



TDB Restructuring Limited
Licensed Insolvency Trustee

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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

THIRD REPORT THE PROPOSAL TRUSTEE

June 6, 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**”) in connection with 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 Third Report to Court

4. The purpose of this report to Court (the “**Third Report**”) is to provide the Court with information in connection with the motion by the Company for an amended debtor-in-possession financing facility in the amount of \$550,000 and a corresponding amended debtor-in-possession charge (the “**Second Amended DIP Charge**”) to provide working capital for the Company to address its ongoing obligations.

1.2 Terms of Reference

5. In preparing this Third Report and making the comments herein, the Proposal Trustee has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in the Third 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 Third Report are expressed in Canadian dollars.

2.0 BACKGROUND

7. The details of NTSM's background the events leading up to the filing of the NOI can be found in the First and Second Affidavit of Michael Spencley sworn April 11, 2024 and May 1, 2024 respectively, and in the Proposal Trustee's First and Second Reports to Court dated April 11, 2024 and May 2, 2024 respectively.

3.0 MATERIAL ADVERSE CHANGE REPORT

8. On May 7, 2024, the Proposal Trustee filed a Material Adverse Change report pursuant to S. 50.4(7)(b) of the *Bankruptcy and Insolvency Act* (the "**MAC Report**"). A copy of the MAC Report is attached as **Appendix "A"** to this report.
9. The MAC Report was issued because the Replacement DIP Lender (as defined in the MAC Report) withdrew its offer of financing on May 3, 2024. As set out in the MAC Report, the Company continues to seek financing from alternative sources and is working diligently to secure a replacement DIP financing facility.

4.0 DIP LOAN AND FINANCING

10. On April 16, 2024, Justice Cavanagh approved a bridge interim financing loan pursuant to a term sheet dated April 10, 2024, between the Company and a non-arms length party, J9 Investments Inc. ("**J9**" or the "**DIP Lender**") in order to finance the Company's working capital requirements and general corporate purposes.
11. On May 3, 2024, Justice Cavanagh approved the amended and restated DIP term sheet between the Company and J9 dated April 30, 2024. Justice Cavanagh also granted an increase to the DIP Charge to \$350,000.

12. The Company has continued negotiations with certain third-party lenders for replacement financing; however, the third-party lenders have not yet completed their due diligence process and finalized terms. In the interim, the Company requires additional financing to pay its post-filing obligations; primarily payroll, rent, HST and operating costs.
13. Since the Company filed the NOI, its customers work permits were delayed and the Company experienced various weather-related issues. The Company has recently seen a substantial uptick in new projects beginning work and an increase in its normal daily revenues, as it enters its traditional busy season. The Company notes that there are several key projects underway including the Garden City Skyway, Highway 400/Langstaff Road and the Eglinton Crosstown West (collectively, the “**Projects**”). The Company estimates that the Projects will generate revenue of at least \$1.5 million annually, once fully underway.
14. Although there has been an increase in sales, the Company is experiencing a cash constraint due to average payment cycles of approximately 60 days from its customers. While waiting for payment from its customers, the Company requires working capital to pay expenses such as payroll, rent, HST , fuel and other operating costs.
15. The Company and the DIP Lender have agreed to increase the principal amount of the financing provided by the DIP Lender from \$350,000 to \$550,000 (the “**Second Amended DIP Loan**”), subject to the Court approving a corresponding increase in the charge securing the DIP facility.
16. The DIP Lender has provided a term sheet to the Company which sets out the terms upon which it is prepared to advance further funds (the “**Second Amended DIP Term Sheet**”). A copy of the Second Amended DIP Term Sheet is attached as **Appendix “A”** to this report.
17. The material terms of the Amended DIP Term Sheet include:

Key Terms	Description
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 three hundred and fifty thousand dollars \$550,000 (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 5% of the total amount available under the Facility, less the amount of the Facility Fee paid in respect of the Original Term Sheet and the Amended Term Sheet, 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.

20. The Proposal Trustee believes that the terms offered by J9 are reasonable in the circumstances, and notes that the terms of the Second Amended DIP Term Sheet are substantially similar to the terms of the Amended DIP Term Sheet that was approved by this Court on May 3, 2024, except for the maximum amount of the Facility.
21. The Company is seeking the Second Amended DIP Charge to secure the DIP Loan, which is required pursuant to the terms of the Second Amended DIP Term Sheet. The Second Amended DIP Charge is intended to rank in priority to all encumbrances, except for the Administration Charge and \$100,000 of the Director's Charge.
22. The Proposal Trustee is of the view that the Company's request for approval of the Second Amended DIP Loan and the Second Amended DIP Charge are reasonable in the circumstances and are required to provide the Company with the necessary financing to maintain ongoing operations while it formulates a restructuring plan and proposal to its creditors. If this financing is not approved, the Company will not have

sufficient liquidity to continue operations and will be required to cease operations, resulting in lost jobs for the Company's employees and losses for the Company's creditors and stakeholders.

5.0 STAY OF PROCEEDINGS

23. The time for filing a proposal by the Company currently expires on June 19, 2024. The Company has scheduled a motion for June 18, 2024 in which it will seek the Court's approval to extend the time for filing a proposal and other relief.

6.0 RECEIVER'S REQUEST OF THE COURT

24. Based on the foregoing, the Receiver respectfully requests that the Court grant the relief sought by the Company described in paragraph 4 above.

All of which is respectfully submitted to this Court as of this 6th 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*
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
Managing Director

APPENDIX A

June 6, 2024

National Traffic Safety Management Inc.
150 Bridgeland Avenue, Suite 206
Toronto, ON M6A 1Z5

Attention: Michael Spencley

Re: Second Amended DIP Term Sheet – J9 Investments Inc. (the “Lender”) Interim Debtor in Possession Facility in favour of National Traffic Safety Management Inc. (the “Borrower”)

On April 5, 2024, the Borrower 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**”).

In connection with the BIA proceedings (the “**Proposal Proceeding**”) the Borrower required interim financing and on April 16, 2024, the Ontario Superior Court of Justice granted an order approving a debtor in possession term sheet dated April 10, 2024, between the Borrower and the Lender (“**Original Term Sheet**”), wherein the Lender agreed to make a debtor-in-possession loan available to the Borrower in the principal amount of \$150,000 (the “**Original Interim Financing Order**”).

The Borrower and Lender made amendments to restate the terms of the Original Term Sheet and on May 3, 2024, the Ontario Superior Court of Justice granted an order approving a debtor in possession term sheet dated April 30, 2024 (the “**Amended Term Sheet**”), increasing the Original Interim Financing Order to \$350,000 (the “**Amended Interim Financing Order**”).

The Borrower and the Lender wish to make further amendments to restate the terms of the Amended Term Sheet in accordance with the terms and conditions set forth herein, including but not limited to, increasing the principal amount to \$550,000 and will be seeking a further amended interim financing order (the “**Further Amended Interim Financing Order**”). 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”**.

Borrower: National Traffic Safety Management Inc.

Lender: J9 Investments Inc.

Facility: A super priority, debtor-in-possession non-revolving demand credit facility up to the maximum principal amount of five hundred fifty thousand dollars \$550,000 (the “**Facility**”), subject to the terms and conditions contained herein.

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 Lender from time to time (the “**Cash Flow Projections**”); (ii) the Lender’s Fees and Expenses (as defined below), (iii) professional fees and expenses incurred by the Borrower and the Proposal Trustee in connection with the Proposal Proceedings, and (iv) such other costs and expenses of the Borrower as may be agreed to by the Lender, in writing.

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.

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

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 5% of \$550,000, less the amount of the Facility Fee paid in respect of the Original Term Sheet and the Amended Term Sheet, which shall be fully earned upon Court approval of this Term Sheet, and secured by the Interim Financing Charge, shall be due and payable on the Maturity Date.

Security: All debts, liabilities, and obligations of the Borrower under the Facility shall be secured by the Interim Financing Charge charging all present and future, real and personal, tangible and intangible, properties, assets and undertakings of the Borrower.

The Interim Financing Charge shall rank in priority to any and all security interests, mortgages, trusts, deemed trusts (statutory or otherwise), liens, charges and encumbrances in favour of any person, including the second tranche of a charge for the Borrower’s directors and officers to secure obligations that they may incur in those capacities during the Proposal Proceeding in an amount not exceeding two hundred fifty thousand dollars (\$250,000), provided, however, that the Interim Financing Charge shall rank behind in priority to the charges granted in favour of: (i) professionals to secure the fees and disbursements of the Borrower’s counsel, counsel for the Proposal Trustee and the Proposal Trustee in an amount not exceeding one hundred thousand dollars (\$100,000) (the

“**Administration Charge**”); and (ii) the first tranche of a charge for the Borrower’s directors and officers to secure obligations that they may incur in those capacities during the Proposal Proceeding in an amount not exceeding one hundred thousand dollars (\$100,000) (the “**D&O Charge**”).

**Conditions
Precedent to the
Facility:**

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

1. the granting by the Court of the Further Amended Interim Financing Order in a form satisfactory to the Lender, acting reasonably, including:
 - (a) approving this Term Sheet and the Facility contemplated herein;
 - (b) granting the Lender a charge in and to all present and future, real and personal, tangible and intangible, properties, assets and undertakings of the Borrower (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, except as provided herein;
 - (c) declaring that the granting of the Amended Interim Financing Charge, and the payment of all amounts by the Borrower to the Lender, 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
 - (d) declaring the Further Amended Interim Financing Order, including the Interim Financing Charge granted thereunder, binding upon a trustee in bankruptcy of the Borrower, the Proposal Trustee, a receiver, interim-receiver, receiver-manager or any other officer of the Court appointed in respect of the Borrower;
2. receipt of a duly executed copy of this Term Sheet by the Execution Deadline.

Timing of Initial Advance: Subject to the satisfaction of the Conditions Precedent to the Facility, the Facility shall be made to the Borrower within two (2) Business Days following Court approval of the Further Amended Interim Financing Order, or such later date as may be agreed to by the Lender and the Borrower.

Covenants: The Borrower covenants and agrees with the Lender, so long as any amounts are outstanding by the Borrower to the Lender hereunder, to:

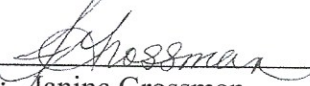
1. pay all sums of money when due hereunder;
2. not request, obtain or consent to a variation of the Further Amended Interim Financing Order if, in the opinion of the Lender, such variation may be prejudicial to the Lender, without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed;
3. use the proceeds of the Facility solely for the purposes provided for herein;
4. keep and maintain books of account and other accounting records in accordance with generally accepted accounting principles;
5. upon reasonable notice, permit the Lender or its representatives, at any time and from time to time with such frequency as the Lender, in its sole discretion, may require, to visit and inspect the Borrower's premises, properties and assets and to examine and obtain copies of the Borrower's records or other information and discuss the Borrower's affairs with the auditors, counsel and other professional advisors of the Borrower all at the reasonable expense of the Borrower;
6. 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; and
7. carry on the business of the Borrower in the normal course, consistent with past practice and orders of the Court made in the Proposal Proceedings.

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,

J9 INVESTMENTS INC.

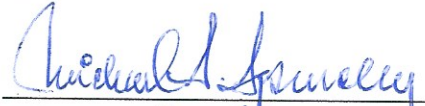
Per: 
Name: Janine Grossman
Title:

I have authority to bind the corporation.

ACCEPTANCE

The undersigned hereby accepts this Term Sheet this 7th day of June.

NATIONAL TRAFFIC SAFETY MANAGEMENT INC.

Per: 
Name: MICHAEL SPENCLEY
Title: PRESIDENT + CEO

I have authority to bind the corporation.

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 over-the-counter 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 Lender 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 Borrower 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.

SCHEDULE "B"

1. N/A.