

RICHTER

Court File No.: CV-20-00636875-00CL

2607380 ONTARIO INC.

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.,
IN ITS CAPACITY AS MONITOR**

MARCH 5, 2020

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
2607380 ONTARIO INC.**

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR**

MARCH 5, 2020

I. INTRODUCTION

1. On February 25, 2020 (the “**Filing Date**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”) granting 2607380 Ontario Inc. (“**260**” or the “**Company**”) protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”). Pursuant to the Initial Order, Richter Advisory Group Inc. (“**Richter**”) was appointed as the Company’s Monitor (the “**Monitor**”).
2. The Initial Order, *inter alia*:
 - (i) granted a stay of proceedings in favour of the Company until March 6, 2020 (the “**Stay Period**”);
 - (ii) granted a stay of proceedings during the Stay Period in favour of (i) Nuvo Network Inc. (“**Nuvo Network**”), an affiliate of the Company, (ii) the directors and officers of the Company and (iii) Mr. Shawn Saulnier and Ms. Bridget Saulnier (collectively, the “**Saulniers**”) in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Company (collectively, the “**Saulnier Guarantees**”). Collectively, such stay of proceedings, together with the stay of proceedings in favour of the Company, is referred to herein as the “**CCAA Stay**”;
 - (iii) enhanced the Monitor’s powers with respect to the Company requiring prior approval of the Monitor for disbursements above certain dollar thresholds (\$1,000 per transaction or \$5,000 in aggregate, on a daily basis);
 - (iv) approved an indemnity and charge in favour of 260’s directors and officers in the amount of \$50,000 (the “**Directors’ Charge**”) in respect of the actions of the directors and officers and liabilities incurred thereby from and after the Filing Date;
 - (v) approved a charge in respect of the fees and costs of the Monitor, its counsel and counsel to the Company in the amount of \$250,000 (the “**Administration Charge**”); and
 - (vi) ordered that Meridian Credit Union Limited (“**Meridian**”), the Company’s primary secured lender, provide emergency financing in the amount of \$220,000 (the “**Interim Financing**”), to either the Monitor or its counsel, in order to provide the Company with sufficient funds to pay certain professional fees and to meet 260’s operational requirements until the date of the comeback motion to be heard on March 6, 2020 (the “**Comeback Motion**”).

A copy of Initial Order is attached hereto as **Appendix “A”**. The proceedings commenced by 260 under the CCAA are herein referred to as the “**CCAA Proceedings**”.

3. Richter, in its capacity as proposed monitor of 260, filed a report with the Court dated February 24, 2020 (the “**Pre-Filing Report**”) in support of the Company’s application for the Initial Order. Information included in the Pre-Filing Report, including, *inter alia*, background about the Company, including its causes of insolvency, financial position and creditors, has not been repeated herein. A copy of the Pre-Filing Report, without appendices, is attached hereto as **Appendix “B”**.
4. The principal purpose of the CCAA Proceedings is for 260 to complete the renovations of its building located at 1295 North Service Road , Burlington, ON (the “**Nuvo Property**”) and, if approved by this Court, seek a strategic investor or buyer for the Nuvo Property through a court-supervised sale and investment solicitation process (“**SISP**”) for the benefit of the Company’s creditors and other stakeholders, while also providing time for the Company to seek a refinancing of its secured debt.

II. PURPOSE OF THE FIRST REPORT

5. The purpose of this First Report of the Monitor (the “**First Report**”) is to provide information to the Court pertaining to:
 - (i) the activities of the Company and the Monitor since the issuance of the Initial Order;
 - (ii) an update regarding the proposed renovations of the Nuvo Property (the “**Nuvo Renovations**”);
 - (iii) an update regarding certain leases in the name of Nuvo Network;
 - (iv) the Company’s 34-week cash flow forecast (the “**Revised Cash Flow Forecast**”) for the period from March 4, 2020 to October 24, 2020 (the “**Forecast Period**”);
 - (v) the Company’s request that it be authorized and empowered to obtain and borrow interim financing, including the terms of a debtor-in-possession (“**DIP**”) non-revolving credit facility pursuant to a DIP Facility Agreement dated March 4, 2020 (the “**Meridian DIP Facility Agreement**”) in the maximum principal amount of \$7.18 million (the “**Meridian DIP Facility**”);
 - (vi) the Company’s request for certain amendments to the Initial Order as set out in the draft order included as part of the Company’s motion record for the Comeback Motion (the “**Amended and Restated Initial Order**”), including:
 - (a) extending the Stay Period in respect of the CCAA Stay to October 24, 2020;

- (b) further enhancing the Monitor's powers, including with respect to assisting the Company with matters relating to the Nuvo Renovations;
 - (c) designating the Company's general contractor and a subcontractor as critical suppliers and authorizing the Company to pay certain pre-filing amounts owing to them to discharge the construction liens each of them has registered against the Nuvo Property and providing deposits, as deemed necessary by the Company and the Monitor, in connection with completing the Nuvo Renovations;
 - (d) increasing the Administration Charge from \$250,000 to \$300,000 (the "**Amended Administration Charge**") and ordering a charge (the "**DIP Charge**") in favour of Meridian as the DIP lender (in such capacity, the "**DIP Lender**"); and
 - (e) authorizing the Company to pay retainers to the Monitor, the Monitor's counsel and the Company's counsel in the amount of \$50,000 each (the "**Retainers**"); and
- (vii) the Monitor's conclusions and recommendations.

III. DISCLAIMER AND TERMS OF REFERENCE

6. In preparing this First Report, the Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Company, the Company's books and records and discussions with various parties, including 260's advisors, employees and certain of its directors (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* (the "**Handbook**"). In addition, the Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
7. Future orientated financial information contained in the Revised Cash Flow Forecast is based on the Company's estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved.
8. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.

9. Capitalized terms not otherwise defined herein are as defined in the Pre-Filing Report and the Affidavit of Mr. Shawn Saulnier sworn March 4, 2020 (the “**March 4 Saulnier Affidavit**”) filed in support of the Comeback Motion. This First Report should be read in conjunction with the March 4 Saulnier Affidavit, as certain information contained in the March 4 Saulnier Affidavit has not been included herein in order to avoid unnecessary duplication.

IV. ACTIVITIES OF THE COMPANY

10. Since the Filing Date, the Company, with the assistance of the Monitor, has been managing its operations in the normal course and working to stabilize its business, assisted by the CCAA Stay. The Company’s primary focus, in addition to managing relationships with key stakeholders and addressing operational issues arising in connection with the commencement of the CCAA Proceedings, has been to continue discussions with its senior lenders and its general contractor, Maple Reinders Inc. (“**Maple**”), to determine the best way forward to obtain financing to re-commence construction activity at the Nuvo Property and complete the Nuvo Renovations.
11. As outlined in the March 4 Saulnier Affidavit, the activities of the Company, with the support of their legal advisors, have included:
 - (i) managing relationships with key stakeholders, including tenants, secured lenders and Maple;
 - (ii) administering the leases at the Nuvo Property in the ordinary course;
 - (iii) reviewing its leases to confirm the status of leases in the Company’s and Nuvo Network’s name, as is outlined in greater detail in the March 4 Saulnier Affidavit; and
 - (iv) preparing, in consultation with the Monitor, the Revised Cash Flow Forecast.

V. ACTIVITIES OF THE MONITOR

12. Since its appointment pursuant to the Initial Order, the Monitor’s activities have included:
 - (i) arranging for notice of the CCAA Proceedings to be published in the February 29, 2020 and March 4, 2020 editions of The Globe and Mail (National Edition) (collectively, the “**Globe Notices**”), in accordance with the Initial Order and the CCAA. Copies of the Globe Notices are attached hereto as **Appendix “C”**;
 - (ii) sending a notice, within five days of the issuance of the Initial Order, of the CCAA Proceedings to all known creditors of 260 with claims exceeding \$1,000, in accordance with the Initial Order and the CCAA. Notice was also sent to certain other persons, including creditors with claims less than \$1,000, applicable tax authorities and any other party that requested a copy;

- (iii) filing prescribed documents with the Office of the Superintendent of Bankruptcy pursuant to the CCAA;
- (iv) establishing and maintaining a website where all Court documents and other material documents pertaining to the CCAA Proceedings are available in electronic form;
- (v) implementing procedures for the monitoring of the Company's cash flows and for ongoing reporting of variances to the Company's cash flow forecast;
- (vi) corresponding with Maple, including attending at Maple's office to meet with certain key personnel, in connection with the Nuvo Renovations;
- (vii) corresponding with Meridian and its legal counsel, including attending a meeting at Meridian's office, in connection with the Meridian DIP Facility;
- (viii) corresponding extensively with the Company and its legal counsel regarding the Revised Cash Flow Forecast, cash management, the Nuvo Renovations and various other matters in connection with the CCAA Proceedings;
- (ix) corresponding with Bennett Jones LLP, the Monitor's legal counsel;
- (x) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
- (xi) reviewing materials filed with the Court in respect of the CCAA Proceedings; and
- (xii) preparing this First Report.

VI. UPDATE ON THE NUVO RENOVATIONS

13. As detailed in the Pre-Filing Report, the Monitor understands based upon information provided by the Company, including an appraisal filed with the Court under seal in connection with the application for the Initial Order, that upon completion of the Nuvo Renovations, the Company's liquidity and enterprise value is projected to improve significantly. Accordingly, it is crucial for the Company to complete the Nuvo Renovations so that it has the opportunity to restructure its business and financial affairs to maximize value for the benefit of 260 and its stakeholders. Further information with respect to the Nuvo Renovations can be found in the Pre-Filing Report and the affidavit of Mr. Shawn Saulnier sworn February 24, 2020 (the "**February 24 Saulnier Affidavit**"), filed in support of the Company's application for the Initial Order.

14. As set out in the Pre-Filing Report, the budgeted costs to complete the Nuvo Renovations was estimated at approximately \$4.1 million, which included approximately \$2.2 million of construction cost arrears owing to Maple and Barrie Glass & Co. ("**Barrie**"), a subcontractor (the "**Construction Cost Arrears**"). Both Maple and Barrie have registered liens against the Nuvo Property in the amount of approximately \$1.9 million and \$90,000, respectively (accrued interest of approximately \$190,000 is payable in respect of the Maple lien as at March 2, 2020, and further interest continues to accrue). The Nuvo Renovations were previously projected to be completed by August 31, 2020. However, following communications and correspondence with 260 and Maple since the Filing Date, including attending at the office of Maple to meet with key personnel, the Monitor now understands that the budget and timelines thereto required certain revisions.
15. Following the meeting with Maple and subsequent correspondence between 260, Maple and the Monitor, Maple presented the Monitor with an updated construction budget and schedule, which now estimates a total cost to complete the Nuvo Renovations of approximately \$4.5 million (including the Construction Cost Arrears) (the "**Costs to Complete**") and a completion date of mid to late September 2020.
16. The Monitor understands from Maple that the revisions in connection with the Cost to Complete compared to what was reported in the Pre-Filing Report relates primarily to (i) remobilizing of subcontractors, including additional costs associated with construction crews having to re-establish scaffolding, heavy machinery and equipment on site after previously dismantling it, (ii) increased labour and material costs in the ordinary course due to the passage of time and (iii) legal fees incurred by Maple and Barrie in connection with the Construction Cost Arrears.
17. In addition to discussing the construction budget and timeline with the Company, the Monitor has had discussions and correspondence directly with Maple to ensure that the Costs to Complete are as low as reasonably possible in the circumstances and that the construction timelines can be met. The Monitor has also discussed the construction budget and timeline with Meridian and understands that Meridian has also had direct discussions with Maple and is satisfied that the Costs to Complete and construction timeline are satisfactory. Based upon those discussions and meetings, the Monitor is satisfied that completing the Nuvo Renovation through Maple as the general contractor represents the best available option in the circumstances to complete the renovations in a timely and cost-effective manner. In addition, since Maple has been involved in the Nuvo Renovation project from the outset, the Monitor understands that its construction plan takes into account the existing tenants of the building, to try and minimize disruption to the building's multiple tenants and their respective businesses.

VII. NUVO NETWORK LEASES

18. As discussed in the Pre-Filing Report, Nuvo Network was incorporated for the purpose of being the operating entity for the Company. It has no assets (other than certain leases as discussed below), employees or operations. The Company's intention was to migrate 260's employees and all of 260's leases to this entity. However, this had not yet occurred as of the Filing Date. As noted in the February 24 Saulnier Affidavit, at the time of the commencement of the CCAA Proceedings, certain of the Nuvo Property leases had been migrated to Nuvo Network as the landlord; however, the Monitor has been informed by the Company that all rental income earned from those leases continues to flow to 260.
19. Since the Filing Date, the Monitor understands that the Company has reviewed its books and records and those of Nuvo Network to determine the number of leases held by Nuvo Network as landlord, and the portion of 260's monthly rental revenue which is generated from leases held by Nuvo Network. As discussed in the March 4 Saulnier Affidavit, approximately \$22,100 of rental revenue was generated through leases held by Nuvo Network in January 2020, representing approximately 12% of the total revenue flowing to the Company in January 2020.
20. In addition, the Monitor has been informed by the Company that, Nuvo Network has entered into a short-term lease agreement to lease studio space with a party which creates programming for The Food Network (the "**Food Network Lease**"). As set out in the March 4 Saulnier Affidavit, the Food Network Lease is for a four month period from April 2020 to July 2020; in connection with the Food Network Lease, Nuvo Network was provided with a security deposit and funding for certain renovations which amounts were deposited into the Company's bank account.
21. The Monitor has been informed that Nuvo Network does not maintain its own bank accounts, and all rental revenue to date and going forward generated through the Nuvo Network leases have been, and will continue to be, deposited in the Company's bank account, including those revenues generated from the Food Network Lease. The Monitor is in the process of confirming all tenants and leases at the Nuvo Property and will provide an update to the Court in a subsequent report regarding its findings.
22. The Monitor understands that, based on discussions with the Company and its legal counsel, all future leases are to be established and maintained in the Company's name during the CCAA Proceedings.

VIII. REVISED CASH FLOW FORECAST

23. In support of its application for the Initial Order, the Company filed with this Court a 13-week cash flow forecast (the "**Original Forecast**") setting out the projected receipts and disbursements of the Company from the Filing Date to May 24, 2020. The Original Forecast assumed that the CCAA Proceedings would be funded via the

Maynbridge DIP Facility. However, as discussed later in the First Report, the Maynbridge DIP Facility was ultimately not approved by the Court.

24. The Company is now seeking the Court’s approval of the Meridian DIP Facility (as discussed below) as well as an extension of the Stay Period in respect of the CCAA Stay to October 24, 2020. In consideration of the foregoing, the Company, in consultation with the Monitor, prepared the Revised Cash Flow Forecast for the purpose of projecting the Company’s estimated liquidity needs during the Forecast Period. A copy of the Revised Cash Flow Forecast, including the notes and assumptions thereto, together with Management’s Report on the Revised Cash Flow Forecast is attached as **Appendix “D”** and is summarized below:

2607380 Ontario Inc.	
Cash Flow Forecast	
For the Period March 4, 2020 to October 24, 2020	
(In \$000's; unaudited)	
Receipts	
Rental, Studio & Event Income	2,037
Other Income	597
Total Receipts	2,634
Disbursements	
Personnel Expenses	706
Professional Fees	1,721
Operating Expenses	1,592
Construction Costs	4,511
DIP Lender Costs	394
Total Disbursements	8,924
Net Cash Flow	(6,290)
Opening Cash Balance	192
DIP Drawdown	6,300
Ending Cash Balance	202

25. As at March 4, 2020, the aggregate of the Applicant’s combined bank account balances, including funds held in trust by the Monitor related to the Interim Financing, shows a cash surplus of approximately \$192,000. The Revised Cash Flow Forecast projects that the Company will experience a net cash outflow of approximately \$6.3 million (before any DIP drawdown) over the Forecast Period, comprised of:

- (i) cash receipts of approximately \$2.6 million, primarily related to the collection of rent from existing leases; and
 - (ii) cash disbursements of approximately \$8.9 million, primarily related to construction costs in connection with the Nuvo Renovations (including the Construction Cost Arrears (as discussed below)), operating expenses, personnel costs and costs in connection with the Meridian DIP Facility, as well as the costs of the CCAA Proceedings.
26. The Revised Cash Flow Forecast projects borrowings under the Meridian DIP Facility of \$6.3 million (net of the Reserve, as defined below) during the Forecast Period.
27. As evidenced by the Revised Cash Flow Forecast, without access to the Meridian DIP Facility, the Company lacks sufficient liquidity to maintain operations. The Meridian DIP Facility is expected to provide the Company with sufficient funding during the Forecast Period and to ensure 260's continued operations during the CCAA Proceedings.
28. The Revised Cash Flow Forecast has been prepared by the Company on a conservative basis using probable and hypothetical assumptions set out in the notes to the Revised Cash Flow Forecast. The Revised Cash Flow Forecast reflects the Company's estimates of receipts and disbursements on a weekly basis over the Forecast Period.
29. The Monitor has reviewed the Revised Cash Flow Forecast to the standard required of a Court-appointed monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals' standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a monitor's report on the Revised Cash Flow Forecast.
30. Pursuant to this standard, the Monitor's review of the Revised Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to it by certain key members of management and employees of the Applicant. Since the probable and hypothetical assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Revised Cash Flow Forecast. The Monitor also reviewed the support provided by the Company for the probable and hypothetical assumptions and the preparation and presentation of the Revised Cash Flow Forecast.

31. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, that:
- (i) the probable and hypothetical assumptions are not consistent with the purpose of the Revised Cash Flow Forecast;
 - (ii) as at the date of this First Report, the probable and hypothetical assumptions are not suitably supported and consistent with the plans of the Company or do not provide a reasonable basis for the Revised Cash Flow Forecast, given the probable and hypothetical assumptions; or
 - (iii) the Revised Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
32. Since the Revised Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the probable and hypothetical assumptions occur, and the variation could be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Revised Cash Flow Forecast or relied upon by the Monitor in preparing this report.
33. The Revised Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate or relied upon for any other purpose. The Monitor's Report on the Revised Cash Flow Forecast is attached hereto as **Appendix "E"**.

IX. DIP LENDING AGREEMENT

34. As set out in the Pre-Filing Report, the Company, in consultation with its financial and legal advisors, carried out a marketing process to solicit DIP financing (the "**DIP Solicitation Process**"). Further details of the DIP Solicitation Process, including the results thereof, are provided for in the Pre-Filing Report and not repeated herein. Ultimately, the DIP Solicitation Process resulted in an agreement between the Company and Maynbridge (the "**Maynbridge DIP Facility Agreement**"), whereby Maynbridge would provide the Company with DIP financing in the amount of approximately \$7.18 million (the "**Maynbridge DIP Facility**"). Approval of the Maynbridge DIP Facility Agreement was sought by the Company as part of the Initial Order.
35. However, at the Initial Order hearing held on February 25, 2020 (the "**Initial Hearing**"), Meridian and Bridging Finance Inc., one of the Company's other secured lenders, objected to the Maynbridge DIP Facility Agreement, including the proposed priority charge (the "**Maynbridge DIP Charge**") over the assets of the Company as security in support of advances to be made thereunder.

36. As an alternative to the Maynbridge DIP Facility Agreement, and given the imminent liquidity crisis facing the Company, Meridian agreed to provide the Interim Financing, on an interim basis, in order to fund the Company until the date of the Comeback Motion.
37. As part of the Initial Order, the Court ordered the Interim Financing from Meridian. Pursuant to the Initial Order, Meridian advanced the Interim Financing to the Monitor, in trust.
38. The Monitor understands that Meridian continues to object to another lender priming its existing charge over the Company's assets and, accordingly, since the date of the Initial Hearing, Meridian reached out to the Monitor with proposed terms for DIP financing to be provided by Meridian to fund the CCAA Proceedings. Following negotiations between Meridian, the Company, the Monitor and their respective advisors, Meridian, as DIP Lender and the Company agreed upon the terms of the Meridian DIP Facility Agreement. A copy of the Meridian DIP Facility Agreement is attached as Exhibit "B" to the March 4 Saulnier Affidavit.
39. The principal terms of the Meridian DIP Facility Agreement include (the following is not an exhaustive list):

Basic Provisions	Description
Availability	\$7.18 million
Borrower	2607380 Ontario Inc.
Guarantor	Nuvo Network Inc.
Reserve	\$400,000, to fund the DIP Lender's interest, legal fees and disbursements during the Stay Period (the "Reserve").
Interest Rate	9.25%; Default Rate of additional 2%.
Fees	Commitment Fee of \$107,000; Monthly Availability Fee of \$2,000 per month.
Maturity Date	Earliest of (a) November 6, 2020, (b) March 6, 2020, in the event the Court does not issue an order approving the Meridian DIP Facility, (c) the date the Stay Period expires, without extension, (d) the date on which the stay under the Initial Order is lifted, in whole or in part, without prior written consent of the DIP Lender, (e) the conversion of the CCAA Proceedings to a proceeding under the BIA (NOI/Proposal, bankruptcy or receivership), and (f) occurrence of an Event of Default.
Security	The DIP Charge, a mortgage registered against the Nuvo Property, a guarantee from Nuvo Network, a GSA between the Guarantor and the DIP Lender and an assignment of the Guarantor's rents and leases in favour of the DIP Lender.
Conditions	Various conditions typical of agreements of this kind, including, <i>inter alia</i> , the issuance of the Amended and Restated Initial Order, the completion of definitive documentation and the granting of the DIP Charge.
Event of Default	A number of Events of Default, including (a) failure of the Borrower to obtain Court approval of the Amended and Restated Initial Order, (b) any payment is made by the Borrower that is not contemplated by or within the approved cash flow budget and (c) the Nuvo Renovations are not completed by September 30, 2020.

40. The Meridian DIP Facility is at a lower interest rate compared to the Maynbridge DIP Facility (9.25% vs. 9.50%) and has a lower overall cost of borrowing, including a lower commitment fee (\$107,000 vs \$210,000). Approving the Meridian DIP Facility Agreement will eliminate any prejudice to the Company's first-secured lender, as Meridian will not be subject to priming by the Maynbridge DIP Charge. Furthermore, the fact that Meridian is supporting the CCAA Proceedings by providing a DIP facility with covenants that facilitate the timely and cost effective completion of the Nuvo Renovations, the objectives of the Company's senior-most secured lender are aligned with the overall objectives of the CCAA Proceedings, which is to maximize value for all creditors and stakeholders of the Company.
41. Taking into consideration the above, the Monitor is supportive of the Meridian DIP Facility Agreement for the following reasons:
- (i) the Company is facing an imminent liquidity crisis and 260 is without the cash needed to continue operations and implement its restructuring plan – short term funding is needed urgently. The Monitor understands that the Company will be unable to pay operating costs owing to suppliers as they become due absent a DIP facility;
 - (ii) if a DIP facility is not available, the Company's operations will be difficult to manage, the funding needed to complete the Nuvo Renovations will not be available and the Company will have virtually no prospect of completing its development and restructuring plan;
 - (iii) as noted in the Pre-filing Report, the Company and the Monitor had canvassed the market and reached out to six (6) other potential lenders before agreeing to the Maynbridge DIP Facility, which was determined to be the best available DIP facility in the circumstances. Meridian has provided an even more competitive DIP facility with terms that are overall superior to those offered in the Maynbridge DIP Facility;
 - (iv) based on the Monitor's discussions with Meridian, the Monitor understands that Meridian, as the Company's highest-ranking secured creditor and by far the Company's largest creditor, would oppose any alternative DIP lender from priming it, as was the case with the Maynbridge DIP Facility;
 - (v) to minimize any prejudice to Maynbridge regarding the costs they incurred to negotiate the Maynbridge DIP Facility and Maynbridge DIP Facility Agreement, which formed the template for the Meridian DIP Facility, the DIP Lender has agreed to the funding of the balance of Maynbridge's expense reimbursement in the amount of approximately \$45,000 (excluding HST) to help cover out-of-pocket legal and other costs; and
 - (vi) the Proposed Monitor has compared the principal financial terms of the Meridian DIP Facility, together with the existing secured debt obligations, to a number of other recent DIP financing packages in other CCAA

proceedings, with respect to pricing, loan availability and certain security considerations. Based on this comparison, the Proposed Monitor is of the view that, in the circumstances, the terms of the Meridian DIP Facility appear to be commercially reasonable.

42. The Monitor believes that, in the circumstances, the approval of the Meridian DIP Facility is in the best interests of the Company in connection with financing its operations and completing the Nuvo Renovations and will enhance the prospects of maximizing the value of the Nuvo Property. The Proposed Monitor believes the Meridian DIP Facility will afford the Company the opportunity to finish construction and allow for a SISP to seek to maximize value for the Company's secured lenders and other creditors.

X. PROPOSED AMENDMENTS TO THE INITIAL ORDER

43. As outlined in the March 4 Saulnier Affidavit, the Company is seeking certain amendments to the Initial Order, including extending the Stay Period, enhancing the Monitor's powers, designating Maple and Barrie as critical suppliers and authorizing the Company to pay certain pre-filing amounts owing to them, and amending and adding priority charges over the assets of the Company.

Extension of the Stay Period

44. The Stay Period expires on March 6, 2020. The Company is seeking an extension of the Stay Period to October 24, 2020 in respect of the CCAA Stay.
45. The Monitor supports the Company's request for an extension of the CCAA Stay from March 6, 2020 to October 24, 2020 for the following reasons:
- (i) the Company is acting in good faith and with due diligence;
 - (ii) the extension will provide the Company with the opportunity to complete the Nuvo Renovations and provide the Company with sufficient time to seek out potential refinancing of its secured debt and, if approved by this Court, complete the SISP;
 - (iii) the granting of the extension should not materially prejudice any creditor of the Company as the Revised Cash Flow Forecast reflects that the Company is projected to have sufficient funding to continue to operate in the normal course through the proposed stay extension period;
 - (iv) Meridian, being the Company's first-secured senior lender and proposed DIP Lender in these CCAA Proceedings, supports the stay extension to October 24, 2020; and

- (v) if it is necessary for any interim reporting to the Court by the Monitor, and/or relief or directions by the Company or the Monitor, the parties can return to the Court in the interim period.

Monitor's Powers

46. As discussed in the Pre-Filing Report, paragraph 5 of the Initial Order affords the Monitor with enhanced powers with respect to the Company's disbursements. Specifically, the Company is required to obtain the Monitor's consent prior to paying (i) any single disbursement that exceeds \$1,000, and (ii) any and all disbursements that exceed \$5,000 in aggregate in the course of one (1) calendar day.
47. Paragraph 5 of the Amended and Restated Initial Order proposes to enhance those powers by requiring the Company to obtain the Monitor's consent before entering into any new contracts or leases (i) with an aggregate value or liability in excess of \$1,000 and/or (ii) a term in excess of one month.
48. In addition to the foregoing, paragraph 26 of the Amended and Restated Initial Order affords the Monitor with additional enhanced powers beyond those typically provided to a monitor in a CCAA proceeding. These additional enhanced powers pertain to, *inter alia*, assisting in preparing cash flow forecasts (with information provided by the Company), monitoring and overseeing the Nuvo Renovations, including consulting with the DIP Lender in connection therewith, on behalf of the Company, and assisting the Company and Nuvo Network in complying with the Meridian DIP Facility Agreement, including preparing materials in anticipation of a SISP.
49. The Monitor understands that the Company has consented to this relief in order to promote transparency and increase confidence in the process. The DIP Lender is also fully supportive of the Monitor's enhanced powers. Given the foregoing, the Monitor is of the view that proposed enhanced powers are reasonable in the circumstances.

Payment of Certain Pre-Filing Amounts and Designation of Critical Suppliers

50. As discussed in the February 24 Saulnier Affidavit, the ongoing delays in connection with the Nuvo Renovations have been damaging to the Company's operations and profitability. Recommencing and completing the ongoing construction of the Nuvo Property is fundamental to restructure 260 into an enterprise that can operate profitably in the future.
51. Based on discussions with Maple, the Monitor understands that, as a prerequisite to recommencing construction, the Construction Cost Arrears must be paid in full.

52. In recognition of the foregoing, the Amended and Restated Initial Order declares Maple and Barrie as critical suppliers and authorizes the Company to pay up to \$2.375 million in respect of critical supplier amounts, including to pay the Construction Cost Arrears, thereby discharging the construction liens registered by Maple and Barrie in connection therewith. All DIP funding, including the critical supplier payments, will be funded by the DIP Lender through the Monitor's trust account to ensure that the Monitor can oversee and monitor payments therefrom, in accordance with the Revised Cash Flow Forecast and the construction budgets and timelines.
53. The Monitor understands that the DIP Lender is fully supportive of the Company paying the Construction Cost Arrears to avoid further delay of the Nuvo Renovations and mitigate against erosion of the going-concern value of the business and its assets.
54. The Monitor agrees with the Company's view that any further delay in connection with the Nuvo Renovations could have an immediate and adverse impact on the business, operations and cash flow of the Company. Accordingly, the Monitor is of the view that payment of the Construction Cost Arrears is reasonable in the circumstances.

Proposed Charges

55. The Amended and Restated Initial Order provides for a number of priority charges (collectively, the "**Charges**"), on the current and future assets, undertakings and properties of the Company, including all proceeds thereof, that rank in the following order:
 - (i) First, the Amended Administration Charge;
 - (ii) Second, the DIP Charge; and
 - (iii) Third, the Directors' Charge.

Amended Administration Charge

56. The Amended and Restated Initial Order provides for the Amended Administration Charge, in the amount of \$300,000 (increased from \$250,000 as provided for in the Initial Order) charging the assets of the Company to secure the fees and disbursements incurred in connection with services rendered to the Company both before and after the commencement of the CCAA Proceedings by the following professionals: the Monitor, the Monitor's legal counsel, and legal counsel to the Company.
57. The Amended and Restated Initial Order sought by the Company provides that the Amended Administration Charge will rank in priority to the security interests of the DIP Lender, which the Monitor understands has

consented to the Amended Administration Charge. Furthermore, the Monitor understands that the amount of the Amended Administration Charge meets the terms of the Meridian DIP Facility Agreement.

58. In addition, the Monitor understands that the Company is seeking approval to pay retainers, in the amount of \$50,000 each, to the Company's counsel, the Monitor and the Monitor's counsel (the "**Retainers**"). As noted in the Pre-Filing Report, the Company's liquidity has been extremely limited, and its professionals have accrued significant fees that remain outstanding. Due to those liquidity constraints, the Company's professional advisors do not have the benefit of pre-existing retainers as would ordinarily be the case, and had been working on the basis that a \$500,000 Administration Charge would be sought under the Initial Order. In lieu of a \$500,000 Administration Charge, the Company, the Monitor and their respective counsel, have agreed to accept a reduced Administration Charge of \$300,000 and retainers of \$150,000 in aggregate. The Monitor understands that the DIP Lender is supportive of paying the Retainers.
59. In consideration of the foregoing, the Monitor is of the view that the proposed Amended Administration Charge and the quantum of the Retainers is reasonable in the circumstances.

The DIP Charge

60. The Company requires further funding immediately to continue operations and pursue its restructuring during the CCAA Proceedings, as evidenced by the Revised Cash Flow Forecast.
61. As noted above, it is a condition of the Meridian DIP Facility Agreement that the DIP Lender receives the benefit of the DIP Charge to the maximum amount of the aggregate of any and all advances made by the DIP Lenders to the Applicant under the Meridian DIP Facility Agreement.
62. The Meridian DIP Facility Agreement provides the Company with access to the financing required to undertake its restructuring activities, including the SISF, and complete its CCAA Proceedings. The Monitor recommends that the Court approve the Meridian DIP Facility Agreement, to be accessed by the Company, and, as such, the Monitor also supports the granting of the DIP Charge.

XI. MONITOR'S RECOMMENDATIONS

63. For the reasons set out in this First Report, the Monitor is of the view that the relief requested by the Company is both appropriate and reasonable. The Monitor is also of the view that granting the relief requested will provide the Company the best opportunity to complete the Nuvo Renovations and undergo a refinancing or going-concern sale or other restructuring under the CCAA, thereby preserving value for the benefit of the Company's stakeholders.

64. The Monitor notes that 260 is an operating company, with numerous tenants who themselves operate businesses that have employees, suppliers, customers and other stakeholders. Accordingly, the CCAA process is not only the best available option for 260 to seek to maximize value for its creditors and other stakeholders, but also provides a stable process to restructure its affairs while minimizing disruption and harm to its numerous tenants and their respective businesses, employees, creditors and stakeholders.
65. The Monitor is cognizant of the costs and benefits associated with the CCAA process in these circumstances and, as noted above, has: (i) worked both before and after the commencement of the CCAA Proceedings to canvas the market for DIP financing on the best terms in the circumstances; (ii) negotiated with Maple to ensure that the Costs to Complete the Nuvo Renovations are as low as possible in the circumstances and that construction can be completed in a timely manner with minimal disruption to the tenants and their businesses; (iii) negotiated with Meridian for DIP financing that will provide the Company with sufficient funds to carry out its operations and complete the Nuvo Renovations at a lower cost; (iv) worked with the Company to prepare the Revised Cash Flow Forecast that demonstrates the ability of the Company to meet its operational and renovation requirements through the requested extension of the Stay Period; and (v) is agreeing to enhanced powers under the Amended and Restated Initial Order to ensure that any costs, disbursements or obligations of the Company exceeding \$1,000 require prior approval of the Monitor, in order to keep costs in check. In light of all of the above, the Monitor is of the view that the CCAA Proceedings represent the most cost effective and efficient manner in which to achieve the Company's restructuring for the benefit of all of its creditors and other stakeholders, whilst minimizing disruption and prejudice to its business.
66. The Monitor has considerable experience in managing sale and investment processes involving real estate and real estate related businesses and is also in a position to immediately assist the Company in its refinancing efforts and developing a SISF for approval by the Court at a later date. Accordingly, the Monitor is of the view that the CCAA process also provides the Company's creditors the best reasonable prospect of repayment in the circumstances through a properly constructed process supervised by the Monitor and the Court, which will canvass the market for refinancing, investors or purchasers to maximize value for the Company's creditors and other stakeholders.
67. For the foregoing reasons, the Monitor respectfully recommends that this Court approve the relief sought in the Amended and Restated Initial Order.

All of which is respectfully submitted this 5th day of March 2020.

**RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF
2607380 ONTARIO INC.
AND NOT IN ITS PERSONAL CAPACITY**

Per:



**Paul van Eyk,
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**



**Adam Zeldin
CPA, CA, CIRP**

APPENDIX “A”



Court File No. CV-20-00636875-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 25th
JUSTICE CONWAY) DAY OF FEBRUARY, 2020

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2607380 ONTARIO INC. (the "Applicant")

INITIAL ORDER

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

ON READING the affidavit of Shawn Saulnier sworn February 24, 2020 (the "Saulnier Affidavit") and the Exhibits thereto, the pre-filing report of Richter Advisory Group Inc., in its capacity as proposed monitor (the "Monitor") to the Applicant, dated February 24, 2020, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor, the DIP Lender and those other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Sanja Sopic sworn February 25, 2020 and on reading the consent of Richter Advisory Group Inc. to act as the Monitor,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Saulnier Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management

System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Applicant shall advise and obtain the Monitor's consent in respect of any proposed disbursements to be made where (i) the amount of the disbursement is in excess of \$1,000 for a singular disbursement or (ii) the aggregate daily disbursements will exceed \$5,000.

6. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

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

RESTRUCTURING

10. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to continue negotiations with stakeholders in an effort to pursue restructuring options for the Applicant including without limitation all avenues of

refinancing of their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing.

NO PROCEEDINGS AGAINST THE APPLICANT, NUVO NETWORK INC. OR THE SAULNIERS

11. **THIS COURT ORDERS** that until and including March 6, 2020, or such later date as this Court may subsequently order (the “**Stay Period**”), no proceeding or enforcement process in or out of any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

12. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of the non-applicant Nuvo Network Inc. or affecting any of its current and future assets, businesses, undertakings and properties of every nature and kind whatsoever and wherever situate including all proceeds thereof (the “**Nuvo Property**”), and any and all Proceedings currently under way against or in respect of the Nuvo Network Inc. or affecting the Nuvo Property are hereby stayed and suspended pending further order of this Court.

13. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceeding shall be commenced or continued against or in respect of Shawn Saulnier or Bridget Saulnier (the “**Saulniers**”) or any of their current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the “**Saulnier Property**”), arising upon or as a result of any default under the terms of any document entered into in connection with any of the Saulniers’ guarantees of any of the commitments or loans of the Applicant (collectively, the “**Saulnier Default Events**”). Without limitation, the operation of any provision of a contract or agreement between the Saulniers and any other Person (as hereinafter defined) that purports to effect or cause a termination or

cessation of any rights of the Saulniers, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Saulnier Default Events, is hereby stayed and restrained during the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of Nuvo Network Inc. (or affecting the Nuvo Property) or the Saulniers (or affecting the Saulnier Property) as a result of a Saulnier Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower Nuvo Network Inc. or the Saulniers to carry on any business which Nuvo Network Inc. or the Saulniers are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or leave of this Court, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right,

contract, agreement, lease, sublease, licence or permit in favour of or held by (i) the Applicant, (ii) Nuvo Network Inc. or (iii) any other party as a result of a Saulnier Default Event.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be

liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

21. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$50,000 as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 34 and 36 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that Richter Advisory Group Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination of financial and other information to the DIP Lender and its counsel as may reasonably be requested by the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicant.

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

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 34 and 36 hereof.

FINANCING DURING THE 10 DAY STAY PERIOD

32. **THIS COURT ORDERS** that Meridian Credit Union Limited ("**Meridian**") shall provide \$220,000 in financing under the existing credit facility set out in the Credit Agreement between Meridian and the Applicant on the following terms:

- (a) \$100,000 for the professional fees of the Applicant incurred during the Stay Period;
- (b) \$50,000 for the Applicant's payroll obligations that arise during the Stay Period; and
- (c) \$70,000 for the Applicant's miscellaneous expenses that are reasonably necessary for the continued operations of the Applicant in the ordinary course of business during the Stay Period, including but not limited to maintenance, security, and cleaning/snow removal.

33. **THIS COURT ORDERS** that Meridian shall provide the \$220,000 in financing to either the Monitor or the Monitor's counsel by no later than 5:00 p.m. on Thursday, February 27, 2020.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

34. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$250,000); and

Second - Directors' Charge (to the maximum amount of \$50,000).

35. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

36. **THIS COURT ORDERS** that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

37. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or the Administration Charge unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

38. **THIS COURT ORDERS** that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

40. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in Globe & Mail (national edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

41. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL <<https://www.richter.ca/insolvencycase/2607380-ontario-inc/>>.

42. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

43. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

SEALING

44. **THIS COURT ORDERS** that the April 2019 Valuation, as described in the Saulnier Affidavit, is hereby sealed and shall not form part of the public record until further order of the Court.

GENERAL

45. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

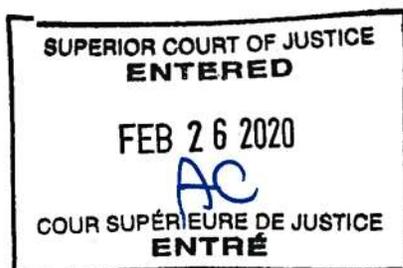
46. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

47. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

48. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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



A handwritten signature in blue ink, appearing to read "Counsellor", written over a horizontal line.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 2607380 ONTARIO INC.

Court File No.: CV-20-00636875-00CL

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

INITIAL ORDER

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APPENDIX “B”

RICHTER

Court File No.: _____

2607380 ONTARIO INC.

**REPORT OF RICHTER ADVISORY GROUP INC.,
IN ITS CAPACITY AS PROPOSED MONITOR**

FEBRUARY 24, 2020

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APPENDIX "A" – Richter's consent to act as Monitor

APPENDIX "B" – Cash Flow Forecast for the period February 24, 2020 to May 24, 2020

Court File No.: _____

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
2607380 ONTARIO INC.**

**REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS PROPOSED MONITOR**

FEBRUARY 24, 2020

I. INTRODUCTION

1. Richter Advisory Group Inc. (“**Richter**” or the “**Proposed Monitor**”) understands that 2607380 Ontario Inc. (“**Nuvo**” or the “**Applicant**”) will make an application before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) returnable on February 25, 2020 (the “**Filing Date**”), seeking an initial order (the “**Proposed Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the “**CCAA**”) to obtain a stay of proceedings in favour of the Applicant until an anticipated date of March 5, 2020 (the “**Stay Period**”) and to seek other related relief with a view to allowing Nuvo an opportunity to restructure its business and affairs. The Applicant’s CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. The Proposed Initial Order contemplates that Richter be appointed as Monitor of the Applicant in the CCAA Proceedings (in such capacity, the “**Monitor**”).
3. Unless otherwise stated, all monetary amounts referred to herein are expressed in Canadian dollars.

II. PURPOSE OF REPORT

4. This report (the “**Report**”) has been prepared by Richter, in its capacity as Proposed Monitor of the Applicant in the CCAA Proceedings. Richter has reviewed the court materials to be filed by the Applicant in support of its application. The purpose of the Report of the Proposed Monitor is to provide information to the Court regarding the following:
 - (i) Richter’s qualifications to act as Monitor;
 - (ii) a summary of certain background information on the Applicant, including its corporate history, business operations, financial position and creditors;
 - (iii) the Applicant’s decision to commence the CCAA Proceedings and to seek a stay of proceedings against Nuvo, Nuvo Network Inc. (“**Nuvo Network**”), an affiliate of the Applicant, and Shawn Saulnier and Bridget Saulnier (together, the “**Saulniers**”), in connection with any guarantees they have made in support of any of the commitments or debt obligations of the Applicant (collectively, the “**Saulnier Guarantees**”);
 - (iv) the Applicant’s 13-week cash flow forecast (the “**Cash Flow Forecast**”) for the period from February 24, 2020 to May 24, 2020 (the “**Forecast Period**”);
 - (v) a summary of the Applicant’s process to solicit debtor-in-possession (“**DIP**”) financing;
 - (vi) the Applicant’s request that it be authorized and empowered to obtain interim financing, including the terms of a DIP non-revolving credit facility pursuant to a DIP Facility Agreement dated February 24, 2020 (the “**DIP Facility Agreement**”). The DIP Facility Agreement provides for a DIP credit facility of up to a

- maximum amount of \$7,180,000 (the “**DIP Facility**”), which is to have an interim borrowing limit of \$700,000 (the “**Interim DIP Facility**”) until the return date of the Comeback Motion (as defined below);
- (vii) an overview of the Applicants intention to request relief in its Comeback Motion (as defined below) in respect of arrangements regarding certain pre-filing construction costs;
 - (viii) the charges proposed in the Initial Order;
 - (ix) an overview of the Monitor’s additional proposed powers;
 - (x) an update on the Applicant’s intention to return to the Court for a motion (the “**Comeback Motion**”) seeking various other relief; and
 - (xi) the Proposed Monitor’s conclusions and recommendations.

III. DISCLAIMER AND TERMS OF REFERENCE

5. Capitalized terms not otherwise defined herein are as defined in the Applicant’s application materials, including the affidavit of Mr. Shawn Saulnier sworn February 24, 2020 (the “**Saulnier Affidavit**”) filed in support of Nuvo’s application for relief under the CCAA. This Report should be read in conjunction with the Saulnier Affidavit, as certain information contained in the Saulnier Affidavit has not been included herein in order to avoid unnecessary duplication.
6. In preparing this Report, the Proposed Monitor has relied upon certain unaudited, draft, and/or internal financial information of the Applicant, the Applicant’s books and records and discussions with various parties, including Nuvo’s advisors, employees and certain of its directors (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* (the “**Handbook**”). In addition, the Proposed Monitor has not conducted an examination or review of any financial forecast and projections in a manner that would comply with GAAS or the procedures described in the Handbook. Accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

IV. RICHTER’S QUALIFICATIONS TO ACT AS MONITOR

7. Richter was engaged by Nuvo in January 2020 to provide consulting services and to assist Nuvo in developing and reviewing various strategic options. Accordingly, Richter is familiar with Nuvo’s business and financial affairs and is in a position to immediately assist the Applicant in its CCAA Proceedings.

8. Richter is a licensed insolvency trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). Richter is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA and, in particular, neither Richter nor any of its representatives has been at any time in the two preceding years;
 - (i) a director, an officer or an employee of the Applicant;
 - (ii) related to the Applicant or to any director or officer of the Applicant; or
 - (iii) the auditor, accountant or legal counsel, or a partner or employee of the auditor, accountant or legal counsel of the Applicant.
9. Richter has consented to act as Monitor, should the Court grant the Applicant’s request to commence the CCAA Proceedings. A copy of Richter’s consent to act as Monitor is attached as **Appendix “A”**.

V. EXECUTIVE SUMMARY

10. The Applicant is a commercial real estate development and leasing company located at 1295 North Service Road, Burlington, Ontario (the “**Nuvo Property**”). The Applicant is indebted to mortgagees in the aggregate amount of approximately \$24.7 million, before certain liens, interest, costs and fees, which continue to accrue.
11. The Applicant does not have sufficient liquidity to continue to fund its operations. As at the date of this Report, the aggregate of the Applicant’s combined bank account balances shows a cash deficit of approximately \$18,000, and as such, Nuvo cannot pay its obligations as they come due.
12. A portion of the Nuvo Property is currently under construction. Upon completion of construction, the Nuvo Property is estimated to have equity value as per the most recent appraisal dated April 25, 2019 (the “**April 2019 Appraisal**”).
13. Certain of the Applicant’s mortgages are now in default. The Proposed Monitor understands that this is due to previously expected funds not being made available to the Applicant. This lack of funding has significantly hindered Nuvo’s ability to complete construction on the Nuvo Property, which in turn has delayed the opportunity to maximize rental income.
14. To improve Nuvo’s current liquidity position, complete the construction of the Nuvo Property, and maximize the value for all stakeholders, the Applicant requires protection under the CCAA.

15. As noted in the Saulnier Affidavit, after completing construction on the Nuvo Property the Applicant intends to conduct a court-supervised sale and investment solicitation process (“**SISP**”) in respect of the Nuvo Property at a later date to canvas refinancing and/or sales opportunities, if approved by the Court.
16. The Initial Order contemplates that the Proposed Monitor, its counsel and the Applicant’s counsel would be provided a super-priority first-ranking charge over the Nuvo Property (the “**Administration Charge**”).
17. The Applicant, with the support of Richter, has also arranged for the DIP Facility and Interim DIP Facility to fund the CCAA Proceedings. The DIP Facility and Interim DIP Facility each contemplate having a super-priority charge on the Nuvo Property for advances made to the Applicant during the CCAA Proceedings, subordinate only to the Administration Charge (the “**DIP Charge**”). The Interim DIP Facility is critical to enable the Applicant to meet its immediate urgent cashflow needs pending the Comeback Motion.
18. The Proposed Monitor understands that it is the Applicant’s intention to return to the Court for the Comeback Motion within 10 days of the Filing Date. Until the return date of the Comeback Motion, the DIP Facility has been limited to the Interim DIP Facility. An increase from the Interim DIP Facility to the DIP Facility is to be sought at the Comeback Motion.

VI. OBJECTIVES OF CCAA PROCEEDINGS

19. The primary objectives of the CCAA Proceedings are to: (i) ensure the ongoing operations of Nuvo; (ii) ensure Nuvo has the necessary working capital to continue operations and fund the costs to complete the remaining construction at the Nuvo Property (the “**Funding Requirement**”); and (iii) complete a refinancing or transaction arising from a future SISP. The approval of a SISP, subject to the granting of the Initial Order, will be sought by the Applicant at a later date upon the successful completion of the remaining construction on the Nuvo Property.

VII. GENERAL BACKGROUND TO THE PROPOSED CCAA PROCEEDINGS

20. Information with respect to the Applicant’s business, operations and causes of insolvency are detailed extensively in the Saulnier Affidavit. The information contained herein represents only a summary of the background to the information contained in the Saulnier Affidavit.
21. The Applicant is incorporated under the *Business Corporations Act* (Ontario). It is in the business of development and operation of a multi-purpose commercial building which leases space to studio productions, small and large-scale conferences, business meeting and co-working flexible office space arrangements.
22. Mr. Saulnier is the sole director and 100% shareholder of Nuvo.

Nuvo

23. Nuvo owns the Nuvo Property and manages its leases and studio and event rental spaces.
24. Nuvo currently employs nine (9) full-time employees (the “**Nuvo Employees**”) and engages eight (8) independent contractors in connection with the management and operation of the Nuvo Property. The Nuvo Employees are not unionized and Nuvo does not sponsor any pension or other post employment benefits plans for the Nuvo Employees.

Nuvo Network Inc.

25. Nuvo Network was incorporated for the purpose of being the operating entity for the Applicant. It has no assets, employees or operations. The intention was to migrate the Nuvo Employees and all of Nuvo’s leases to this entity. However, this had not yet occurred as of the Filing Date.
26. The Proposed Monitor understands that as of the date of this Report, certain of the leases pertaining to the Nuvo Property are in the name of Nuvo Network as the landlord (the “**Nuvo Network Leases**”). As outlined in the Saulnier Affidavit, the Proposed Monitor understands that all rental income from the Nuvo Network Leases (the “**Nuvo Network Income**”) flows to Nuvo.
27. During the course of the CCAA Proceedings, it is the Proposed Monitor’s understanding that the Nuvo Network Income will continue to flow to Nuvo. Accordingly, the Cash Flow Forecast reflects this ongoing stream and for the use of the Nuvo Network Income to be used for the benefit of the Applicant in the CCAA Proceedings.
28. Nuvo Network’s principal liability is a pledge of its shares as collateral security in connection with a loan made to an affiliate (the “**Nuvo Network Security**”). Nuvo is seeking to extend the stay of proceedings to Nuvo Network to avoid steps being taken against Nuvo Network in respect of the Nuvo Network Security, which could trigger an insolvency event in Nuvo Network and could interfere with or undermine Nuvo’s restructuring efforts by depriving the Applicant of the Nuvo Network Income.

The Nuvo Property

29. The Applicant’s primary asset is the Nuvo Property. As discussed above, it is owned by Nuvo and comprises real property situated on approximately 4.9 acres of land in a commercial office neighbourhood of Burlington, Ontario, and an approximately 140,000 square foot building, designed for commercial office space, production facilities and event spaces.

30. The Nuvo Property was purchased in March 2018 for \$19 million (the “**Nuvo Acquisition**”) from Crossroads Christian Communications Inc. (“**CCCI**”), a media production company and current tenant at the Nuvo Property. As discussed on more detail below, CCCI is also a secured lender of the Applicant.
31. At the time of the Nuvo Acquisition, the Nuvo Property was underutilized, with only 99,0000 square feet of leasable space. Nuvo acquired the Nuvo Property with the intention to renovate the building immediately and transform it from a single purpose building to a multi-use, multi-tenant rental and business operation, complete with offices, meeting rooms, co-working spaces, a banquet hall, multiple event spaces, a stage for music events, several production studios and on-site kitchen and restaurant.
32. On November 1, 2017, Nuvo entered into an agreement with Maple Reinders Inc. (“**Maple Reinders**”), to act as general contractor in respect of the proposed renovations of the Nuvo Property (the “**Nuvo Renovations**”). Subsequently, Maple engaged certain subcontractors (the “**Subcontractors**”) on behalf of the Applicant, to carry out work on the Nuvo Renovations. The Applicant began the first of two phases of the Nuvo Renovations in the first half of 2018. The Proposed Monitor further understands that, as of the Filing Date, a substantial portion of the first phase of renovations is complete, however, in addition to approximately half of the second phase, partial work on the first phase remains outstanding.
33. The Proposed Monitor understands from Maple Reinders that as of January 27, 2020, the remaining estimated cost of completion in connection with the Nuvo Renovations (the “**Cost to Complete**”) is approximately \$4.1 million (including approximately \$2.1 million of construction cost arrears owing to Maple). The remaining construction to complete the Nuvo Renovations is expected to take approximately five (5) to six (6) months.
34. The Proposed Monitor understands that, as of the Filing Date, the Nuvo Property contains 86 rental spaces available for lease, along with four (4) common area meeting rooms. According to the Saulnier Affidavit, as of the Filing Date, 85% of the office spaces, 57% of the studio spaces and 23% of the event rental spaces are leased. The Proposed Monitor understands that, as of the Filing Date, rentable spaces representing approximately 49,618 square feet are under construction.
35. The Proposed Monitor understands that, based on the April 2019 Appraisal and the financial information provided to the Proposed Monitor by the Applicant to date, upon completion of the Nuvo Renovations, there is equity value in the Nuvo Property. According to the Saulnier Affidavit, the April 2019 Appraisal, which assumes that the Nuvo Renovations are complete, valued the Nuvo Property at an amount that exceeds Nuvo’s obligations to its lenders. The Proposed Monitor has not conducted an appraisal of the property nor requested an update of the third-party appraisals as at the date of this Report. A copy of the April 2019 Appraisal will be filed with the Court under seal

in order to protect the integrity of any SISP process that may be undertaken in respect of the Nuvo Property at a later date.

Historical Financial Results

36. Attached as Exhibit “B” and “C” in the Saulnier Affidavit are copies of Nuvo’s fiscal 2019 unaudited balance sheet and income statement, respectively. Set out below is a summary of Nuvo’s unaudited income statement for the fiscal period ending December 31, 2019:

2607380 Ontario Inc. Historical Financial Results For the Fiscal Year Ended 31 December 2019 (in \$000's, unaudited)	
Total Revenue	
Rental Income	2,579
Other Income	200
Total Income	2,779
Operating Expenses	(3,066)
Net Operating Profit / (Loss)	(287)
Finance Costs	(1,547)
Net Profit / (Loss)	(1,834)
<i>Source: Information provided by the Applicant</i>	

37. As detailed above, Nuvo experienced a net loss during fiscal 2019 of approximately \$1.8 million, due, in large part, to the ongoing construction, which inhibited Nuvo from leasing a significant portion of the Nuvo Property. The Proposed Monitor understands that the losses experienced during fiscal 2019 have created a liquidity crisis for the Applicant. Consequently, the Applicant has defaulted on certain of its obligations to secured lenders, including missing scheduled interest payments.

38. Set out below is Nuvo's unaudited balance sheet as at December 31, 2019:

2607380 Ontario Inc.			
Balance Sheet			
As of December 31, 2019			
(in \$000's, unaudited)			
Current Assets		Current Liabilities	
Cash & Cash Equivalents	(496)	Accounts Payable	2,515
Accounts Receivable (Net)	17	Accrued Expenses	224
Prepaid Expenses & Other Current Assets	30	Other Current Liabilities	172
Total Current Assets	(449)	Total Current Liabilities	2,911
Non-Current Assets		Long-Term Liabilities	
Property, Plant & Equipment (Net)	25,643	Long-Term Debt	24,494
Other Long-Term Assets	302	Intercompany Loans	985
Other Intangible Assets (Net)	-	Other Long-Term Liabilities	(610)
Total Non-Current Assets	25,945	Total Long-Term Liabilities	24,869
		Total Shareholders' Equity	(2,284)
Total Assets	25,496	Total Liabilities & Shareholders' Equity	25,496
<i>Source: Information provided by the Applicant</i>			

39. As presented above, Nuvo had total assets of approximately \$25.5 million at book value, as at December 31, 2019. The majority of Nuvo's assets comprise the Nuvo Property. Nuvo's total liabilities as at December 31, 2019 were approximately \$27.8 million at book value, the majority of which relates to obligations owing to its secured lenders. As at December 31, 2019, the book value of Nuvo's total liabilities exceeded the book value of its total assets.

40. Given that Nuvo Network was set up to be an operating company upon completion of the Nuvo Property and currently has no assets, operations or employees of its own, the Proposed Monitor has not separately reported Nuvo Network's financial position or results herein.

41. As at January 31, 2020, Nuvo had secured liabilities totalling approximately \$26.8 million to: Meridian Credit Union (“**Meridian**”), CCCI, Bridging Finance Inc. (“**Bridging**”), Maple Reinders and Barrie Glass & Mirror Ltd. (“**Barrie**”), summarized as follows:

2607380 Ontario Inc.			
Estimated Secured Debt on Nuvo Property			
(in \$000's; unaudited)			
	Principal	Interest Accrued	Total
Secured Lenders			
Meridian Credit Union	17,141	200	17,341
Christian Crossroads Communications Inc.	4,500	-	4,500
Bridging Finance Inc.	2,577	251	2,828
Total Secured Lender Debt	24,218	451	24,669
Construction Liens			
Maple Reinders Inc.	1,868		1,868
Barrie Glass & Mirror Ltd.	90		90
Total Lien Amount	1,958		1,958
Total Secured Debt on Property	26,176	451	26,627

Note: Not included in the Total Lien Amount is interest owing to Maple Reinders Inc. of approximately \$154,000.

42. The above information has been provided by the Applicant and the Proposed Monitor has not yet had an opportunity to review the security. The Proposed Monitor has instructed its independent legal counsel, Bennett Jones LLP (“**Bennett Jones**”) to review the security of Meridian, CCCI, Bridging, Maple and Barrie. The Monitor intends to report to the Court the results of Bennett Jones’ security review after it has been completed.

Meridian

43. As set out in the Saulnier Affidavit, Nuvo and Meridian entered into a credit agreement dated March 13, 2018 (the “**Meridian Credit Agreement**”) for the purpose of funding the Nuvo Acquisition and partial renovation of the Nuvo Property (the “**Original Meridian Loan**”), and eventually, upon the completion of construction on the Nuvo Property, to obtain long-term take-out financing for the Nuvo Property, with more economical terms (the “**Take-Out Financing Meridian Loan**”). A copy of the Meridian Credit Agreement is attached as Exhibit “D” to the Saulnier Affidavit.
44. To secure its obligations under the Meridian Credit Agreement, Nuvo granted various security to Meridian, including (i) a first-ranking collateral mortgage against the Nuvo Property, up to a maximum amount of \$23 million (the “**Meridian Charge**”), (ii) guarantees, both personally from Mr. Saulnier and from entities controlled by Mr. Saulnier, (iii) a general assignment of rents with respect to the Nuvo Property and (iv) a general security agreement in all of Nuvo’s present and after-acquired personal property.

45. The Proposed Monitor understands that, as a result of certain defaults under the Meridian Credit Facility, Meridian and Nuvo entered into a forbearance agreement, as amended, dated June 14, 2019 (the “**First Meridian Amendment and Forbearance Agreement**”), pursuant to which Meridian agreed to forbear from exercising its rights under the Meridian Credit Facility until August 31, 2019 (the “**Forbearance Period**”). The First Meridian Amendment and Forbearance Agreement amended the Meridian Credit Agreement by removing the Take-Out Financing Loan and adding a new facility (the “**New Facility**”) in the amount of \$2.5 million to finance a portion of the Cost to Complete. Pursuant to the First Meridian Amendment and Forbearance Agreement, all amounts owing under the Original Meridian Loan and the New Facility, were to become repayable in full on or before July 16, 2020 (the “**Repayment Date**”). A copy of the First Meridian Amendment and Forbearance Agreement is included as Exhibit “H” to the Saulnier Affidavit.
46. In addition to the above, the First Meridian Amendment and Forbearance Agreement imposed certain conditions on Nuvo, including (i) the engagement of an independent party to monitor and report on construction costs and activity, (ii) the preparation of a detailed construction budget and cash flow statement setting out the construction costs for the Nuvo Property, (iii) increased frequency of financial reporting to Meridian, and (iv) a covenant not to further encumber the Nuvo Property without Meridian’s prior consent.
47. In an effort to complete the Nuvo Renovations, the Proposed Monitor understands that, at or around summer 2019, Nuvo sought additional financing to fund the Cost to Complete. As detailed in the Saulnier Affidavit, Nuvo approached twelve (12) parties that expressed an interest in potentially providing construction financing to Nuvo. Ultimately, the Applicant entered into a term sheet with one (1) party (the “**Interested Party**”). The proposed terms put forward by the Interested Party would have provided sufficient financing to fund the Cost to Complete of the Nuvo Renovations and also paid the remaining balance owing towards the Bridging Facility (as hereinafter defined) (the “**Proposed Refinancing**”). The Interested Party requested a third-ranking collateral charge on the Nuvo Property, behind the Meridian Charge and the CCCI Charge (as hereinafter defined). Meridian declined to consent to the Proposed Refinancing, so the financing from the Interested Party did not proceed.
48. On August 14, 2019, following further discussions regarding the terms under which Meridian would advance funds to Nuvo to finance a portion of the Cost to Complete, the parties agreed to amend the First Meridian Amendment and Forbearance Agreement (the “**Second Meridian Amendment and Forbearance Agreement**”), extending the Forbearance Period to October 31, 2019. The Proposed Monitor understands that the terms of the Second Meridian Amendment and Forbearance Agreement were substantially the same as the First Meridian Amendment and Forbearance Agreement, however, the Repayment Date was changed to July 31, 2020 (from July 16, 2020) and Nuvo was required to confirm that an equity injection of approximately \$0.7 million would be made to cover the remaining portion of the Cost to Complete, which, at that time, were estimated at approximately

\$3.2 million. A copy of the Second Meridian Amendment and Forbearance Agreement is included as Exhibit “1” to the Saulnier Affidavit.

49. The Proposed Monitor understands that no additional construction financing has been advanced by Meridian to Nuvo since executing the Second Meridian Amendment and Forbearance Agreement.
50. In January 2020, Nuvo, with the assistance of its counsel, Stikeman Elliott LLP (“**Stikeman**”) and Richter, in its capacity as consultant to Nuvo, sought to reach an agreement with Meridian to provide the Applicant with the Funding Requirement to complete the Nuvo Renovations.
51. The Applicant, with the assistance of Richter, prepared, for the benefit of Nuvo and Meridian, a cash flow forecast (the “**Forecast**”) for the period January 18, 2020 to December 31, 2020, setting out an estimate of the Funding Requirement. The Forecast was prepared on the basis that Nuvo did not enter CCAA proceedings. On January 22, 2020, Richter, on behalf of Nuvo, delivered the Forecast to Meridian’s counsel, Gowling WLG (Canada) LLP (“**Gowlings**”).
52. On February 4, 2020, following a review of the Forecast and discussions with the Applicant, Meridian and their respective legal counsel, Gowlings issued correspondence (via e-mail) to Stikeman and Richter outlining Meridian’s non-binding preliminary draft further forbearance terms and provisions (the “**Proposed Meridian Terms**”), subject to ongoing review by Meridian’s credit committee. The Proposed Meridian Terms were updated subsequently, however, at no time did Meridian confirm that credit committee approval was obtained or that the Proposed Meridian Terms, which were a precondition to the requested additional financing, were a complete list of terms.
53. The Proposed Monitor understands the Applicant is of the view that the Proposed Meridian Terms, as had been presented to date, were in any event, commercially unfeasible and inadequate to meet the Funding Requirement of Nuvo and did not provide the Applicant with sufficient liquidity to meet its obligations as they became due and complete the construction of the Nuvo Property. In addition, Nuvo was not provided with any certainty that any additional financing was in fact being provided by Meridian, or on a timely basis.
54. The Proposed Monitor understands that, as at January 31, 2020, Meridian is owed approximately \$17.3 million from Nuvo pursuant to the Meridian Credit Agreement.

CCCI

55. The Proposed Monitor understands that CCCI holds a second-ranking registration charge (the “**CCCI Charge**”) on the Nuvo Property for a principal amount of \$4.5 million (the “**CCCI Loan**”). The CCCI Charge was granted on

January 23, 2018, in the form of a vendor take-back mortgage and does not bear interest until January 2022. The CCCI Loan is repayable, in full, in January 2023.

Bridging

56. The Proposed Monitor understands that, on March 20, 2018, Nuvo entered into a commitment letter with Bridging for a loan to provide additional financing for the Nuvo Acquisition, up to a maximum principal amount of \$2.5 million (the “**Bridging Facility**”). A copy of the Bridging Facility is included as Exhibit “K” to the Saulnier Affidavit. As discussed in the Saulnier Affidavit, the Proposed Monitor further understands that Nuvo approached Bridging for additional Nuvo Acquisition financing, as, prior to the closing of the Nuvo Acquisition, Meridian reduced the level of financing it was willing to provide.
57. To secure the obligations under the Bridging Facility, Nuvo granted Bridging various security, including (i) a third ranking charge on the Nuvo Property (the “**Bridging Charge**”) (ii) a general security interest in all the present and after acquired property of Nuvo, and (iii) guarantees of Mr. Saulnier personally, as well as from certain entities controlled by Mr. Saulnier.
58. The Proposed Monitor understands that, since July 2019, no payments have been made by Nuvo to Bridging as contemplated under the Bridging Facility. Accordingly, Nuvo is currently in default of its obligations to Bridging.
59. As outlined in the Saulnier Affidavit, the Proposed Monitor understands that Bridging is owed approximately \$2.8 million in connection with the Bridging Facility as at the date of this Report.

Standstill Agreement

60. The Proposed Monitor understands that, in connection with the Nuvo Acquisition, Meridian, CCCI and Bridging executed a standstill agreement, which was amended on August 16, 2019 pursuant to an Amended and Restated Priority, Postponement and Standstill Agreement (the “**Standstill Agreement**”), setting out the relative priorities of their security over the Nuvo Property, which is summarized as follows:

Rank	Charge
First	The Meridian Charge, up to the amount of \$20,735,000 (the “ Meridian Limited Indebtedness ”); and the CCCI Charge, over all amounts in excess of the Meridian Limited Indebtedness.
Second	The Meridian Charge, any amounts in excess of the Meridian Limited Indebtedness.
Subordinate	The Bridging Charge.

61. A copy of the Standstill Agreement is included as Exhibit “N” to the Saulnier Affidavit.
62. In addition to the above, and as set out in the Saulnier Affidavit, the Standstill Agreement sets out certain conditions/restrictions on CCCI and Bridging with respect to enforcing on their security against the Nuvo Property.

Construction Liens

63. The Proposed Monitor understands, as noted in the Saulnier Affidavit, that there are two (2) liens registered against the Nuvo Property. The Proposed Monitor has not yet had an opportunity to review these liens and has instructed Bennett Jones to do so, as part of its review of the security registered against the Applicant’s property. The liens are summarized as follows:

- (i) Maple registered a construction lien on November 25, 2019, in the amount of \$1,867,942.79 (the “**Maple Lien**”), relating to amounts owing for construction work carried out on the Nuvo Property; and
- (ii) Barrie, a subcontractor of Maple, registered a construction lien on December 16, 2019, in the amount of \$89,543.93 (the “**Barrie Lien**”) for arrears of payment for glasswork on the Nuvo Property.

Unperfected Security Interest

64. The Proposed Monitor understands that, pursuant to a July 18, 2019 Letter of Commitment (the “**Letter of Commitment**”) , Celernus Investment Partners Inc. (“**Celernus**”) provided a loan in the amount of \$2.5 million (as amended, the “**Celernus Loan**”) to Nuvo, Mr. Saulnier and his wife Bridget Saulnier, and two other entities controlled by Mr. Saulnier, as joint borrowers (collectively, the “**Celernus Borrowers**”). The amount of the Celernus Loan was increased to \$2.75 million with the inclusion of an interest reserve on or around July 23, 2019. The Proposed Monitor understands that Nuvo obtained the Celernus Loan in order to meet the equity injection terms of the Second Meridian Amendment and Forbearance Agreement. The Celernus Loan carries annual interest at 15% and had a maturity date of February 1, 2020. The Proposed Monitor understands that no interest or principal repayments relating to the Celernus Loan have been made as at the date of this Report. According to the Applicant’s records, as of January 31, 2020, \$2.75 million is owing on the Celernus Loan.
65. Pursuant to the Saulnier Affidavit, the Celernus Loan was guaranteed, in full, by each of the Celernus Borrowers. The Celernus Loan holds charges over a number of properties and entities controlled by Mr. Saulnier. The Proposed Monitor understands however, that although a charge against the Nuvo Property in respect of the Celernus Loan was contemplated on a best commercial effort basis, no such charge was ever registered. The Letter of Commitment in respect of the Celernus Loan is attached to the Saulnier Affidavit as Exhibit “O”.

Unsecured Creditors

66. In addition to the amounts owing by Nuvo to Meridian, CCCI, Bridging, Maple, Barrie and Celernus, the Applicant estimates that it has accrued and unpaid unsecured obligations totaling approximately \$0.6 million (excluding intercompany and related party indebtedness). The Applicant is in the process of updating its books and records and, accordingly, the amount of these obligations may need to be updated in a future Monitor's report.

VIII. DECISION TO COMMENCE CCAA PROCEEDINGS

67. The Applicant is facing a liquidity crisis. It is without the funds required to honour its obligations to its secured lenders, pay Maple to recommence construction or fund operations, including payroll or utilities and other basic needs associated with the Nuvo Property. In addition, given its liquidity situation, the Applicant has been unsuccessful in securing any new financing.

68. The relationships between Applicant and its creditors have become frustrated. The Proposed Monitor understands that Meridian and Bridging have threatened to take enforcement actions against Nuvo in order to protect their security, and other parties, including Celernus, have threatened litigation in order to recover on amounts owing from Nuvo.

69. In addition to the foregoing, as outlined in the Saulnier Affidavit, the Proposed Monitor understands that as at the Filing Date, amounts remain owing to Maple in respect of work performed by the Subcontractors in connection with the Nuvo Renovations. Accordingly, the Applicant is now in default of its obligations under its agreements with Maple in respect of the Subcontractors (the "**Subcontractor Agreements**"). The Proposed Monitor understands that as at the date of this Report, no Subcontractor Agreements have been cancelled. Notwithstanding the foregoing, any cancellation of the Subcontractor Agreements is likely to delay the expected completion date of the Nuvo Renovations and could result in the Cost to Complete increasing considerably.

70. The Proposed Monitor understands that, upon completion of construction of the Nuvo Property, the Applicant's liquidity situation and overall enterprise value is projected by Nuvo to improve significantly, based on the April 2019 Appraisal. In the circumstances, the Applicant is seeking protection under the CCAA to enable it the necessary breathing room to pursue its restructuring, including completing construction on the Nuvo Property, seeking new financing and running a SISP, if approved by the Court, for the purposes of maximizing value for all stakeholders.

IX. OVERVIEW OF THE CASH FLOW FORECAST

71. The Applicant, in consultation of the Proposed Monitor, prepared the Cash Flow Forecast for the purpose of projecting the Applicant's estimated liquidity needs during the Forecast Period. A copy of the Cash Flow Forecast is attached as **Appendix "B"** to this Report and is summarized below:

2607380 Ontario Inc.	
13-Week Cash Flow Forecast	
For the Period February 24, 2020 - May 24, 2020	
(in \$000's; unaudited)	
Receipts	
Rental, Studio & Event Income	571
Other Income	45
Total Receipts	616
Disbursements	
Personnel Expenses	196
Professional Fees	639
Operating Expenses	539
Construction Costs	3,356
DIP Lender Interest & Costs	333
Meridian & Bridging Interest Costs	254
Total Disbursements	5,317
Net Cash Flow	(4,701)
Opening Cash (Deficit)	(18)
DIP Drawdown	4,850
Ending Cash (Deficit)	131

72. As at February 24, 2020, the aggregate of the Applicant's combined bank account balances shows a cash deficit of approximately \$18,000. The Cash Flow Forecast projects that the Applicant will experience a net cash outflow of approximately \$4.7 million (before any DIP drawdown) over the Forecast Period, comprised of:
- (i) cash receipts of approximately \$0.6 million, primarily related to the collection of rent from existing leases; and
 - (ii) cash disbursements of approximately \$5.3 million, primarily related to construction costs, interest and fees in connection with the DIP Facility, personnel costs, operating expenses and debt service to Meridian and Bridging, as well as the payment of certain pre-filing expenses (as discussed below) and the costs of the CCAA Proceedings.

73. The Cash Flow Forecast projects outflows of approximately \$3.4 million during the Forecast Period in connection with the Nuvo Renovation. The remaining balance of approximately \$0.7 million in respect of the Cost to Complete is anticipated to be incurred outside the Forecast Period.
74. The Cash Flow Forecast projects borrowings under the:
- (i) Interim DIP Facility in the amount of \$700,000 to fund any costs incurred, or to be incurred, in connection with these proceedings until the return date of the Comeback Motion, at which time it is intended that the approval of the full amount of the DIP Facility will be sought; and
 - (ii) DIP Facility of \$4.2 million for the remainder of the Forecast Period.
75. As evidenced by the Cash Flow Forecast, without access to interim financing, the Applicant lacks sufficient liquidity to maintain operations. The Interim DIP Facility and DIP Facility is expected to provide the Applicant with sufficient funding until the return date of the Comeback Motion and during the remainder of the Forecast Period, respectively, to ensure continued operations during the CCAA Proceedings.
76. The Cash Flow Forecast has been prepared by the Applicant on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. The Cash Flow Forecast reflects the Applicant's estimates of receipts and disbursements on a weekly basis over the Forecast Period.
77. The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals' standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a monitor's report on the Cash Flow Forecast.
78. Pursuant to this standard, the Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to it by certain key members of management and employees of the Applicant. Since the probable and hypothetical assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposed Monitor also reviewed the support provided by the Applicant for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.

79. Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, that:
- (i) the probable and hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
 - (ii) as at the date of this report, the probable and hypothetical assumptions are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Cash Flow Forecast, given the probable and hypothetical assumptions; or
 - (iii) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
80. Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the probable and hypothetical assumptions occur, and the variation could be material. Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Proposed Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Cash Flow Forecast or relied upon by the Proposed Monitor in preparing this report.
81. The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate or relied upon for any other purpose.

X. DIP LENDER SELECTION PROCESS

82. The Applicant's continuing losses and lack of access to planned financing have significantly eroded its liquidity, leaving it without funds to operate or restructure. As noted above, based on the Cash Flow Forecast, the Applicant will require immediate interim financing to continue operations and implement its restructuring initiatives.
83. As shown in the Cash Flow Forecast, it is estimated that, commencing immediately and for the duration of the Forecast Period, the Applicant will require additional financial support in the amount of approximately \$4.9 million. Accordingly, the ability to borrow additional funds, in the form of a Court-approved debtor-in-possession facility, secured by the DIP Charge, is vital to providing the stability to, and the necessary cash flow for, Nuvo's business, so that its value can be preserved while the Applicant pursues its restructuring plan.
84. The Proposed Monitor consulted with the Applicant on its marketing process to seek DIP financing. The Applicant marketed the DIP financing externally and to other potential lenders.

85. The Applicant had previously engaged the services of a Toronto based merchant bank providing advisory services to the Canadian real estate industry to assist in its search for refinancing for the Applicants and other ventures. During the course of the Applicant's canvas for DIP financing, its investment banker also pursued potential options.
86. In total, non-disclosure agreements ("**NDA**s") were issued to six (6) parties whom expressed an interest in providing DIP financing to the Applicant during the CCAA Proceedings (the "**Initial Interested Parties**"). The Applicant received five (5) executed NDAs from the Initial Interested Parties.
87. Three (3) of the Initial Interested Parties submitted conditional term sheets to provide DIP financing to the Applicant during the CCAA Proceedings (the "**Conditional Term Sheets**"). In its assessment of the Conditional Term Sheets, the Applicant considered the term sheet submitted by the DIP Lender (as hereinafter defined) to be the most advantageous proposal of those offered, as it provided sufficient liquidity and time to complete the construction on the Nuvo Property and implement a planned SISP. An initial term sheet was signed by the Applicants and the DIP Lender on February 14, 2020, subject to due diligence by the DIP Lender.
88. The Proposed Monitor is of the view that the Applicant has made commercially reasonable attempts, in short order, to solicit DIP term sheets from at least six lenders, including, but not limited to, the Initial Interested Parties. Attempting to solicit additional DIP term sheets from even more lenders would have required a great deal of time and expense and there was no material commercial advantage to pursuing other financing options, nor does the Applicant have the time to pursue other options. The Applicant has further advised the Proposed Monitor that, in its view, the DIP Facility represents the most viable alternative to the Applicant to ensure the continuation of the Applicant's operations at this time and in the circumstances.

XI. DIP LENDER AGREEMENT

89. Following extensive negotiations, Maynbridge Capital Inc., as lender (the "**DIP Lender**"), and the Applicant agreed upon the terms of the DIP Facility Agreement. A copy of the DIP Facility Agreement is attached as Exhibit "W" to the Saulnier Affidavit.

90. The principal terms of the DIP Facility Agreement include (the following is not an exhaustive list):

Basic Provisions	Description
Availability	\$7.18 million
Borrower	2607380 Ontario Inc.
Interest Rate	9.5% per annum, calculated daily and payable monthly in arrears on the last business day.
Fees	Commitment Fee - 3.0%, payable up front. Standby Fee - 2.0% per annum, on the unutilized portion of the DIP Facility. Break Fee - 3.0%, payable if the Borrower obtains court approval for financing in lieu of the DIP Facility.
Maturity Date	The maturity of the Credit Facility shall be the earliest of: (a) October 25, 2020, being eight (8) months from the date of the Initial Order; (b) March 6, 2020, in the event the Court does not issue an order approving the DIP Facility; (c) the date the stay of proceedings expires in the CCAA Proceeding without extension; (d) the date on which the stay under the Initial Order is lifted, in whole or in part, without prior written consent of the DIP Lender; (e) the date on which the Applicant becomes subject to a proceeding under the BIA (bankruptcy, receivership, NOI, proposal etc.), in each case, without the prior written consent of the DIP Lender; or (f) the date on which the DIP Lender demands repayment of the DIP Facility after an Event of Default.
Security	A general security agreement and assignment of rents, secured by the DIP Charge.
Conditions	Various conditions typical of agreements of this kind, including, <i>inter alia</i> , the issuance of the Initial Order, the completion of definitive documentation and the granting of the DIP Charge.
Event of Default	A number of Events of Default, including: (a) failure of the Borrower to obtain an order of the Court approving the DIP Facility; (b) any payment is made by the Borrower that is not contemplated by or within the approved cash flow budget without the Lender's prior written consent; and (c) The Nuvo Renovations are not completed by August 31, 2020.

91. Until the Comeback Motion is heard, the DIP Facility will be limited to the Interim DIP Facility. The Interim DIP Facility will be used to cover post-filing obligations for the initial 10-day period and provide deposits, where required, to certain of the Applicant's critical suppliers/service providers and to cover certain pre-filing professional fees and costs owing to Stikeman and the Proposed Monitor and its counsel. It is contemplated that the Comeback Motion will seek the Court's approval to allow Nuvo to access the entirety of the DIP Facility.

92. Taking into consideration the above, the Proposed Monitor is supportive of the DIP Facility Agreement for the following reasons:
- (i) the Applicant is facing an imminent liquidity crisis and Nuvo is without the cash needed to continue operations and implement its restructuring plan – short term funding is needed urgently. The Proposed Monitor understands that the Applicant will be unable to pay continued operating costs owing to suppliers as they become due absent the DIP Facility;
 - (ii) if the DIP Facility is not available, the Applicant's operations will be difficult to manage, the construction needed to finish the Nuvo Property will not be available and the Applicant will have virtually no prospect of completing its development and restructuring plan;
 - (iii) further delay attempting to source alternative interim financing is not justified in the circumstances. As outlined in the Saulnier Affidavit, after repeated attempts to secure this financing from Meridian, poor financial performance and a highly levered balance sheet make it unlikely that the Applicant would be able to secure alternative interim financing and, even if it could, the funding would likely be insufficient and/or expensive or not received in a timely manner; and
 - (iv) the Proposed Monitor has compared the principal financial terms of the DIP Facility, together with the existing secured debt obligations, to a number of other recent DIP financing packages in other CCAA proceedings, with respect to pricing, loan availability and certain security considerations. Based on this comparison, the Proposed Monitor is of the view that, in the circumstances, the terms of the DIP Facility appear to be commercially reasonable.
93. In light of the foregoing, it is the Proposed Monitor's view that further time spent attempting to source alternative DIP financing would (i) not be in the interest of the Applicant and/or its stakeholders; (ii) not result in the finalization of DIP financing on more favourable terms; and (iii) would severely, and potentially fatally, compromise the ability of the Applicant to continue operations, complete its construction and complete its restructuring plan.
94. The Proposed Monitor further believes that in the circumstances, the DIP Facility is in the best interests of the Applicant's stakeholders and will enhance the prospects of maximizing the value of the Nuvo Property. The DIP Facility is projected to be sufficient to fund the costs of these proceedings, including the planned SISP. The Proposed Monitor believes the DIP Facility will afford the Applicant the opportunity to finish construction and allow for a SISP which should maximize value for the secured lenders and other creditors. The proposed DIP Facility allows for the payment of interest accruing on all secured debts post-filing, a payment Nuvo currently cannot afford given liquidity restrictions.

XII. PAYMENT OF CERTAIN PRE-FILING AMOUNTS

95. As noted in the Saulnier Affidavit, the completion of the ongoing construction with respect to the Nuvo Property is fundamental to restructure Nuvo into an enterprise that can operate profitably in the future.
96. In recognition of the above, the Proposed Monitor understands that the Applicant intends to seek relief, as part of the Comeback Motion:
- (i) to pay certain constructions costs incurred prior to the commencement of the CCAA Proceedings, subject to the prior approval of the Monitor or the Court; and/or
 - (ii) for a charge in favour of Maple and Barrie (the “**Critical Supplier Charge**”) to secure the payment of certain pre-filing amounts owed to them.
97. The Proposed Monitor intends to report to the Court on its recommendation regarding the foregoing relief sought by the Applicants at the return date of the Comeback Motion.

XIII. PROPOSED CHARGES

98. The Proposed Initial Order provides for a number of charges (collectively, the “**Charges**”), on the current and future assets, undertakings and properties of the Applicant, including all proceeds thereof. It is contemplated that the priorities of the Charges sought by the Applicant will be as follows and rank in the following order:
- (i) the Administration Charge;
 - (ii) the DIP Charge; and
 - (iii) the Directors’ Charge (as defined below):

Administration Charge

99. The Proposed Initial Order provides for an Administration Charge in the amount of \$500,000 charging the assets of the Applicant to secure the fees and disbursements incurred in connection with services rendered to the Applicant both before and after the commencement of the CCAA proceedings by the following entities: the Monitor, the Monitor’s legal counsel, and legal counsel to the Applicant.
100. As noted earlier in this Report, the Applicant’s liquidity has been extremely limited, and its professionals have accrued significant fees that remain outstanding. Furthermore, due to liquidity constraints, the Applicant’s professional advisors do not have the benefit of retainers as would ordinarily be the case.

101. The quantum of the Administration Charge sought by the Applicant was determined in consultation with the Proposed Monitor and meets the terms of the DIP Facility Agreement noted earlier in this Report. The creation of the Administration Charge is typical in CCAA proceedings as is the proposed priority of the Administration Charge as set out in the form of Initial Order filed with the Court.
102. The Initial Order sought by the Applicant provides that the Administration Charge will rank in priority to the security interests of the DIP Lender, which the Proposed Monitor understands has consented to the Administration Charge.

DIP Charge

103. The Applicant requires further funding immediately to continue operations and pursue its restructuring during the CCAA proceedings, as evidenced by the Cash Flow Forecast.
104. As noted above, it is a condition of the DIP Facility Agreement that the DIP Lender receives the benefit of the DIP Charge to the maximum amount of the aggregate of any and all advances made by the DIP Lenders to the Applicant under the DIP Facility Agreement.
105. The DIP Facility Agreement provides the Applicant with access to the financing required to undertake its restructuring activities, including the SISP, and complete its CCAA Proceedings. The Proposed Monitor recommends that the Court approve the DIP Facility Agreement, to be accessed by the Applicant, up to a maximum of the Interim DIP Facility and, as such, the Proposed Monitor also supports the granting of the DIP Charge.

Directors' Charge

106. The Proposed Initial Order provides for a charge in the maximum aggregate amount of \$50,000 charging the assets of the Applicant to indemnify its directors and officers for liabilities incurred by the Applicant that result in post-filing claims against the directors and officers (the “**Directors' Charge**”), as the Applicant does not have directors' and officers' liability insurance in place.
107. The amount of the Directors' Charge was estimated by taking into consideration employee payroll and related expenses (including source deductions), other employment related liabilities that may be a statutory liability for directors and officers, vacation pay and sales tax.
108. The Proposed Monitor has been informed (as also noted in the Saulnier Affidavit) that due to the potential for personal liability, the directors and officers of the Applicant are unwilling to continue their services and

involvement in the CCAA proceedings without the protection of the Directors' Charge. As the Applicant will require the participation and experience of the Applicant's directors and officers to facilitate the successful completion of the CCAA Proceedings, including participating in the SISF, the Proposed Monitor believes that the Directors' Charge (both the amount and priority ranking) is required and reasonable in the circumstances.

109. The Proposed Monitor believes that the Charges and priorities thereof are required and reasonable in the circumstances of the CCAA proceedings in order to preserve Nuvo's going concern operations and maintain its enterprise value and, accordingly, supports the granting and the proposed priorities of the Charges.

XIV. EXTEND STAY OF PROCEEDINGS TO NUVO NETWORK AND THE SAULNIERS

110. The Proposed Monitor understands that once the Nuvo Renovations are complete, it is the Applicant's intention to transition the Nuvo Employees and the leases held under Nuvo, to Nuvo Network, and that the operation of the Applicant and Nuvo businesses will become interdependent.

111. The Saulnier Guarantees cover certain of the Applicant's obligations and some of those obligations are now in default. The Saulniers' personal net worth is significantly tied to the outcome of the CCAA Proceedings. Without the ability to realize their equity in Nuvo, the Saulniers will have difficulty satisfying the Saulnier Guarantees. Further, allowing creditors to enforce on the Saulnier Guarantees during the CCAA Proceedings could defeat the purpose of the stay sought in the CCAA Proceedings if creditors are permitted to usurp the CCAA stay against Nuvo and Nuvo Network and pursue the Saulniers in respect of personal guarantees given to support the Applicant's business. As noted in the Saulnier Affidavit, this would be detrimental to the CCAA Proceedings as it would cause the Saulniers to expend time and resources defending against those guarantee claims and lose focus on the contemplated restructuring process. The Saulniers need to dedicate their time and resources to Nuvo if Nuvo's restructuring is to be successful; proceedings against the Saulniers personally will likely prove to be costly and unnecessary distractions from the ultimate goal of restructuring Nuvo.

112. As a result of the risks identified above, the Proposed Monitor is of the view that extending the stay of proceedings to Nuvo Network and the Saulniers is appropriate in these circumstances, if the Court sees fit to grant the requested relief.

XV. MONITOR'S POWERS

113. Paragraph 5 of the Proposed Initial Order affords the Monitor with powers beyond those typically provided to a monitor in a CCAA proceeding; these additional powers pertain to certain disbursements made by the Applicant and require for the Monitor to approve the following disbursements:

- (i) any single disbursement that exceeds \$1,000;
- (ii) any and all disbursements that exceed \$5,000 in aggregate in the course of one (1) calendar day.

114. The Applicant has consented to this relief in order to promote transparency and increase confidence in the process.

XVI. THE COMEBACK MOTION

115. Should the Court grant the Initial Order, the Proposed Monitor understands that the Applicant intends to schedule a hearing for March 5, 2020 (the “**Comeback Hearing**”) to, among other things, seek the Court’s approval of certain components of its restructuring plan, as contemplated in the Comeback Motion, which includes:

- (i) expansion of the Initial Order to include more fulsome restructuring provisions found in proceedings of similar nature;
- (ii) extend the Stay Period; and
- (iii) approval of the Critical Supplier Charge.

116. Subsequent to the granting of the Initial Order and in anticipation of the Comeback Hearing, Richter (in its capacity as Monitor), will be preparing a report in connection with the above-noted matters as well as any other relief sought by Nuvo in the Comeback Motion.

XVII. PROPOSED MONITOR’S CONCLUSIONS AND RECOMMENDATION

117. For the reasons set out in this report, the Proposed Monitor is of the view that the relief requested by the Applicant is both appropriate and reasonable. The Proposed Monitor is also of the view that granting the relief requested will provide the Applicant the best opportunity to complete the construction of the Nuvo Property and undergo a refinancing or going concern sale or other restructuring under the CCAA thereby preserving value for the benefit of the Applicant’s stakeholders. As such, the Proposed Monitor supports Nuvo’s application for CCAA protection and respectfully recommends that the Court make an Order granting the relief sought by the Applicant.

All of which is respectfully submitted this 24th day of February, 2020.

**RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS PROPOSED MONITOR OF
2607380 ONTARIO INC.
AND NOT IN ITS PERSONAL CAPACITY**

Per:



**Paul van Eyk,
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**



**Adam Zeldin
CPA, CA, CIRP**

APPENDIX “ C ”

Ontario court rules BMO units improperly charged clients almost \$103-million in foreign-currency fees

JAMES BRADSHAW BANKING REPORTER

An Ontario court has ruled that the investment arm of Bank of Montreal improperly charged clients nearly \$103-million in foreign-exchange fees on funds held in registered accounts.

The ruling stems from a class-action lawsuit claiming that three subsidiaries of BMO failed to disclose the markup added to foreign-exchange fees charged in accounts such as registered retirement savings plans (RRSPs) and tax-free savings accounts (TFASAs).

The lawsuit against BMO Trust Co., BMO Nesbitt Burns Inc. and BMO InvestorLine Inc. covers a period from June, 2001, until September, 2011. An estimated 200,000 clients may have been charged the fees.

The parent bank, BMO, is not a defendant, and lawyers for the subsidiary companies deny any wrongdoing. "We do not agree with the court's interpretation of our agreements. We intend to appeal," said Paul Gammal, a spokesman for the bank. "We pride ourselves on being transparent with our clients and work hard to provide them with the clear and relevant information they deserve."

Before June, 2001, federal tax law prohibited investors from holding foreign currency in registered accounts, and banks routinely converted any foreign sums. But after the law changed, BMO was "technologically unable" to update its trading systems to allow clients to hold foreign currencies in registered accounts until Sept. 6, 2011, according to a ruling released Friday by Justice Edward Belobaba of the Ontario Superior Court.

1 This has been long and hard-fought litigation.

JEFF LARRY
PARTNER AT PALIARE
ROLAND ROSENBERG
ROTHSTEIN LLP

As a result, BMO Nesbitt Burns and InvestorLine kept converting foreign currencies in those accounts for 10 years, charging a markup above the "spot rate." The markup ranged from 20 basis points to 150 basis points, depending on the size of the sum being converted (there are 100 basis points in one percentage point). The fees added up to \$102.9-million over a decade.

Justice Belobaba wrote that "the defendants' failure to disclose the amount of the markup fee charged on the foreign exchange conversions and the unauthorized self-payment are a breach of trust and fiduciary duty."

The ruling came eight years after the class-action was certified. "This has been long and hard-fought litigation," said Jeff Larry, a partner at Paliare Roland Rosenberg Rothstein LLP, the lawyers for the plaintiffs. "We are pleased the court has recognized the importance of financial institutions dealing fairly with their customers."

The plaintiffs — all experienced investors who were clients of Nesbitt Burns and InvestorLine — asked for an award of \$419-million, using BMO's return on equity to calculate accumulated interest on the improper fees.

But the judge instead ordered the BMO companies to repay the profit it made from those fees, plus interest. Justice Belobaba will calculate that profit by subtracting from the \$102.9-million what he deems reasonable costs incurred in collecting the fees, and then add interest to that amount. The final amount to be awarded has not been decided.

Lawyers for BMO, from Lenczner Slaght Royce Smith Griffin LLP, argued that clients understood that the bank would charge more than the spot rate and make some profit on the conversions. They also pointed to clauses in client agreements that said the bank "may earn revenue from the foreign currency conversion," and that clients agree to those terms unless they notify the bank otherwise within 15 to 45 days.

Justice Belobaba rejected those arguments, ruling that the bank's disclosure of the "hidden-fee" for converting currencies "falls well short of the mark."

"It is self-evident that the written disclosure of the markup fee would be important information for the class members," he wrote, allowing clients to compare rates against those offered by competitors. "But comparison shopping was difficult, if not impossible, because the amount of the markup was not disclosed."

BANK OF MONTREAL (BMO)
CLOSE: \$91.21, DOWN \$2.30

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In the matter of the Companies' Creditors Arrangement Act,
R.S.C. 1985, c. C-36, as amended (the "CCAA")

and in the Matter of the
Plan of Compromise or Arrangement of
2607380 Ontario Inc.
(the "Applicant")

Notice pursuant to CCAA s.23.(1)(a)(i)

NOTICE is hereby given that on February 25, 2020, the Ontario Superior Court of Justice (Commercial List) issued an initial order under the CCAA in respect of the Applicant in the proceeding bearing Court File No. CV-20-00636875-00CL declaring that the Applicant is a company to which the CCAA applies. The company remains in possession of its business and property and has initiated the restructuring proceeding under the CCAA to complete the renovation of its building for the long term benefit of its tenants, creditors and other stakeholders. The initial order provides for a stay of proceedings against the Applicant and its property as well as the Applicant's affiliate, Nuvo Network Inc.

Richter Advisory Group Inc. ("Richter") has been appointed Monitor in the Applicant's CCAA proceedings. Information regarding the Applicant and/or the CCAA proceedings may be obtained from Richter (1-866-585-9751 or claims@richter.ca) as well as from consulting Richter's internet website at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/>

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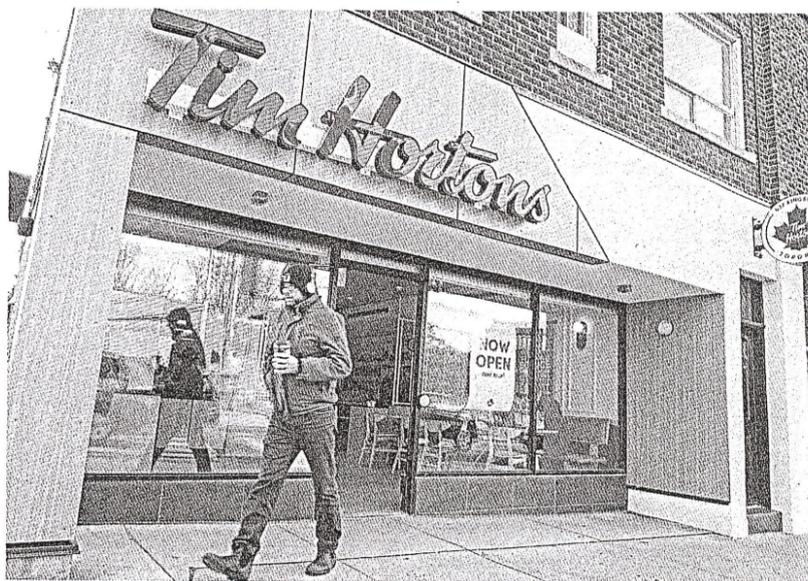
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A Tim Hortons store is seen in Toronto last December. The company is grappling yet again with franchisee unrest after a new suit was filed against it on Thursday. CHRISTOPHER KATSAROV/THE GLOBE AND MAIL

Lawsuit accuses Tim Hortons of 'fraudulent business scheme'

U.S. group claims that the company is charging franchisees as much as 50 per cent above what competitors pay for similar supplies

TARA DESCHAMPS TORONTO

Franchisee unrest has hit Tim Hortons again, this time from its U.S. members, who are accusing the company of engaging in an "illegal and fraudulent business scheme."

A lawsuit from the Great White North Franchise Association USA Inc. (GWNFA USA), a group claiming to represent most American Tim Hortons franchisees, alleges the company, its parent, its affiliates and former president Elias Diaz Sese have used provisions in agreements to charge Tim Hortons franchisees as much as 50 per cent above what competitors pay for supplies such as coffee, baking goods, meat and paper products.

The lawsuit filed in a Florida court Thursday claims the markup stems from a strategy that Tim Hortons parent company Restaurant Brands International Inc. used to implement a "supply chain business disguised as a franchise system." Under the arrangement, GWNFA USA alleges Tim Hortons affiliate TDL Group sells supplies and products to Tims, which then sells them to a distributor, which in turn sells them to franchisees.

The association says that chain means Tim Hortons franchisees are forced to purchase items for as much as US\$104 more for a case of applewood bacon, about US\$24 more for a box of soft drinks and roughly US\$12 more for a case of plastic

straws than Wendy's franchisees pay.

RBI and Tims did not immediately respond to requests for comment.

The lawsuit complains that the marked up prices are helping Tims and RBI profit, but making franchisees feel squeezed.

"They have reached the breaking point and they feel that they are being so overcharged by the supplies that they are required to buy through Tim Hortons or its affiliated company that a lot of them are just working for nothing," said Jerry Marks, a lawyer representing GWNFA USA.

The lawsuit complains that the marked up prices are helping Tims and RBI profit, but making franchisees feel squeezed.

"We have an agreement with the franchisor that says they will only make 'reasonable' profits on the things they sell to us. ... We would like this court to make a declaration finding that we are being unreasonably charged and if you want to use the word, price gouged."

Mr. Marks says winning the case would allow individual franchisees, who run the brand's 700 U.S. locations, to bring their own claims against Tims, RBI and their affiliates.

Mr. Marks' suit alleges RBI, which also owns Popeyes Louisiana Kitchen Inc. and Burger King, saw a \$78.1-million sales increase in its Tim Hortons business, which it claims was driven by a \$135.5-million jump in supply chain products.

That increase was "partially offset" by a decrease in Tim Hor-

tons restaurant revenues that "come at the direct expense" of Tim Hortons U.S. franchisees.

"This deliberate coercion, carried out using threats and intimidation, creates an environment where franchisees who have invested time, capital and sweat equity into the Tim Hortons brand as their livelihood, are preyed upon as the most immediate and dependable source of revenue and cash flow for RBI and its affiliates," the lawsuit reads.

"Once the franchisees realize they are pawns in this fraudulent scheme, the sunk costs, onerous contractual provisions (including the inability to sell their businesses for fair value), and threats of litigation and, in turn, more costs, make it economically prohibitive to escape ... resulting in long-term indentured servitude."

It is far from the first time Tim Hortons and RBI two have tussled with franchisees. They spent much of 2018 locked in a war with Canadian franchisees over another series of lawsuits, advertising, cost-cutting measures, how to handle an increase in Ontario's minimum wage, delays in supply deliveries and a \$700-million renovation plan that was said to cost store owners \$450,000 for each restaurant.

Tim Hortons eventually tried to make amends, meeting with franchisees and rolling out all-day breakfast, a kids menu, a loyalty program, new packaging and supermarket products such as Timbits cereal over the past two years.

The tensions seem to be allayed in 2019, but sales and franchisee profits fell in the company's most recent quarter.

THE CANADIAN PRESS

RESTAURANT BRANDS (OSR)
CLOSE: \$79.11, DOWN \$1.97

Shopify cancels annual conference owing to rising coronavirus fears

TARA DESCHAMPS TORONTO

Organizations across the country are cancelling conferences, fretting about whether to forge ahead with events and considering more health-conscious policies as concerns grow over the recent outbreak of a novel form of coronavirus.

Ottawa-based e-commerce giant Shopify Inc. announced Friday that it had made the "hard but necessary" decision to cancel its annual Unite conference that was set to be held in Toronto on May 7.

"We believe this is the best option to make sure we don't put anyone's health and safety at risk," the company said in a statement.

Shopify is in the process of contacting people who had planned to attend, issuing refunds on tickets and working out how to share the product and service announcements it planned to make at the conference.

Shopify says more than 1,000 people from across the globe attended the conference in its past two years, where they were first to learn about the company's plans for a U.S. fulfillment network and its first bricks-and-mortar location in Los Angeles

Meanwhile, coronavirus fears weren't enough to cause Magna International Inc. to cancel its investor day on Thursday at the Shangri-La Hotel in Toronto.

However, the Aurora, Ont.-based auto parts maker did post a sign advising attendees to avoid shaking hands.

The Prospectors and Developers Association of Canada also said it is forging ahead with its annual conference at the Metro Toronto Convention Centre, which opens on Sunday and typically attracts more than 25,000 attendees from 130 countries.

President Felix Lee said the conference has seen some cancellations from exhibitors and attendees in Iran, China, South Korea and Italy — countries that have been hit hard by the virus or have travel restrictions in place.

Mr. Lee said PDAC is keeping a close eye on the coronavirus situation on a "pretty much hourly basis," had been in contact with local health authorities about best practices and was co-ordinating with its venues, the convention centre and the local Fairmont Royal York hotel.

"The staff in these two facilities will be increasing their sanitization of high-contact surfaces, meaning door knobs, door handles, railings, escalators, touch-screen monitors, microphones

and so on," he said.

"There will be increased signage throughout the conference floor reminding attendees of appropriate hygiene procedures to adopt and there is increased access to hand sanitizer."

The organizers of Collision, an annual tech conference that boasts a lineup of business heavyweights and celebrities, said they were also watching out for coronavirus fears, despite their event being months away.

This year's Collision will run from June 22 to 25 at the Enclerc Centre in Toronto.

Bianca Delbao, a spokeswoman for the conference, said in an e-mail that Collision regularly liaises closely with whatever city is hosting the event to ensure "the utmost safety, security and welfare standards [are] in place for our attendees."

Collision is recommending attendees regularly monitor the Public Health Agency of Canada and their country's travel advisories for advice around coronavirus.

Ms. Delbao added, "We are closely monitoring the situation should circumstances change."

THE CANADIAN PRESS

SHOPIFY (SHOP)
CLOSE: \$623.22, UP \$6.22

South Africa falls into recession for second time in two years

GEOFFREY YORK
AFRICA BUREAU CHIEF
JOHANNESBURG

South Africa's economy has tumbled into recession for the second time in the past two years, a disastrous sign for a country that is bracing for further bad news this year as electricity shortages bite deeper.

Economic growth in 2019 was the slowest in the past decade, and per-capita incomes have now declined for the past six years, new data show.

The continuing slump in South Africa, once the powerhouse of African economic growth, is bad news for a continent that is already expected to suffer a severe drop in Chinese demand for its oil and other commodities this year as a result of the coronavirus crisis.

South Africa's GDP fell by a shocking 1.4 per cent in the fourth quarter of last year, much worse than analysts had predicted. That followed a drop of 0.8 per cent in the third quarter, according to the latest data from Statistics South Africa on Tuesday.

For the full year, South Africa's economy grew by only 0.2 per cent last year, its worst performance since the global economic crisis of 2008-09.

South African President Cyril Ramaphosa, who replaced former president Jacob Zuma in 2018, had promised a "new dawn" after nearly a decade of worsening corruption and economic mismanagement. The latest recession will be a serious blow to his turnaround plan.

"South Africa's economy has contracted in four out of seven quarters since President Ramaphosa took office," Capital Economics noted in a commentary on Tuesday.

The accelerating spread of the coronavirus, which has reached sub-Saharan Africa in recent days, "only strengthens our view that growth in South Africa will be very weak in 2020," the international research company added.

"All forms of investment declined in Q4, suggesting that firms remain worried about the outlook for the economy."

To fight a growing deficit and soaring debt, Mr. Ramaphosa's government last week announced a plan to seek cuts of more than US\$10-billion in public-sector wages, including a rollback of an agreed wage increase this year. But the plan has triggered outrage from South Africa's powerful unions, which denounced it as a "declaration of war."

The increase in the deficit is largely a result of massive bailouts for several of South Africa's state-owned companies, including its national airline, South African Airways, which is trying to cut its work force after announcing the closing of many domestic and international routes.

South Africa's currency, the rand, has been one of the worst-performing currencies in the world this year. It dropped by more than 1 per cent on Tuesday.

Moody's Investor Service, the last of the major credit-rating agencies that still gives South Africa an investment-grade rating, is scheduled to release its next report on March 27, and there are fears that it will announce a junk rating for South Africa. This, in turn, could trigger billions of dollars in capital outflows.

South Africa has already acknowledged that its growth over the next three years will be barely 1 per cent annually, but that number could be revised downward now.

The fourth-quarter GDP results do not yet reflect the full impact of the worsening electricity crisis, which only began to hit the economy severely in December. Since then, the government has warned that the electricity shortages are likely to persist for the next two years.

The power cuts are largely a result of long-delayed maintenance work by the national electricity monopoly, Eskom, which was plagued by years of corruption under Mr. Zuma's presidency. For years, Eskom's budget was diverted into costly construction and coal contracts, in which money was raked off by corrupt suppliers as a result of insider deals, while maintenance was deferred.

HBC stock fluctuates ahead of delisting

ANDREW WILLIS

As Hudson's Bay Co. prepares to exit the Toronto Stock Exchange, tax-driven trading in the retailer's stock is taking investors for a final wild ride.

HBC executive chairman Richard Baker and a group of private-equity funds plan to take the department-store chain private for \$11 a share, ending their eight-month campaign by removing the stock from the TSX when trading ends on Wednesday. The final stage of takeovers such as HBC's typically sees the target company's stock trade a few cents below the price of the offer, as hedge funds and other professional investors buy shares, then flip them to the acquirer for pennies per share in profits.

However, this corporate drama has already featured twists and turns — HBC's stock price bounced around between \$8 and nearly \$11 since last June as Mr. Baker's consortium improved its offer twice and faced regulatory setbacks. And there is a tax wrinkle in this buyout that has kept hedge funds on the sidelines and contributed to significant recent swings in HBC's share price.

Here's the background: Where most takeovers see one company buy another, triggering capital gains tax for investors, the HBC buyout triggers dividend taxes, which means a far larger hit for most investors. The difference in tax treatment reflects the fact that this takeover will see HBC repurchase and cancel all the shares not owned by Mr. Baker's group, an approach that suited the company and the buyer. For most investors, seeing a significant portion of their gains taxed as dividends means a larger tax bill, if they do nothing and let Mr. Baker's group buy their HBC stock. It's possible that in the short term, the tax hit will be larger than the profits that investors earn on their HBC holdings.

HBC spelled out the potential tax issues in a series of press releases, including one issued last October that said to avoid a hefty tax bill, "shareholders may prefer to sell their common shares in the public markets with a settlement date that is prior to the completion of the transaction." Institutional shareholders paid attention. Funds run by CI Financial Corp. sold 7.8 million HBC shares in recent months, while portfolio managers at Power Corp. of Canada sold a 1.8 million share HBC position, according to regulatory filings.

Now that the deal is close to closing, the wisdom of getting out early is becoming apparent.

Last week, as it became clear the takeover would close as scheduled, significant HBC stock sales drove the share price well

HBC CHAIRMAN BAKER REPLACING FOULKES AS CEO

TORONTO Executive chairman Richard Baker's influence over Hudson's Bay Co. is about to get another big boost as Canada's oldest retailer closes a turbulent chapter in its nearly 350 years of existence.

The Canadian retailer said Tuesday that Mr. Baker will replace chief executive Helena Foulkes, who is departing the company about two years after she was hired.

Mr. Baker will assume the new role while keeping his HBC chairman and governor titles.

"The company and I are grateful for Helena's leadership and significant accomplishments over the last two years," he said in a release. "Together, we have simplified our company, strengthened retail operations and reinvigorated our focus on the customer. ... We are optimistic about this exciting next chapter for our company."

The move comes just after Mr. Baker led a group of shareholders to take the company private once again.

HBC, which will celebrate its 350th anniversary in May, said Ms. Foulkes's last day at HBC will be March 13.

Ms. Foulkes joined HBC in February, 2018, after spending 25 years at the CVS Health Corp. and time at Goldman Sachs & Co. and Tiffany & Co.

She was involved with the company's deal to merge its German department stores with its biggest rival in the European market and its decision to close its Home Outfitters business and evaluate the profitability of its U.S. Saks Off Fifth locations.

"We made bold moves to streamline the business, modernize our marketing, seize digital opportunities, bolster our senior



Helena Foulkes

leadership team and empower each of our retail businesses to excel in the future," she said in a statement. "I'm proud of the work we have done and how HBC embraced cultural change to prioritize delivering for our customers and creating exceptional experiences."

She and Mr. Baker spent much of the past two years marred in complaints from shareholders about executive salaries and their failure to unlock the value of the company's real estate.

In 2018, some shareholders attacked Mr. Baker's compensation — then \$37-million in share-based awards and more than \$15.6-million in option-based awards.

Those shareholders voted against the company's remuneration practices, saying "we don't feel the company sufficiently linked pay with performance" and "we do not feel that the awards have been sufficiently justified." THE CANADIAN PRESS

below the \$11 offer. There were a series of trades last Thursday that saw sellers receive \$10.70 or less a share for their HBC holdings — approximately 55,000 shares changed hands around this price — even though the stock changed hands around \$10.95 per share for most of the session. According to stock traders, the moves in HBC's stock price reflected the fact that many of the hedge funds that typically smooth trading by investing in takeovers — it is known as merger arbitrage — are steering clear of this deal because of the potential tax bill. (Pension plans and other large, tax-exempt investors don't typically pay much attention to arbitrage investments.)

Based on trading records, individual shareholders had little trouble exiting

HBC. The average trade on the TSX last week saw about 900 HBC shares change hands without moving the price more than a penny or two. Larger positions, typically owned by institutions, did have an impact on the market. The investment dealers handling the bulk of the HBC traffic included Morgan Stanley, CIBC and CIBC World Markets.

HBC shares closed Tuesday at \$10.99 on the TSX. Anyone buying HBC at that price stands to make just a penny of profit per share when the stock is delisted Wednesday, and potentially face a tax hit for their troubles.

HUDSON'S BAY (HBC)
CLOSE: \$10.99, UP 4¢

BUSINESS CLASSIFIED

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BMO Bank of Montreal

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

The Annual Meeting of Shareholders of Bank of Montreal will commence at 9:30 a.m. (Local Time) on Tuesday, March 31, 2020 at the BMO Institute for Learning, 3550 Pharmacy Avenue, Toronto, Ontario, Canada.

By Order of the Board of Directors

BARBARA M. MUIR
Corporate Secretary

February 3, 2020

DIVIDEND INFORMATION

Notice is hereby given that the Board of Directors of The Empire Life Insurance Company (Empire Life) has declared the following dividends:

Issue	Record Date	Payable Date	Rate
Common Shares	March 16, 2020	April 8, 2020	\$113.435853
Non-Cumulative Rate Reset Preferred Shares, Series 1 (TSX: EML.PRA)	March 18, 2020	April 17, 2020	\$0.359375
Non-Cumulative Rate Reset Preferred Shares, Series 3	March 18, 2020	April 17, 2020	\$0.30625



Report on Business

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In the matter of the Companies' Creditors Arrangement Act, R.S.C.1985, c. C-36, as amended (the "CCAA")

and in the Matter of the Plan of Compromise or Arrangement of 2607380 Ontario Inc. (the "Applicant")

Notice pursuant to CCAA s.23.(1)(a)(i)

NOTICE is hereby given that on February 25, 2020, the Ontario Superior Court of Justice (Commercial List) issued an initial order under the CCAA in respect of the Applicant in the proceeding bearing Court File No. CV-20-00636875-00CL declaring that the Applicant is a company to which the CCAA applies. The company remains in possession of its business and property and has initiated the restructuring proceeding under the CCAA to complete the renovation of its building for the long term benefit of its tenants, creditors and other stakeholders. The initial order provides for a stay of proceedings against the Applicant and its property as well as the Applicant's affiliate, Nuvo Network Inc.

Richter Advisory Group Inc. ("Richter") has been appointed Monitor in the Applicant's CCAA proceedings. Information regarding the Applicant and/or the CCAA proceedings may be obtained from Richter (1-866-585-9751 or claims@richter.ca) as well as from consulting Richter's internet website at <https://www.richter.ca/insolvencycase/2607380-ontario-inc/>

RICHTER

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Toronto, Ontario M5J 2T3
Telephone: 1-866-585-9751
Fax: 514-934-8603

NOTICE OF RECOGNITION ORDERS IN THE MATTER OF SENVION GMBH

PLEASE BE ADVISED that this Notice is being published pursuant to an order of the Ontario Superior Court of Justice (Commercial List), Court File No.: CV-20-00636651-00CL (the "Canadian Court") granted on February 26, 2020.

PLEASE TAKE NOTICE that, on April 9, 2019, Senvion GmbH, ("Senvion"), filed for insolvency with the Local Court of Hamburg, Germany, under the German Insolvency Act (the *Invenzordnung*) (the "German Proceedings").

PLEASE TAKE FURTHER NOTICE that, on the application of Senvion as Foreign Representative for itself, an Initial Recognition Order and a Supplemental Order (together, the "Recognition Orders") have been issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, that, among other things: (i) recognize the German Proceedings as a foreign main proceeding; (ii) recognize Senvion as the Foreign Representative of itself; (iii) stay all proceedings against Senvion in Canada; and (iv) appoint The Fuller Landau Group Inc. as the Information Officer.

PLEASE TAKE FURTHER NOTICE that persons who wish to receive a copy of the Recognition Orders or obtain any further information in respect thereof or in respect of the matters set forth in this Notice, should contact the Information Officer at the address below:

THE FULLER LANDAU GROUP INC.
151 Bloor Street W., 12th Floor
Toronto, ON M5S 1S4

Attention: Ken Pearl
Phone: 416.645.6500
Fax: 416.645.6501
Email: kpearl@fullerlp.com

PLEASE FINALLY NOTE that the Recognition Orders, and any other orders that may be granted by the Canadian Court, can be viewed at https://fullerlp.com/active_engagements/senvion-gmbh/

APPENDIX “ D ”

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
2607380 ONTARIO INC.**

**MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)**

The management of 2607380 Ontario Inc. (the "**Applicant**") has developed the assumptions and prepared the attached statement of projected cash flow as of the 4th day of March 2020, consisting of the period from March 4, 2020 to October 24, 2020 (the "**Cash Flow Forecast**"),

The hypothetical assumptions are reasonable and consistent with the purpose of the Cash Flow Forecast described in the notes therein, and the probable assumptions are suitably supported and consistent with the plans of the Applicant and provide a reasonable basis for the Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The Cash Flow Forecast has been prepared solely for the purpose described in the notes therein, using the probable and hypothetical assumptions set out therein. Consequently, readers are cautioned that the Cash Flow Forecast may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 4th day of March 2020.

2607380 Ontario Inc.



**Shawn Saulnier
President**

2607380 Ontario Inc.
Cash Flow Forecast
For the Period March 4, 2020 to October 24, 2020
(In CAD, unaudited)

Notes	Week Number Week Ending	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	
		7-Mar-20	14-Mar-20	21-Mar-20	28-Mar-20	4-Apr-20	11-Apr-20	18-Apr-20	25-Apr-20	2-May-20	9-May-20	16-May-20	23-May-20	30-May-20	6-Jun-20	13-Jun-20	20-Jun-20	27-Jun-20	4-Jul-20	11-Jul-20	18-Jul-20	25-Jul-20	1-Aug-20	8-Aug-20	15-Aug-20	22-Aug-20	29-Aug-20	5-Sep-20	12-Sep-20	19-Sep-20	26-Sep-20	3-Oct-20	10-Oct-20	17-Oct-20	24-Oct-20	
	Totals																																			
1	Receipts																																			
2	Collection of Office, Studio & Event Income	2,037,142	-	1,413	1,413	1,413	248,194	1,130	1,130	1,130	283,035	1,413	1,413	1,413	283,035	1,413	1,413	1,413	248,193	1,130	1,130	1,130	1,130	263,008	1,413	1,413	1,413	321,188	1,130	1,130	1,130	1,130	347,266	6,356	6,356	
3	HST Receivable	597,000	-	-	-	-	-	-	-	-	325,000	-	-	-	45,000	-	-	-	59,000	-	-	-	-	70,000	-	-	-	62,000	-	-	-	-	36,000	-	-	
	Total Receipts	2,634,142	-	1,413	1,413	1,413	248,194	1,130	1,130	1,130	608,035	1,413	1,413	1,413	328,035	1,413	1,413	1,413	307,193	1,130	1,130	1,130	1,130	333,008	1,413	1,413	1,413	383,188	1,130	1,130	1,130	1,130	383,266	6,356	6,356	
	Disbursements																																			
4	Operating Expenses	1,591,804	20,000	391,902	71,019	22,313	79,337	16,845	16,845	49,698	18,139	70,968	23,009	23,009	24,303	70,968	23,009	55,862	24,303	59,337	16,845	16,845	16,845	18,139	66,668	21,877	21,877	23,171	74,184	20,144	20,144	52,997	21,438	84,814	27,476	27,476
5	Personnel Expenses	705,520	39,322	38,192	-	38,192	-	38,192	-	39,598	-	39,598	-	39,598	-	39,598	-	39,598	-	40,074	-	40,074	-	40,074	-	40,074	-	40,074	-	38,668	-	38,668	-	38,668	-	38,668
6	Professional Fees	1,721,250	-	492,375	42,375	42,375	33,900	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	42,375	42,375	42,375	42,375	33,900	33,900	33,900	33,900	42,375	42,375	42,375	42,375	33,900	33,900	33,900	33,900	33,900	42,375	42,375	42,375	
7	Cost to Complete	4,511,081	-	2,375,000	-	-	325,000	-	-	-	475,000	-	-	-	575,000	-	-	-	475,000	-	-	-	-	250,000	-	-	-	36,081	-	-	-	-	-	-	-	
8	DIP Lender Costs	393,850	-	379,850	-	-	2,000	-	-	-	2,000	-	-	-	2,000	-	-	-	2,000	-	-	-	-	2,000	-	-	-	2,000	-	-	-	-	-	-	-	
	Total Disbursements	8,923,504	59,322	3,677,319	113,394	102,879	440,237	88,937	50,745	121,790	52,039	629,941	65,384	104,982	66,678	729,941	65,384	137,835	66,678	610,311	50,745	90,819	50,745	92,113	361,043	104,326	64,252	105,620	146,165	92,712	54,044	125,565	55,338	167,857	69,851	108,518
	Net Cash Flow	(6,289,362)	(59,322)	(3,675,906)	(111,981)	(101,467)	(192,043)	(87,807)	(49,615)	(120,660)	(50,909)	(21,906)	(63,971)	(103,569)	(65,265)	(401,906)	(63,971)	(136,422)	(65,265)	(303,117)	(49,615)	(89,689)	(49,615)	(90,983)	(28,035)	(102,914)	(62,840)	(104,207)	237,024	(91,582)	(52,914)	(124,435)	(54,208)	215,409	(63,495)	(102,162)
9	Opening Cash Balance	192,067	192,067	132,746	206,839	94,858	243,391	51,348	213,541	163,926	43,267	242,358	220,452	156,481	52,912	437,647	35,741	221,770	85,348	20,083	66,965	17,351	177,662	128,047	37,064	9,029	156,115	93,276	239,068	476,092	384,510	331,596	207,161	152,953	368,362	304,867
	Net Cash Flow	(6,289,362)	(59,322)	(3,675,906)	(111,981)	(101,467)	(192,043)	(87,807)	(49,615)	(120,660)	(50,909)	(21,906)	(63,971)	(103,569)	(65,265)	(401,906)	(63,971)	(136,422)	(65,265)	(303,117)	(49,615)	(89,689)	(49,615)	(90,983)	(28,035)	(102,914)	(62,840)	(104,207)	237,024	(91,582)	(52,914)	(124,435)	(54,208)	215,409	(63,495)	(102,162)
10	DIP Drawdown	6,300,000	-	3,750,000	-	250,000	-	250,000	-	-	250,000	-	-	-	450,000	-	-	-	250,000	-	-	-	-	250,000	-	-	-	-	-	-	-	-	-	-	-	
	Ending Cash Balance	202,705	132,746	206,839	94,858	243,391	51,348	213,541	163,926	43,267	242,358	220,452	156,481	52,912	437,647	35,741	221,770	85,348	20,083	66,965	17,351	177,662	128,047	37,064	9,029	156,115	93,276	239,068	476,092	384,510	331,596	207,161	152,953	368,362	304,867	202,705

2607380 Ontario Inc.
Cash Flow Forecast
Notes and Summary of Assumptions

In the Matter of the CCAA Proceedings of 2607380 Ontario Inc. (“Nuvo” or the “Company”).

Disclaimer

In preparing this cash flow forecast (the “**Cash Flow Forecast**”), Nuvo has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. Since the Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Cash Flow Forecast period will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Cash Flow Forecast is presented in Canadian dollars. All defined terms that are not otherwise defined herein are to have the same meaning ascribed to them in the Monitor’s First Report to the Court dated March 5, 2020.

Note 1 Purpose of the Cash Flow Forecast

The purpose of the Cash Flow Forecast is to present the estimated cash receipts and disbursements of Nuvo for the period from March 4, 2020 to October 24, 2020 (the “**Forecast Period**”), in respect of its proceedings under the CCAA. The Cash Flow Forecast has been prepared by the management of Nuvo (“**Management**”) based on available financial information at the date of Nuvo’s application for the Amended and Restated Initial Order in accordance with Section 10(2)(b) of the CCAA. Readers are cautioned that this information may not be appropriate or relied upon for any other purpose.

Note 2 Rental Receipts

Rental receipts comprise income earned from the Company’s various office, studio and events space leases/rentals. The Cash Flow Forecast assumes office and studio rental income is collected in the first week of each month and event income is collected weekly. Rental receipts for each of office, studio and events are forecasted based on current leases/agreements in place as well as forecasted future leases/agreements based on Management’s best estimate. The Cash Flow Forecast assumes that tenants will occupy newly available space immediately upon completion of the respective phases of the Nuvo Renovations.

Note 3 HST Receivable

The Company is projecting to be in an HST receivable position as it funds the Costs to Complete in respect of the Nuvo Renovation. The Company files HST returns on a monthly basis.

Note 4 Operating Expenses

Operating expenses include general business expenses, including marketing, utilities, insurance, property taxes, cleaning, security, repairs and maintenance, bank fees and vendor deposits, among others.

Note 5 Personnel Expenses

Personnel expenses include salaries and wages, accrued vacation, payroll taxes and remittances paid to Nuvo's employees as well as compensation paid to the Company's eight (8) independent contractors. Personnel expenses are forecasted based on historical run-rates and are paid bi-weekly.

Note 6 Professional Fees

Includes payments to the Company's legal counsel, the Monitor and the Monitor's legal counsel.

Note 7 Cost to Complete

The Cost to Complete, and timing of payment thereof, are based on a cost estimate provided in February 2020 by Maple and discussions with Management. The disbursements include a payment of approximately \$2.2 million to Maple and Barrie in respect of construction cost arrears, which is forecasted to be paid prior to recommencing construction. The Nuvo Renovations are forecasted to be completed during the Forecast Period.

Note 8 DIP Lender Costs

Represents fees paid to the DIP Lender during the Forecast Period pursuant to the Meridian DIP Facility Agreement. The Cash Flow Forecast does not contemplate the payment of interest in connection with the Company's obligations owing to its secured lenders, other than interest (i) paid from the Reserve (as defined below) and (ii) in connection with amounts owing to Maple and Barrie in respect of their liens registered against the Nuvo Property. In accordance with the Meridian DIP Agreement, the DIP Lender shall reserve costs (up to \$400,000) in connection with interest and professional fees incurred in respect of the Meridian DIP Facility (the "Reserve"). The Reserve does not include repayment of the Meridian Interim Advance in the amount of \$220,000, which is forecasted to be paid during the week ending March 14, 2020, pursuant to the Meridian DIP Agreement. Additionally, the Cash Flow Forecast assumes no principal payments during the Forecast Period.

Note 9 Opening Cash Balance

The balance, as at March 4, 2020, represents the aggregate of the balance of the Company's Toronto Dominion bank account, together with the quantum of the balance remaining in the general trust account of the Monitor in respect of the Interim Financing.

Note 10 DIP Drawdown

Represents amounts drawn on the Meridian DIP Facility, excluding the aforementioned Reserve in Note 8 above, during the Forecast Period. In accordance with the Meridian DIP Facility Agreement, each advance under the Meridian DIP Facility, must be in a minimum amount of \$250,000 and in multiples of \$100,000 in excess thereof.

APPENDIX “E”

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

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C.1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
2607380 ONTARIO INC.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash flow of 2607380 Ontario Inc. ("**Nuvo**" or the "**Applicant**") prepared as of the 4th day of March 2020, consisting of the period from March 4, 2020 to October 24, 2020 (the "**Cash Flow Forecast**"), has been prepared by management of the Applicant for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by management and employees of the Applicant. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Cash Flow Forecast.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions; or
- (c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow Forecast will be achieved.

The Cash Flow Forecast has been prepared solely for the purpose described in the notes thereto and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 5th day of March 2020.

**RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS CCAA MONITOR OF
2607380 ONTARIO INC.
AND NOT IN ITS PERSONAL CAPACITY**

Per:



**Paul van Eyk
CPA, CA, CIRP, LIT, IFA, Fellow of INSOL**