement on July 23, 2020 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. J9 Investments Ltd. is owed \$807,000 in respect of a secured loan;
- (d) Royal Bank of Canada registered a financing statement on May 6, 2021 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. Royal Bank is owed \$199,000 secured in respect of a Highly Affected Sectors Credit Availability Program (“**HASCAP**”) loan;
- (e) 1555207 Ontario Inc. registered a financing statement on February 7, 2022 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included” 1555207 Ontario Inc. is owed \$335,000;
- (f) Betty Copeland registered a financing statement on April 17, 2023 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. Betty Copeland is owed \$200,000 in respect of a secured loan. Ms. Copeland is also owed approximately \$77,000 in unsecured debt.

A copy of the PPRS search results is attached hereto as **Exhibit “B”**.

Other Liabilities

10. The Company is not current in respect of HST remittances. Approximately \$1,000,000 is owed to Canada Revenue Agency for HST arrears.
11. The Company owes \$17,000 to LIUNA Local 837 in respect of unremitted union dues.
12. The Company is current in respect of source deduction remittances.

**CURRENT FINANCIAL POSITION**

13. The Company has suffered financially in the following respects:
  - (a) working condition constraints from the Covid-19 pandemic significantly reduced sales for 2021-2022; and
  - (b) the diversion of approximately \$2,000,000 in sales and other assets by the Company's former Vice-President Operations, and his operations manager to a new company. Both are currently being investigated by Niagara Police Services.
14. The Company is addressing these financial challenges by hiring a new commissioned, Sales Onboarding Manager. The Company has also offered a commission referral policy for all National employees as a way to incentivize current employees to stay with the business.
15. Despite these measures, the Company has incurred losses since the start of fiscal 2024, totalling approximately \$200,000. The Company's year end loss for 2023 is estimated to be \$500,000.
16. The Company currently owes a total of \$2,406,000 in secured debt and \$4,753,627.39 in unsecured debt.
17. Within the past two weeks, the Company was engaged by:
  - (a) the City of Hamilton to provide traffic services; and
  - (b) Aecon to provide traffic safety services at the Eglinton Crosstown LRT project.

## THE NOI PROCEEDING

18. As a result of the Company's financial difficulties, on April 5, 2024 (the "**Filing Date**"), the Company filed a Notice of Intention to File a Proposal ("**NOI**") under the Bankruptcy and Insolvency Act (the "**NOI Proceeding**"). The NOI filing was necessary to provide stability to the allow the Company to restructure.

19. TDB Restructuring Limited ("**TDB**") is the trustee in the NOI Proceeding (the "**Proposal Trustee**").

### Cash Flows

20. The Proposal Trustee has assisted the Company in preparing a cash flow forecast (the "**Cash Flow Forecast**") which sets out projected cash flows for the period ending July 5, 2024, 2024 (the "**Cash Flow Period**"), a copy of which I understand will be filed with the Court by the Trustee in connection with the Company's motion.

21. As set out in the Cash Flow Forecast, the Company is expected to have sufficient liquidity to operate to the end of the Cash Flow Period provided that it has access to interim financing. As reflected in the Cash Flow Forecast, without interim financing, the Company will run out of money by the week of April 15, 2024.

### DIP and Interim Financing

22. I have reviewed a term sheet for debtor-in-possession ("**DIP**") financing from a third party lender. The proposed terms pursuant to the term sheet are acceptable to the Company.

23. The proposed DIP lender is completing its due diligence process.

24. In the meantime, the Company requires additional funds to pay critical operating expenses including: payroll, fuel and rent.

25. J9 Investments Inc., an investor in the Company, has agreed to provide bridge DIP financing (the "**Interim DIP Loan**") which is to be repaid once the third party lender completes its due diligence, and the DIP facility from the third party lender is approved by the Court and

becomes available to the Company. A copy of the term sheet in respect of the Interim DIP Loan is attached hereto as **Exhibit “C”**.

26. The material terms of the Interim DIP Loan are as follows:

<b>Key Terms</b>	<b>Description</b>
Borrower	National Traffic Safety Management Inc.
Lender	J9 Investments Inc.
Facility	A super-priority, debtor-in-possession non-revolving demand credit facility up to a maximum principal amount of one hundred fifty thousand dollars \$150,000 (the “Facility”).
Interest Rate	Interest on the principal amount of the Facility outstanding from time to time shall be calculated at a rate of fifteen percent (15%) per annum, which interest shall be calculated on the daily outstanding balance owing under the Facility, not in advance, and shall accrue and be paid on the Maturity Date.
Facility Fee	A Facility fee equal to \$7,500, which shall be fully earned Court approval of this Term Sheet, and secured by the Interim Financing Charge, shall be due and payable on the Maturity Date.
Repayment	The Borrower shall repay all principal, interest, fees and other amounts owing under the Facility on the earlier of (the “Maturity Date”): (i) demand; (ii) the date the Facility is refinanced; (iii) the day on which the stay of proceedings has been terminated; (iv) the date on which the Borrower becomes bankrupt. The Borrower is entitled to repay all or any part of the Facility at any time without notice or penalty.



27. There is a serious risk that the Company will not be able to provide safety services or a viable proposal if it does not receive interim financing. Employees may seek alternative employment if they are not paid on a timely basis.

**SWORN** remotely by Michael Spencley of the City of Toronto in the Regional Municipality of the Metropolitan of Toronto, before me at the City of Toronto in the Regional Municipality of Metropolitan Toronto, on April 11, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

\_\_\_\_\_  
**Michael Spencley**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF NATIONAL TRAFFIC SAFETY  
MANAGEMENT INC.,  
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Estate/Court File No. 31-3064916

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY AND INSOLVENCY**

Proceedings commenced at TORONTO

**AFFIDAVIT OF MICHAEL SPENCLEY  
(SWORN APRIL 11, 2024)**

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**Lawyers for National Traffic Safety  
Management Inc.**

# Appendix “B”

**National Traffic Safety Management Inc.**  
**Cash Flow Forecast**  
**For the period ended September 20, 2024**

	Note	28-Jun-24	5-Jul-24	12-Jul-24	19-Jul-24	26-Jul-24	2-Aug-24	9-Aug-24	16-Aug-24	23-Aug-24	30-Aug-24	6-Sep-24	13-Sep-24	20-Sep-24	Total
<b>Cash Receipts</b>															
Pre-Filing A/R Collections	1	25,931	81,866	67,309	39,051	36,190	27,461	196,108	-	-	-	-	-	-	473,916
Post-Filing A/R Collections	2	-	-	-	-	-	-	140,000	160,000	175,000	175,000	175,000	200,000	200,000	1,225,000
A/R Factoring	3	-	680,000	140,000	160,000	160,000	128,000	128,000	128,000	160,000	160,000	160,000	160,000	200,000	2,364,000
Advance from Lender	4	100,000	-	-	-	-	-	-	-	-	-	-	-	-	100,000
<b>Total Receipts</b>		<b>125,931</b>	<b>761,866</b>	<b>207,309</b>	<b>199,051</b>	<b>196,190</b>	<b>155,461</b>	<b>464,108</b>	<b>288,000</b>	<b>335,000</b>	<b>335,000</b>	<b>335,000</b>	<b>360,000</b>	<b>400,000</b>	<b>4,162,916</b>
<b>Cash Disbursements</b>															
Rent	5	-	6,667	2,000	-	-	6,667	-	2,000	-	-	6,667	-	2,000	26,001
Insurance	6	18,000	51,696	-	-	-	18,000	-	-	-	-	18,000	-	-	105,696
Vehicle Leases	7	-	62,000	-	-	-	37,000	25,000	-	-	-	62,000	-	-	186,000
Payroll & Benefits	8	105,000	112,150	103,500	158,000	80,000	101,085	68,500	181,200	80,000	109,000	90,120	109,000	210,400	1,507,955
Operating Costs	9	39,500	43,700	32,800	34,000	30,000	30,000	32,000	36,000	32,800	32,800	32,800	41,000	41,000	458,400
Professional Fees	10	-	-	-	-	25,000	-	-	-	-	25,000	-	-	-	50,000
Repayment - A/R Factoring	11	-	-	-	-	-	-	112,000	128,000	140,000	140,000	140,000	160,000	160,000	980,000
Interest & Fees	12	-	26,800	-	-	-	-	6,664	7,616	8,330	8,330	8,330	9,520	9,520	85,110
HST	13	-	85,791	-	-	-	58,543	-	-	-	-	64,848	-	-	209,183
<b>Total Disbursements</b>		<b>162,500</b>	<b>388,804</b>	<b>138,300</b>	<b>192,000</b>	<b>135,000</b>	<b>251,295</b>	<b>244,164</b>	<b>354,816</b>	<b>261,130</b>	<b>315,130</b>	<b>422,765</b>	<b>319,520</b>	<b>422,920</b>	<b>3,608,345</b>
<b>Cash - Opening</b>		<b>42,225</b>	<b>5,656</b>	<b>378,718</b>	<b>447,727</b>	<b>454,778</b>	<b>515,968</b>	<b>420,133</b>	<b>640,077</b>	<b>573,261</b>	<b>647,131</b>	<b>667,001</b>	<b>579,236</b>	<b>619,716</b>	<b>42,225</b>
<b>Net cash inflow/(outflow)</b>		<b>(36,569)</b>	<b>373,062</b>	<b>69,009</b>	<b>7,051</b>	<b>61,190</b>	<b>(95,834)</b>	<b>219,944</b>	<b>(66,816)</b>	<b>73,870</b>	<b>19,870</b>	<b>(87,765)</b>	<b>40,480</b>	<b>(22,920)</b>	<b>554,571</b>
<b>Cash - Closing</b>		<b>5,656</b>	<b>378,718</b>	<b>447,727</b>	<b>454,778</b>	<b>515,968</b>	<b>420,133</b>	<b>640,077</b>	<b>573,261</b>	<b>647,131</b>	<b>667,001</b>	<b>579,236</b>	<b>619,716</b>	<b>596,796</b>	<b>596,796</b>

**Notes**

- 1) Collections of accounts receivable from pre-filing sales are based on management's best estimate of the amount and timing of payments from the Company's customers.
- 2) Management estimates that accounts receivable from post filing sales will be collected approximately 60 days after invoices are issued to customers.
- 3) The Company has received a term sheet for an accounts receivable factoring facility from FundThrough Inc. (the "Factor") that will lend based on 80% of all post-filing accounts receivable balances. This forecast assumes that Factor will extend funds one-week subsequent to the week in which the respective sales are generated and invoices are issued to customers. For the week of July 5th, it is assumed that Factor will advance funds based on approximately \$850,000 of current receivables.
- 4) The Company has arranged for a related party to advance a further \$100,000. This advance will be secured by an existing security agreement, and will rank subordinate to all other encumbrances (i.e. DIP Loan, D&O Charge, Administrative Charge).
- 5) Rent is comprised of lease payments for the Company's Toronto and Niagara offices.
- 6) Insurance is comprised of property & liability insurance premiums payable by the Company during the forecast period, as well as accounts receivable insurance as required by the Factor. Due to an error with the PAD upon renewal of the policy in June, 2024, two property & casualty insurance premiums will need to be paid between June 22nd and July 5th.
- 7) Vehicle leases are for the Company's fleet of service vehicles that are used in operations.
- 8) Payroll includes head office salaries as well as hourly/contract worker wages. Benefits and union dues are also included in these amounts.
- 9) Operating costs include fuel charges as well as a provision equal to 8% of sales. The provision of 8% is management's best estimate for costs incurred by employees in carrying out their duties for items including meals and hotels. The forecast assumes that fuel charges and reimbursement of employee out-of-pocket costs will be paid 30-days after they are incurred.
- 10) Includes estimated fees and disbursements payable to the Proposal Trustee and its counsel, as well as the Company's counsel.
- 11) On the basis that A/R is assumed to be collected 60 days after invoices are issued to customers, this forecast contemplates repaying the Factor for the 80% loaned to the Company upon collection of the related accounts receivable.
- 12) Interest and fees relate to the A/R factoring facility and the terms contained therein.
- 13) HST represents the net of all HST collected on sales, less the input tax credits relating to the company's expenses. It is assumed that HST payments will be made during the last week of each month, relating to amounts owing for the prior month (i.e. the May 31, 2024 HST payment relates to obligations for April, 2024).

# Appendix “C”

# FundThrough

June 18, 2024 National Traffic Safety Management Inc.

2425 Matheson Blvd. E., Unit 751  
Mississauga, Ontario, L4W 5K4

Attention: Michael Spencley

## **Re: Term Sheet – FundThrough Inc. (the “Purchaser”) Interim Debtor in Possession Facility in favour of National Traffic Safety Management Inc. (the “Vendor”)**

We understand that on April 5, 2024, the Vendor filed a notice of intention to make a proposal pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) naming TDB Restructuring Limited as proposal trustee (the “**Proposal Trustee**”), and that in connection with the BIA proceedings (the “**Proposal Proceedings**”) the Vendor requires interim financing and will be seeking an interim financing Order pursuant to section 50.6(1) of the BIA (the “**Interim Financing Order**”). The Purchaser is pleased to offer interim financing by way of the interim debtor in possession facility described in this term sheet (the “**Term Sheet**”) subject to the terms and conditions set forth herein. Unless otherwise indicated, all amounts are expressed in Canadian currency. All capitalized terms not otherwise defined in the body of this Term Sheet shall have the meanings ascribed thereto in **Schedule “A”**.

**Vendor:** National Traffic Safety Management Inc.

**Purchaser:** FundThrough Inc.

**Facility:** A super priority, debtor-in-possession Recourse Factoring facility up to a maximum of \$ 2,000,000 (“**Maximum Limit**”) for all, fully-earned invoices (the “**Facility**”),

The limit can be increased at the Purchaser’s discretion

**Purpose:** The purpose of the Facility is to fund (i) working capital needs in accordance with the cash flow projections approved by the Proposal Trustee and the Purchaser from time to time (the “**Cash Flow Projections**”); (ii) the Purchaser’s Fees and Expenses (as defined below), (iii) professional fees and expenses incurred by the Vendor and the Proposal Trustee in connection with the Proposal Proceedings, (iv) repay J9 Investments Inc. (the “**DIP Lender**”) only with the Purchaser’s prior written consent, and (v) such other costs and expenses of the Vendor as may be agreed to by the Purchaser, in writing.



**Facility** Each Purchase shall be wire transferred to the current operating account of  
**Purchases:** the Vendor (the “Vendor’s Account”). The Vendor’s Account shall be subject to the  
Interim Financing Charge.

**Purchase Rate:** 80% of fully earned Eligible Receivables, as defined below.

**Eligible** Eligible Receivables means all invoices that meet Purchaser's internal  
**Receivables:** standards and criteria, as determined by Purchaser, in its sole discretion,  
determined at the time of each Purchase. Purchaser may consider, among  
other factors, the creditworthiness of the account debtor, buyer, the nature of  
the goods or services provided, the terms of the invoice and the overall risk  
profile. Purchaser's decision to finance any invoice shall be final and binding,  
and Purchaser shall not be obligated to provide reasons for the acceptance or  
rejection of any invoice.

**Expenses:** The Vendor shall pay all fees and expenses (collectively, the “Purchaser’s  
Fees and Expenses”) incurred by the Purchaser in connection with the  
preparation, registration and ongoing administration of this Term Sheet,  
drafting and settling of any and all transactional documents, the Interim  
Financing Order, the Interim Financing Charge and with the enforcement of  
the Purchaser’s rights and remedies thereunder or at law or in equity,  
including, without limitation all reasonable legal fees and disbursements  
incurred by the Purchaser, on a full indemnity basis. For greater certainty,  
Purchaser’s Fees and Expenses shall include all reasonable fees and expenses  
incurred by the Purchaser in connection with the Proposal Proceedings and  
all court attendances in respect thereof. If the Purchaser has paid any expense  
for which the Purchaser is entitled to reimbursement from the Vendors, such  
expense shall be added to the Facility and shall accrue interest at a rate of  
24% per annum. All such fees and expenses and interest thereon shall be  
secured by the Interim Financing Charge whether or not any funds under the  
Facility are advanced.

**Facility Fee:** A Facility fee equal to 1% of the Maximum Limit (\$20,000), which shall be  
fully earned upon Court approval of this Term Sheet.

**Funding Fee:** 0.10% daily fee multiplied by the face value of the invoices due and payable  
at the invoice due date





**Default Fee:** 0.1315% daily fee post the due date

**Upfront Fee:** The greater of: 1% of initial advance or \$10,000 due prior to funding

**Legal Fee:** \$5,000 received from Vendor as an initial legal fees deposit and any unused amounts will be refunded to Vendor. If additional legal fees are required, they are to be paid by the Vendor plus all reasonable out of pocket expenses incurred by Purchaser, if any, subsequent to the acceptance of this term sheet, relating to legal fees where or not this facility closes.

**Security:** All debts, liabilities, and obligations of the Vendor under the Facility shall be secured by the Interim Financing Charge charging all present and future Eligible Receivables of the Vendor.

The Interim Financing Charge, as it relates to Eligible Receivables, shall rank in priority to any and all security interests, mortgages, trusts, deemed trusts (statutory or otherwise), liens, charges and encumbrances, and claims of all other secured creditors, statutory or otherwise, in favour of any Person.

**Conditions** The availability of the Facility is subject to and conditional upon the  
**Precedent to the following:**

**Facility:**

1. the granting of the Court of the Interim Financing Order in a form satisfactory to the Purchaser, acting reasonably, including: (a) approving this Term Sheet and the Facility contemplated herein;
- (b) granting the Purchaser a charge in and to all present and future Eligible Receivables (the "**Interim Financing Charge**"), which Interim Financing Charge shall rank in priority to any and all security interests, mortgages, trusts, deemed trusts (statutory or otherwise), liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise, in favour of any Person;
- (c) in the event the DIP Lender is paid out fully, the Interim Financing Charge shall also include all other present and





future, real and personal, tangible and intangible, properties, assets and undertakings of the Vendor which Interim Financing Charge shall rank in priority to any and all security interests, mortgages, trusts, deemed trusts (statutory or otherwise), liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise, in favour of any Person;

- (d) declaring that the granting of the Interim Financing Charge, and the payment of all amounts by the Vendor to the Purchaser, including any and all fees and interest, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any Applicable Law; and
  - (e) declaring the Interim Financing Order, including the Interim Financing Charge granted thereunder, binding upon a trustee in bankruptcy of the Vendor, the Proposal Trustee, a receiver, interim-receiver, receiver-manager or any other officer of the Court appointed in respect of the Vendor;
2. receipt of a duly executed copy of this Term Sheet by the Execution Deadline;
  3. Acknowledgments from all secured parties;
  4. execution of Purchaser's form of MPSA and personal guarantees from Allan Grossman and Michael Spencley for a minimum period of 12 months [NTD: confirm names];
  5. Amounts owing to the Canada Revenue Agency up to the date of the Interim Financing Order are unsecured claims against the Vendor;
  6. Naming the Purchaser as the loss payee on the Atradius trade policy insurance (the "Atradius Policy");



7. Corporate Guarantees from each of J9 Holdings Inc., 2569624 Ontario Inc., 2563951 Ontario Inc., J9 Developments Inc. and National Certification and Truck Repair Inc.; and

8. Any other documentation as required by the Purchaser or the Purchaser's solicitors deemed necessary, or advisable, acting reasonably.

**Timing of  
Initial  
Purchase:**

Subject to the satisfaction of the Conditions Precedent to the Facility, the Facility shall be made to the Vendor within two (2) Business Days following Court approval of the Interim Financing Order, or such later date as may be agreed to by the Purchaser and the Vendor.

**Covenants:**

The Vendor covenants and agrees with the Purchaser, so long as any amounts are outstanding by the Vendor to the Purchaser hereunder, to:

1. pay all sums of money when due hereunder;
2. not request, obtain or consent to a variation of the Interim Financing Order if, in the opinion of the Purchaser, such variation may be prejudicial to the Purchaser, without the prior written consent of the Purchaser, such consent not to be unreasonably withheld or delayed;
3. not to use funds from Purchases to pay back current DIP lender without the prior written consent of the Purchaser;
4. use the proceeds of the Facility solely for the purposes provided for herein;
5. keep and maintain books of account and other accounting records in accordance with generally accepted accounting principles;



6. upon reasonable notice, permit the Purchaser or its representatives, at any time and from time to time with such frequency as the Purchaser, in its sole discretion, may require, to visit and inspect the Vendor's premises, properties and assets and to examine and obtain copies of the Vendor's records or other information and discuss the Vendor's affairs with the auditors, counsel and other professional advisors of the Vendor all at the reasonable expense of the Vendor;
7. to pay or make provision for payment of all Priority Claims due and payable from and after the commencement of the Proposal Proceedings, as and when such Priority Claims are due;
8. to provide read-only access to CRA accounts;
9. to be current with all post-tax filings and balance deposits (GST/HST, Corporate and Payroll);
10. to provide ongoing read-only access to any present and future bank accounts via Plaid;
11. to provide notifications to Purchaser regarding invoices; and
12. carry on the business of the Vendor in the normal course, consistent with past practice and orders of the Court made in the Proposal Proceedings.



**Events of Default:**

The occurrence of any one or more of the following events, after the expiry of any applicable cure period set out below, shall constitute an event of default:

1. Vendor fails to pay when due any principal, interest, fees or other amounts due under this Term Sheet;
2. Vendor breaches any covenant, term, condition, or other provision of the Existing Security, this Term Sheet, or any other document delivered to the Purchaser in respect thereof;
3. if Interim Financing Order or the Sale Process Approval Order is stayed, set aside or varied in a manner adverse to the Purchaser, without the consent of the Purchaser, in its sole discretion, or any other order is made which is or may be prejudicial to the Purchaser's interests;
4. the stay of proceedings resulting from the Proposal Proceedings is terminated or lifted in whole or in part;
5. substantially all of the business or assets of Vendor are sold;
6. any default or failure by Vendor to make any payment of any Priority Claims due and payable from and after the commencement of the Proposal Proceedings;
7. Vendor becomes bankrupt or the appointment of a receiver, receiver and manager, or other officer of the Court for, all or any significant part of the assets of any Vendor; or
8. if Atradius Policy is not maintained or replaced, then, in such event, the Purchaser may, by written notice to the Vendor

declare all monies outstanding under the Facility to be immediately due and payable and upon seeking an Order of the Court on not more than three (3) days prior notice, enforce, without further notice, demand or delay, all of its rights and remedies against the Vendor and their respective property, assets





and undertaking including, without limitation, the enforcement of the Interim Financing Charge.

**General:**

1. Further Assurances and Documentation: Vendor shall do all things and execute all documents deemed necessary or appropriate by the Purchaser for the purposes of giving full force and effect to the terms, conditions, undertakings hereof and the Interim Financing Charge granted or to be granted hereunder.
2. Severability: If any provisions of this Term Sheet is or becomes prohibited or unenforceable in any jurisdiction, such prohibition or unenforceability shall not invalidate or render unenforceable the provision concerned in any other jurisdiction nor shall it invalidate, affect or impair any of the remaining provisions of this Term Sheet.
3. Governing Law: This Term Sheet and all agreements arising hereinafter shall be deemed to have been made and accepted in the City of Toronto, Ontario and construed in accordance with and be governed by the laws of the Province of Ontario and of Canada applicable therein.
4. Counterparts: This Term Sheet and all agreements arising hereinafter may be executed in any number of separate counterparts by any one or more of the parties thereto, and all of said counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Term Sheet by telecopier, PDF or by other electronic means shall be as effective as delivery of a manually executed counterpart.
5. Assignment: The Purchaser may assign all or part of this Term Sheet without notice to and without the Vendors' consent. Vendor may not assign or transfer all or any part of its rights or obligations under this Term Sheet, any such transfer or assignment being null and void and of no force or effect.



6. Time: Time shall be of the essence in all provisions of this Term Sheet.
7. Whole Agreement, Amendments and Waiver: This Term Sheet and any other written agreement delivered pursuant to or referred to in this Term Sheet constitute the whole and entire agreement between the parties in respect of the Facility. There are no verbal agreements, undertakings or representations in connection with the Facility. No amendment or waiver of any provision of this Term Sheet will be effective unless it is in writing signed by the Vendor and the Purchaser. No failure or delay on the part of the Purchaser in exercising any right or power hereunder or under the Interim Financing Charge shall operate as a waiver thereon. No course of conduct by the Purchaser will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Term Sheet and the Interim Financing Charge or the Purchaser's rights thereunder.

Best Efforts: Upon the Vendor's acceptance of this Term Sheet, the Vendor will use their best efforts to obtain the Interim Financing Order. In the event that the Interim Financing Order is not obtained on or before 5:00 pm on June 20, 2024, this Term Sheet will expire and of no force or effect, unless further extended by the Purchaser at its sole discretion.

Expiration: This Term Sheet must be accepted by the Vendors by no later than 5:00 pm on June 20, 2024, after which this Term Sheet will expire, unless extended by the Purchaser at its sole discretion.

If the terms and conditions of this Term Sheet are acceptable to you, please sign in the space indicated below and return the signed copy of this Term Sheet to us. Acceptance may also be effected by scanned transmission and in counterpart.

We thank you for allowing us the opportunity to provide you with this Term Sheet.

Yours truly,

FUNDTHROUGH INC. Per: *Ali Moosvi*

Name: Ali Moosvi

Title: Director, Risk



*I have authority to bind the corporation.*

**ACCEPTANCE**

The undersigned hereby accepts this Term Sheet this 19<sup>th</sup> day of June, 2024.

**NATIONAL TRAFFIC SAFETY MANAGEMENT INC.**

Per: Michael A. Spencley  
Name: MICHAEL SPENCLEY  
Title: PRESIDENT & C.E.O.

*I have authority to bind the corporation.*

# FundThrough

## SCHEDULE "A"

In addition to terms defined elsewhere in this Term Sheet, the following terms shall have the following meanings:

- (a) **"Applicable Laws"** means, with respect to any person, property, transaction or event, all present or future statutes, regulations, rules, orders, codes, treaties, conventions, judgments, awards, determinations and decrees of any governmental, regulatory, fiscal or monetary body or court of competent jurisdiction, in each case, having the force of law in any applicable jurisdiction.
- (b) **"Business Day"** means a day on which chartered banks are open for overthecounter business in Toronto and excludes Saturday, Sunday and any other day which is a statutory holiday in Toronto.
- (c) **"Priority Claims"** means the aggregate of any amounts accrued or payable by any borrower which under any law may rank prior to or *pari passu* with the Interim Financing Charge or otherwise in priority to any claim by the Purchaser for payment or repayment of any amounts owing under this Term Sheet, including: (i) wages, salaries, commissions or other remuneration; (ii) vacation pay; (iii) pension plan contributions; (iv) amounts required to be withheld from payments to employees or other persons for federal and provincial income taxes, employee Canadian Pension Plan contributions and employee Employment Insurance premiums, additional amounts payable on account of employer Canada Pension Plan contributions and employer Employment Insurance premiums; (v) harmonized sales tax; (vi) provincial sales or other consumption taxes; (vii) Workers' Compensation Board and Workplace Safety and Insurance Board premiums or similar premiums; (viii) real property taxes; (ix) rent and other amounts payable in respect of the use of real property; (x) amounts payable for repair, storage, transportation or construction or other services which may give rise to a possessory or registerable lien; and (xi) claims which suppliers could assert pursuant to Section 81.1 or Section 81.2 of the BIA; and (xii) WEPPA Claims.





- (d) **“WEPPA Claims”** means any claims made against the Vendor pursuant to the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s.1, as the same may be amended, restated or replaced from time to time.

Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders.

# FundThrough



## SCHEDULE “B”

1. N/A.

Title	Term Sheet
File name	FundThrough_Term_..._June_19_2024.pdf
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## Document History



SENT

**06 / 19 / 2024**

23:45:40 UTC

Sent for signature to Ali Moosvi (amoosvi@fundthrough.com) from rmathews@fundthrough.com  
IP: 74.14.196.247



VIEWED

**06 / 19 / 2024**

23:51:10 UTC

Viewed by Ali Moosvi (amoosvi@fundthrough.com)  
IP: 70.54.65.235



SIGNED

**06 / 20 / 2024**

14:32:47 UTC

Signed by Ali Moosvi (amoosvi@fundthrough.com)  
IP: 70.54.65.235



COMPLETED

**06 / 20 / 2024**

14:32:47 UTC

The document has been completed.