

District of Ontario Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C.  
B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO  
INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

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**MOTION RECORD  
(Returnable May 2, 2024)**

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April 23, 2024

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Proposal Trustee*

**TO SERVICE LIST**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO  
INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

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# TAB 1

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C.**  
**B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF**  
**ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO**  
**INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**NOTICE OF MOTION**  
**(Returnable May 2, 2024)**

KPMG Inc., in its capacity as proposal trustee (the “**Trustee**”) will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), on Thursday May 2, 2024, as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard

- In writing under subrule 37.12.1 (1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

330 University Avenue, Toronto, Ontario.

**THE MOTION IS FOR:**

1. An order (the “**Ancillary Order**”):

- (a) Approving the first report of the Proposal Trustee dated March 11, 2024 (the “**First Report**”), the second report of the Proposal Trustee dated April 19, 2024 (the “**Second Report**”) and the third report of the Proposal Trustee dated April 23, 2024 (the “**Third Report**”) and approving the actions and activities of the Proposal Trustee described in each of these reports;
  - (b) approving the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report and the fee affidavits appended to the Third Report (the “**Fee Affidavits**”); and
  - (c) approving the sealing of the confidential documents appended to the Proposal Trustee's Third Report until completion of the Transactions (as defined below), or further order of this Court;
2. An order (the “**Liberty Approval and Vesting Order**”):
  - (a) approving the sale transaction between 1000858769 Ontario Inc. (“**769 Ontario**”), as purchaser, and Organic Garage and Liberty LeaseCo (as each are defined below, together in such capacity, the “**Liberty Vendors**”), as vendors, for sale of assets pursuant to an asset purchase agreement dated April 16, 2024 between 769 Ontario and the Liberty Vendors (the “**Liberty APA**”) and vesting in 769 Ontario all right, title and interest of the Liberty Vendors in the Purchased Assets, free and clear of encumbrances and other charges and security interests as described in the Liberty APA (the “**Liberty Transaction**”); and
  - (b) authorizing the Proposal Trustee to complete the Liberty Transaction, and thereafter to file the Proposal Trustee's Certificate with the Court, certifying, among other things, the completion of the Liberty Transaction; and
3. An order (the “**Junction Approval and Vesting Order**”):

- (a) approving the sale transaction between Junction Road Nominee Inc. (the “**Junction Nominee**”), as purchaser, and Organic Garage and Junction LeaseCo (as each are defined below, together in such capacity, the “**Junction Vendors**”), as vendors, for the sale of the assets pursuant to an asset purchase agreement dated April 19, 2024 between the Junction Nominee and the Junction Vendors (the “**Junction APA**”) and vesting in Junction Nominee all right, title and interest of the Junction Vendors in the Purchased Assets, free and clear of encumbrances and other charges and security interests as described in the Junction APA (the “**Junction Transaction**”); and
  - (b) authorizing the Proposal Trustee to complete the Junction Transaction, and thereafter to file the Proposal Trustee's Certificate with the Court, certifying, among other things, the completion of the Junction Transaction; and
4. An order (the “**OG Approval and Vesting Order**”):
  - (a) approving the sale transaction between MAAB Global Ltd. (“**MAAB**”) as purchaser, and Organic Garage, Bathurst LeaseCo and Oakville LeaseCo (as each are defined below, together in such capacity, the “**OG Vendors**”), as vendors, for the sale of the assets pursuant to an asset purchase agreement dated April 14, 2024 between the MAAB and the OG Vendors (the “**OG APA**”) and vesting in MAAB all right, title and interest of the OG Vendors in the Purchased Assets, free and clear of encumbrances and other charges and security interests as described in the OG APA (the “**OG Transaction**” and together with the Junction Transaction and the Liberty Transaction, the “**Transactions**”); and
  - (b) authorizing the Proposal Trustee to complete the OG Transaction, and thereafter to file the Proposal Trustee's Certificate with the Court, certifying, among other things, the completion of the OG Transaction; and
5. such further and other relief as counsel may advise and this Court may permit.



**THE GROUNDS FOR THE MOTION ARE:**

***Background***

6. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”).
7. KPMG Inc. (“**KPMG**”) was appointed as proposal trustee (in such capacity, the “**Proposal Trustee**”) in each of the NOI proceedings.

***Sales and Solicitation Process***

8. On March 14, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SSP Order**”) approving, among other things:
  - (a) an Asset Purchase Agreement dated March 7, 2024 (the “**Stalking Horse APA**”) between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo, and Liberty LeaseCo, as vendors, and MAAB Global Ltd. (“**MAAB**” or the “**Stalking Horse Bidder**”), as purchaser, to act as the stalking horse sale transaction (the “**Stalking Horse Bid**”) in the proposed sale and solicitation process (the “**SSP**”);
  - (b) the SSP to be carried out by the Proposal Trustee, including the bidding procedures (the “**Bidding Procedures**”) to be used in connection therewith;
  - (c) the key employee retention plan (the “**KERP**”) extended by Organic Garage to certain senior management personnel;

- (d) the procedural consolidation of the proposal proceedings in respect of each of the Debtors to continue under the Estate No. 31-3051650; and
  - (e) an extension of the time by which the Debtors have to file a proposal pursuant to section 62(1) of the BIA to April 30, 2024.
9. As detailed in the Second Report and the Third Report, the Proposal Trustee carried out the SSP in accordance with the SSP Order and the Bidding Procedures
  10. The Potential Bidders were required to submit “Qualified Bids” (as defined in the Bidding Procedures) to the Proposal Trustee on or before 5pm EST on April 10, 2024 (the “**Bid Deadline**”). On April 5, 2024, the Stalking Horse Bidder notified the Proposal Trustee it was exercising its right to terminate the Stalking Horse APA, with the intention of placing a new bid by the Bid Deadline.
  11. A total of four Qualified Bids were received by the Proposal Trustee by the Bid Deadline, including a new Qualified Bid submitted by MAAB.
  12. As outlined in the Second Report, two of the Qualified Bids were each for separate single retail stores and the other two Qualified Bids received were in respect of multiple stores, which contained overlapping assets. On April 11, 2024, the Proposal Trustee contacted the Binding Offer Bidders (as defined in the Bidding Procedures) that submitted Qualified Bids covering multiple stores, including MAAB, and requested resubmissions of their bids to exclude the Liberty Store.
  13. MAAB was the only Binding Offer Bidder that submitted a revised Qualified Bid to the Proposal Trustee.
  14. After review of the Qualified Bids, the Proposal Trustee declared each of 769 Ontario, Junction Nominee and MAAB as the “Successful Bidders” pursuant to the Bidding Procedures and seeks approval of the Transactions.

***Extension of Time to File a Proposal***

15. The Companies have filed a motion seeking to extend the deadline to file a proposal to May 17, 2024. This motion is set to be heard on April 26, 2024.

***Approval of Proposal Trustee Reports, Conduct and Fees***

16. The Third Report includes:
  - (a) a detailed discussion of the SSP and the activities of the Proposal Trustee and its counsel since the Second Report.
  - (b) affidavits of each of the Proposal Trustee and its counsel in respect of their fees and disbursements, the taxation and approval of which is sought; and
  - (c) confidential documents that are often sealed temporarily in these kind of transactions.
17. The Ancillary Order seeks approval of the First Report, Second Report and Third Report of the Proposal Trustee, the activities described in each of those reports, as well as the fees and disbursements of the Proposal Trustee and its counsel.

**Sealing Order**

18. The Proposal Trustee will request that the Court temporarily seal the confidential documents appended to the Third Report until the Transactions are completed or otherwise subject to further order of the Court;

**Other Grounds**

19. The grounds set out in the Second Report and the Third Report;
20. The inherent and equitable jurisdiction of this Court;
21. Sections 65.13 of the BIA;
22. Sections 100 and 137(2) of the Courts of Justice Act, R.S.O. 1990, c. C. 43, as amended;

23. Rules 1.04, 2.03, 3.02 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended; and
24. Such further and other grounds as counsel may advise and this Court may permit.
25. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:
  - (a) The First Report of the Proposal Trustee;
  - (b) The Second Report of the Proposal Trustee;
  - (c) The Third Report of the Proposal Trustee; and
  - (d) Such further and other evidence as counsel may advise and this Court may permit

Date: April 23, 2024

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**TO: SERVICE LIST**

**IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC.,  
2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

Court File No: BK-24-03051650-0031

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

Proceedings Commenced in Toronto

**NOTICE OF MOTION  
(returnable May 2, 2024)**

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Proposal Trustee*

# TAB 2

**Court / Estate File Nos:** 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

**ORGANIC GARAGE (CANADA) LTD. ET AL.**

**FIRST REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

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Court / Estate File Nos: 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**FIRST REPORT OF KPMG INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, , the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). Attached hereto as **Appendix “A”** are copies of each of the Certificates of Filing of a Notice of Intention to Make a Proposal issued by the Office of the Superintendent of Bankruptcy for each of the Debtors.
2. KPMG Inc. (“**KPMG**” or the “**Proposal Trustee**”) consented to act as proposal trustee in the NOI proceedings of each of the Debtors.
3. KPMG LLP, an affiliate of the Proposal Trustee, was previously retained by ECS Law Professional Corporation, on behalf of Oragin Foods Inc. (“**Oragin**”), the parent company of Organic Garage, pursuant to an engagement letter dated on August 18, 2023, to provide certain financial advisory services to Oragin in respect of its liquidity challenges.
4. The principal purpose of these NOI proceedings is to create a stabilized environment to provide the Debtors the opportunity to carry out a sale process for their business and assets, or to restructure their business, so that they can present a proposal to their creditors.
5. This report (the “**First Report**”) is being filed by the Proposal Trustee in connection with the Debtors’ motion returnable March 14, 2024 for certain relief, including approval of a formal sale solicitation process (the “**SSP**”).

## II. PURPOSE OF REPORT

6. The purpose of the First Report is to provide the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) with information pertaining to:
  - (a) additional background information in respect of the Debtors’ operations, creditors and causes of financial difficulties;

- (b) the Debtors' cash flow projections (the "**Cash Flow Forecast**") for the period from March 4, 2024 to and including May 5, 2024 (the "**Forecast Period**");
- (c) the sale transaction contemplated under the Stalking Horse Asset Purchase Agreement dated March 7, 2024 (the "**Stalking Horse APA**") entered into between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo and Liberty LeaseCo (collectively, the "**Vendors**"), as vendors, and MAAB Global Ltd. ("**MAAB**" or the "**Stalking Horse Bidder**"), as purchaser, and the salient terms thereof, for the sale of the Purchased Assets (as defined Stalking Horse APA) which, subject to the approval of this Court, is proposed to act as the stalking horse offer (the "**Stalking Horse Bid**") in the proposed SSP;
- (d) the Debtors' proposed post-filing strategy, including an outline of the SSP to be carried out by the Proposal Trustee and a description of the bidding procedures (the "**Bidding Procedures**") to be used in connection therewith;
- (e) the proposed key employee retention plan (the "**KERP**") to be extended by Organic Garage to certain senior management personnel;
- (f) the proposed priority of the Administration Charge and the Director's Charge (each as defined herein);
- (g) an extension of the time for the Debtors to file a proposal to April 30, 2024 (the "**Extension**"); and
- (h) the recommendation by the Proposal Trustee that this Court issue an order (the "**SSP Order**") approving, among other things:
  - i. the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
  - ii. the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors' and their advisors, to implement same;
  - iii. that the NOI proceedings for the Debtors (collectively, the "**NOI Proceedings**") be administratively consolidated and continued under one title of proceedings, bearing Court/Estate File No. 31-3051650;
  - iv. the KERP and sealing the unredacted copy of the KERP;

- v. each of the Administration Charge and the Director's Charge (each as defined herein), and the proposed priority ranking of such charges; and
- vi. the Debtors' request for the Extension.

### III. TERMS OF REFERENCE

7. In preparing this First Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors' books and records, and discussions with the Debtors' representatives and their legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the First Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Future orientated financial information contained in the Cash Flow Forecast is based on the Debtors' 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 Proposal Trustee expresses no assurance as to whether the Cash Flow Forecast will be achieved.
9. Capitalized terms not otherwise defined herein are as defined in the affidavit of Matt Lurie, the chief executive officer and director of each of the Debtors, sworn March 8, 2024 (the "**Lurie Affidavit**") and filed in support of the Debtors' motion returnable March 14, 2024. This First Report should be read in conjunction with the Lurie Affidavit, as certain information contained in the Lurie Affidavit has not been included herein in order to avoid unnecessary duplication.
10. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

#### IV. BACKGROUND

12. Information with respect to the Debtors' business, operations and causes of insolvency are detailed extensively in the Lurie Affidavit. The information contained herein is not intended to be an exhaustive review of all matters relating to the business of the Debtors and accordingly, the Proposal Trustee recommends that readers review the materials filed by the Debtors in respect of its motion.

##### Corporate Overview

13. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage's focus is to provide its customers with organic products at affordable prices. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin. Organic Garage's registered head office is located in Toronto, Ontario.
14. The leases for each of Organic Garage's stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI Proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the "**Junction Store**");
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the "**Bathurst Store**");
  - (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the "**Oakville Store**"); and
  - (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the "**Liberty Store**").
15. Organic Garage's remaining two subsidiaries, 2368123 Ontario Inc. and 2557479 Ontario Inc., are either inactive or contain no material assets, and are not included in these NOI Proceedings.

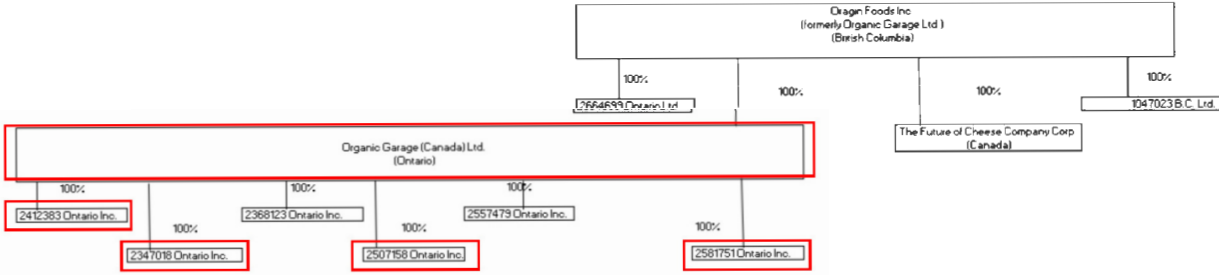
16. As at the date of this First Report, Organic Garage employed approximately 100 employees, comprised of approximately 20 full-time employees who are store managers, assistant managers or in head office functions. The remaining employees are part-time and employed at retail locations. Further, the Proposal Trustee understands that as of the Filing Date, Organic Garage’s workforce was not unionized<sup>1</sup> and Organic Garage does not maintain a pension plan for its employees.

**Oragin Foods Inc.**

17. Oragin acquired Organic Garage in 2016 through a plan of arrangement under the British Columbia *Business Corporations Act*. Oragin is a reporting issuer in the Provinces of British Columbia, Alberta, and Ontario, and is listed on the NEX (a subsidiary of the TSX-V), the OTC QX, and the Frankfurt stock exchange. Oragin is subject to a cease trade order and is currently suspended from trading on all three exchanges.

18. Oragin’s primary assets include its equity interests in its subsidiaries, including Organic Garage. Oragin also has a subsidiary with operations which was formed during an amalgamation agreement with the Future of Cheese Company Corp. (“**Future of Cheese**”) on February 17, 2021. Other inactive subsidiaries of Oragin include 2664669 Ontario Inc. and 1047023 B.C. Ltd, neither of which hold any material assets or liabilities.

19. An organizational chart for Oragin, with the Debtors in these NOI Proceedings outlined in red, is set forth below:



20. Due to the failure in completing certain required interim filings, on or about January 6, 2023, Oragin was issued a cease trade order (the “CTO”) which remains in effect as at the date of this report.

<sup>1</sup> The employees in respect of the Junction Store recently voted to unionize. As at the Filing Date, no collective bargaining agreement has been negotiated or finalized.

21. None of Oragin, the Future of Cheese, 2368123 Ontario Inc., 2557479 Ontario Inc., 2664669 Ontario Inc. and 1047023 B.C. Ltd are debtors in these NOI Proceedings.

### Historical Financial Results

22. The Debtors' unaudited and internal operating results for fiscal 2022 and 2023 are summarized in the table below:

<b>Organic Garage (Canada) Ltd. et al Historical Operating Results Summary - Unaudited (in \$000s CAD)</b>		
	Year ended <b>31-Jan-23</b>	Year ended <b>31-Jan-24</b>
Sales	22,358	22,094
Cost of sales	15,589	16,012
Gross profit	6,769	6,082
Total SG&A expenses (excl. interest and depreciation)	6,747	6,595
EBITDA	21	(513)

23. For the year ended January 31, 2023, the Debtors generated minimal earnings before interest, taxes, depreciation and amortization (“**EBITDA**”) of approximately \$21,000. In the year ended January 31, 2024, the Debtors incurred EBITDA losses of approximately \$513,000. The Proposal Trustee understands management implemented a number of cost-saving initiatives over the past 2 years in an effort to reduce the cash burn. Despite these efforts, the Debtors have not been able to return to profitability.
24. The Proposal Trustee understands that the market in which the Debtors operate in has been negatively impacted by the COVID-19 pandemic which has led to, among other things, significant supply chain pressures. In particular, wholesale vendors have significantly decreased the fill rates for grocery orders leading to reduced inventory at the Debtors' stores, which ultimately resulted in revenue losses for the Debtors. Primarily due to these reasons, the Debtors have experienced lower margins and deterioration of profitability over the past couple years.
25. Set out below is an unaudited summary of the Debtors' assets as at January 31, 2024:

Organic Garage (Canada) Ltd. et al Summary of Assets as at January 31, 2024 - Unaudited (in \$CAD)	
Current Assets	
Cash	133,296
Accounts receivable	42,213
Inventory	1,402,296
Lease receivable	150,520
Prepaid and other current assets	111,050
<b>Total current assets</b>	<b>1,839,374</b>
Fixed Assets	6,861,081
Right of Use Assets	5,703,739
<b>Total Assets</b>	<b>14,404,195</b>

26. As at January 31, 2024, the book value of the Debtors' current assets (which primarily consisted of inventory) and fixed assets (which is comprised of leasehold improvements, store fixtures and refrigeration equipment) was \$1.8 million and \$6.8 million, respectively. The Proposal Trustee notes that the book value is not necessarily representative of the realizable value of these assets, particularly the fixed assets, in a forced liquidation scenario.
27. As noted below, the Debtors estimate that they collectively had unsecured obligations totaling approximately \$2.7 million as at the Filing Date.

### Causes of Insolvency

28. As detailed above and in the Lurie Affidavit, the Debtors have incurred significant net losses over the past 12 months due to a number of factors, including the impact of unsustainable supply chain pressures.
29. On October 25, 2019, Oragin issued two unsecured convertible debentures (together, the "**Convertible Debentures**") for total net proceeds of \$2,925,000, and total face value of \$3,000,000, including an original issue discount of \$75,000. The Convertible Debentures matured on October 25, 2022 (the "**Maturity Date**"), upon which date the holders (the "**Holder**s") of the Convertible Debentures issued notices of default to Oragin for failure to repay the debt.
30. The Proposal Trustee understands the Debtors are not borrowers or guarantors of the Convertible Debentures. Accordingly, the Holders are not included on the Debtors' creditor listings.
31. Based on discussions with the management of the Debtors, the Proposal Trustee understands that prior to and following the Maturity Date, Oragin engaged in discussions with the Holders with the



objective of coming to mutually beneficial terms with regard to the repayment of the Convertible Debentures. However, despite these efforts, Oragin and the Holders were unable to conclude on terms that were mutually agreeable.

32. The Proposal Trustee further understands that Oragin made efforts to secure financing and/or a sale of Organic Garage to repay the Holders, in whole or in part, but these efforts did not ultimately result in a transaction. Moreover, Oragin was unable to raise equity capital due to the CTO.
33. As a result of financial losses, coupled with an inability to raise additional equity capital, the Debtors exhausted their liquidity and elected to each file an NOI to restructure the business.
34. In November 2023, one of the Holders filed an application (the “**Oragin Bankruptcy Application**”) for a bankruptcy order in respect of Oragin. The Proposal Trustee understands the Oragin Bankruptcy Application is scheduled to be heard on March 25 and 26, 2024.

#### **Creditors**

35. A copy of the creditor lists included in each of the Debtors’ NOI filings are attached hereto as **Appendix “B”**.
36. As reflected in Appendix “B”, the Debtors estimate that they collectively have unsecured obligations totaling approximately \$2.7 million as at the Filing Date.
37. As noted in the Lurie Affidavit, Organic Garage has a limited number of other creditors with registered security interests in the personal property registration system, certain of which appear to relate to leasing and/or financing of equipment. One of the registrations is from Royal Bank of Canada relating to an operating line of credit. The Proposal Trustee understands no amounts were outstanding on the line of credit as at the Filing Date. However, there is an outstanding balance under a credit card facility in the amount of approximately \$100,000.
38. The Debtors advised the Proposal Trustee that all employee related amounts are current, and all required remittances of employee withholdings and sales taxes (HST and PST) have been made when due.
39. The Proposal Trustee understands the Debtors intend to pay the accrued pre-filing vacation pay (approximately \$5,000 in total) to its employees during these NOI Proceedings. The Debtors have provided for this payment in the Cash Flow Forecast.

## V. OBJECTIVES OF THE NOI PROCEEDINGS

40. The Proposal Trustee understands that the primary objectives of these NOI proceedings are to:
- (a) ensure the Debtors have the necessary stability to maintain operations as a going concern;
  - (b) implement the SSP with a view to providing a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of these circumstances; and
  - (c) effect a going concern sale of the business of the Debtors, either to the Stalking Horse Bidder or another party/parties as a result of the SSP, with a view to maximizing value for the benefit its stakeholders, including, among others, employees, creditors, and partners.

## VI. THE STALKING HORSE APA

41. The Vendors, the Stalking Horse Bidder, and their respective counsel, in consultation with the Proposal Trustee, have negotiated the terms and provisions of the Stalking Horse APA pursuant to which the Stalking Horse Bidder is proposed to, on an ‘as is, where is’ basis, acquire the Purchased Assets, subject to higher or otherwise better offers, and approval of the Court.
42. The material terms of the Stalking Horse APA, a copy of which is attached hereto as **Appendix “C”**, are as follows:
- (a) Purchaser: MAAB Global Ltd.;
  - (b) Purchased Assets: comprised of:
    - i. all of the Vendors’ right, title and interest in and to all equipment of the Vendors used in connection with the operation of the business, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances;
    - ii. all intellectual property owned by the Vendors and primarily used in connection with the business; and
    - iii. the Assigned Contracts;

- (c) Assigned Contracts: consist primarily of real property leases for the Liberty Store, the Bathurst Store and the Oakville Store (collectively, the “**Leases**”), as same may be modified by the Stalking Horse Bidder prior to April 5, 2024. The Stalking Horse Bidder shall be responsible for payment of any cure costs relating to the Assigned Contracts;
- (d) Assignment of Leases: the Stalking Horse APA has a condition precedent in favour of the Stalking Horse Bidder relating to the successful negotiated assignment of the Leases, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024 (the “**Lease CP**”);
- (e) Purchase Price: the total purchase price is \$275,000 (the “**Purchase Price**”);
- (f) Deposit: a refundable deposit in the amount of \$101,000 (the “**Deposit**”). The Deposit may be used by the Debtors as a non-revolving loan (as discussed further below), if required. The Deposit was sent by the Stalking Horse Bidder on March 11, 2024 and is expected to be received by the Debtors’ counsel in short order. The Deposit will be held in trust by the Debtors’ counsel;
- (g) Closing Date: ten (10) days after the date on which the Court issues an order (the “**Approval and Vesting Order**”) approving the transactions contemplated under the Stalking Horse APA and not later than the Outside Date;
- (h) Expense Reimbursement: up to \$15,000 for repayment of professional fees and expenses incurred by the Stalking Horse Bidder relating to the transaction contemplated by the Stalking Horse APA;
- (i) Assignment Order: the Stalking Horse Bidder may request that, concurrently with the application for the Approval and Vesting Order, the Vendors seek an order (the “**Assignment Order**”) in respect of any Leases for which the consent of the necessary contract parties cannot be obtained. The issuance of the Assignment Order is not a condition precedent to the obligation of the Purchaser to complete the transaction contemplated by the Stalking Horse APA;
- (j) Outside Date: April 30, 2024;
- (k) Termination: the Stalking Horse APA may be terminated prior to the Closing Date upon the occurrence of, but not limited to, one of the following:

- i. by mutual agreement of the Vendors and the Stalking Horse Bidder;
  - ii. by the Vendors or the Stalking Horse Bidder if the closing of the transaction has not occurred by the Outside Date, provided that the failure to close by such deadline is not caused by a breach of Stalking Horse APA by the party proposing to terminate the Stalking Horse APA; or
  - iii. by the Vendors or the Stalking Horse Bidder if there has been a material breach of the Stalking Horse APA by the other party where such breach has not been cured within five (5) business days.
- (l) Financing: the Stalking Horse APA does not contain any financing conditions and the Proposal Trustee understands that the Stalking Horse Bidder has made satisfactory arrangements in respect of necessary financing to complete the transaction should it be selected as the Successful Bidder.
43. As noted above, the Stalking Horse APA contains the Lease CP, which provides the Stalking Horse Bidder with the right to terminate the Stalking Horse APA on or before April 5, 2024 if it cannot negotiate the assignment of the Leases on terms acceptable to the Stalking Horse Bidder. The Proposal Trustee notes that the Lease CP is reasonable in the circumstances as the Stalking Horse Bidder has not had an opportunity to discuss the Leases with the applicable landlords as at the date of the Stalking Horse APA, but the Proposal Trustee understands the Stalking Horse Bidder intends to engage with the relevant parties as soon as practical hereafter. In the event the Lease CP is not satisfied or waived the Stalking Horse Bidder by April 5, 2024, the Proposal Trustee will deliver notice forthwith to update the service list for the NOI Proceedings and any Potential Bidder (as defined below) in SSP.
44. As further noted above, the Deposit has been made available to the Debtors by the Stalking Horse Bidder to contribute towards the Debtors' ongoing working capital requirements during NOI proceedings, pursuant to a proposed senior secured, super-priority facility (the "**Deposit Facility**"). The Stalking Horse Bidder informed the Debtors that its willingness to provide such financing was predicated on entering into the Stalking Horse APA.
45. Prior to any Advance being funded under the Deposit Facility, the Vendors shall seek to obtain a Court order granting a priority charge (the "**Deposit Charge**") in favour of the Stalking Horse Bidder against the assets, properties and undertaking of the Vendors. The Deposit Charge shall secure all of

the obligations of the Vendors under the Deposit Facility and shall rank in priority to all other Encumbrances on the assets of the Vendors, subject only to the Administration Charge and the Director's Charge. The Proposal Trustee notes that based on the Cash Flow Forecast, the Debtors are not projected to require interim financing during the Forecast Period. Accordingly, the Debtors are not seeking approval of the Deposit Facility or the Deposit Charge on the within motion.

46. The Stalking Horse APA provides for payment of the Expense Reimbursement to the Stalking Horse Bidder in the event MAAB is not the Successful Bidder pursuant to the SSP. The Proposal Trustee notes that the Stalking Horse APA does not contemplate a break fee and that the Expense Reimbursement represents approximately 5.5% of the Purchase Price.
47. The Proposal Trustee has reviewed recent comparable stalking horse agreements wherein bid protections have been approved in transactions of this nature, and notes that the proposed Expense Reimbursement is within the range of market parameters (as a percentage of purchase price), which typically range between 1.0% to 7.0% of the purchase price with an average of 3.7%. The Proposal Trustee is of the view that the proposed Expense Reimbursement is fair and reasonable in the circumstances given the time and expense incurred by the Stalking Horse Bidder to date, and will not unduly "chill" bidding on the Purchased Assets as part of the proposed SSP (as described in further detail below).
48. Based on preliminary discussions with an appraisal firm specializing in liquidations, the Proposal Trustee understands the Purchase Price is near the higher end of the forced liquidation value for the Purchased Assets, as noted in the Lurie Affidavit. The Proposal Trustee has engaged a liquidator to provide an appraisal report in respect of the equipment located at the Debtors' stores, which report should be delivered to the Proposal Trustee prior to the Binding Offer Deadline.
49. The Stalking Horse APA sets a "floor price" for the Purchased Assets and based on the foregoing is near the high end of realizations that would be achieved in a liquidation of same. The SSP, as discussed below, will provide for a fair and transparent marketing process that should allow the Debtors to maximize realizations by seeking higher or otherwise better offers for the Purchased Assets.

## **VII. THE SALE SOLICITATION PROCESS**

50. As set out in the Lurie Affidavit, the Debtors, with the assistance of their advisors and in consultation with the Proposal Trustee, have concluded that a restructuring focusing on completing a sale of the

assets and business of the Debtors pursuant to the proposed SSP, will maximize value for all stakeholders.

### **Bidding Procedures<sup>2</sup>**

51. Given the Debtors’ limited liquidity, the Debtors, in consultation with the Proposal Trustee, developed the SSP to promote a competitive, fair, and expedient sale process that seeks to maximize the value of the Debtors’ business and/or assets.
52. The purpose of the SSP is to identify one or more purchasers for the Debtors’ business and/or assets, which may include one or more of a liquidation proposal for the Debtors’ fixed assets (a “**Liquidation Proposal**”), or a sale of all of the Debtors’ assets (including the Purchased Assets) or a portion thereof as a going concern or otherwise (a “**Sale Proposal**”). In order to provide interested parties with an opportunity to bid on the Debtors’ business and/or assets, the Proposal Trustee proposes to aggressively market the Debtors’ business and assets to prospective purchasers for a period of approximately 35 days. As noted below, the proposed timelines are reasonable in the circumstances and reflective of the Debtors’ limited liquidity and the Cash Flow Forecast.
53. The following table summarizes the key dates and timelines pursuant to the SSP:

<b>Date</b>	<b>Event</b>
On or about March 6, 2024	Proposal Trustee to distribute a Teaser Letter to Known Potential Bidders, and upon execution of the NDA, access to the VDR
April 10, 2024 at 5:00 p.m. (EST)	Binding Offer Deadline (unless terminated early in accordance with the terms of the Sales process)
Auction, if needed	Date and time to be designated by the Proposal Trustee
By no later than April 12, 2024	Selection of Successful Bidder
By April 23, 2024 or the earliest date available thereafter	Sale Approval Motion to approve and authorize the sale transaction(s) to the Successful Bidder(s)

<sup>2</sup> Terms used but not otherwise defined in this section have the meaning ascribed to them in the Bidding Procedures.

As soon possible but no later than April 30, 2024	Closing of Successful Bid
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54. The key features of the Bidding Procedures, a copy of which is attached hereto as **Appendix “D”**, are outlined below:
- (a) Notice: in advance of the date of the within motion, commencing on March 6, 2024, the Proposal Trustee distributed: (i) an offering summary describing the transaction opportunity and outlining the proposed Binding Offer Deadline to a list of interested parties (the “**Known Potential Bidders**”), which list has been developed by the Proposal Trustee and Organic Garage. Any Known Potential Bidder interested in exploring the opportunity further will be provided with a form of non-disclosure agreement (the “**NDA**”) by the Proposal Trustee. Within five (5) business days after the granting of the SSP Order, the Proposal Trustee will provide Known Potential Bidders that execute an NDA with a copy of the Bidding Procedures. The Proposal Trustee will cause the Teaser Letter and NDA to be sent to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Proposal Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.
  - (b) Diligence: Any party that wishes to participate in the SSP (a “**Potential Bidder**”) will be required to provide the Proposal Trustee: with (i) an executed NDA and (ii) a letter detailing the identity of the Potential Bidder, its direct and indirect principals, and contact information for such Potential Bidder. Potential Bidders that wish to commence due diligence on the Purchased Assets will be provided, by the Proposal Trustee, with a copy of the Stalking Horse APA and any material amendment thereto, as well as access to a virtual data room (the “**VDR**”) that contains confidential financial and other information relating to the Debtors and its operations.
  - (c) Qualified Bidder: A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "Qualified Bidder" if the Proposal Trustee, in its reasonable judgment, and in consultation with the Debtors, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or liquidation transaction pursuant to the SSP. The Stalking Horse Bidder is considered a “Qualified Bidder” pursuant to the Bidding Procedures.

- (d) Binding Offers: Any Qualified Bidder (in such capacity, a “**Binding Offer Bidder**”), other than the Stalking Horse Bidder, that wishes to make a formal bid must submit a binding offer (a “**Binding Offer**”), in the case of a Sale Proposal or a Partial Sale Proposal, in the form of a markup to the Stalking Horse APA to show any amendments and modifications thereto, or in the case of a Liquidation Proposal, in a form of liquidation agreement in form and substance satisfactory to the Proposal Trustee, in consultation with the Debtors. In addition to the foregoing, a Binding Offer must comply with, among other things:
- i. form of consideration for the proposed sale must be in cash;
  - ii. includes evidence, satisfactory to the Proposal Trustee, in consultation with the Debtors, of the ability to close the transaction within the timeframes contemplated by the SSP;
  - iii. includes a written statement that such offer be binding and irrevocable unless and until the earlier of: (i) two (2) business days after the date of closing of the Successful Bid; and (ii) the Outside Date;
  - iv. provides for net cash proceeds on closing that exceeds the Purchase Price by at least \$40,000, which represents the sum of: (i) the Expense Reimbursement; and (ii) a minimum overbid amount of \$25,000;
  - v. be accompanied by a deposit of not less than 25% of the cash purchase price payable on closing;
  - vi. in the case of a Sale Proposal, (i) identifies any executory contracts and leases of the Debtors that the Qualified Bidder will assume and (ii) contains the Qualified Bidder’s proposed treatment of employees of the Debtors;
  - vii. in the case of a Liquidation Proposal, includes the scope of the Debtors’ assets to be included in the liquidation, including goods, lease designation rights, and receivables and any related exclusions;
  - viii. does not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections; and



- ix. be received by the Proposal Trustee on or prior to 5:00 p.m. (prevailing Eastern Time) on April 10, 2024 (the “**Binding Offer Deadline**”).
- (e) Early Termination: If the Proposal Trustee concludes, in its sole discretion, that there are no active participants in the SSP or no prospect that a Binding Offer that is superior to the Stalking Horse Bid will be submitted by the Binding Offer Deadline, the Proposal Trustee may terminate the SSP before the Binding Offer Deadline, *so long as* such termination occurs no more than 10 days prior to the Binding Offer Deadline.
- (f) Auction: If the Proposal Trustee determines that more than one Binding Offer (other than the Stalking Horse Bid) should be considered, the Proposal Trustee may, without being obligated to do so, conduct an auction (the “**Auction**”) to select the highest and/or best Binding Offer. Significant aspects of the Auction include the following:
- i. the Auction will commence at a date and time to be designed by the Proposal Trustee;
  - ii. only the Proposal Trustee, the Debtors, the Stalking Horse Bidder, and any other Binding Offer Bidders, along with their respective representatives and advisors, will be entitled to attend the Auction;
  - iii. prior to the Auction, the Proposal Trustee will identify which of the Binding Offer(s) will constitute the opening bid (the “**Opening Bid**”) at the Auction;
  - iv. bidding at the Auction will begin with the Opening Bid and continue in bidding increments (each a “**Subsequent Bid**”) providing a net incremental value of at least an additional \$25,000 cash in excess of the Opening Bid;
  - v. each participating Binding Offer Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Binding Offer Bidder. At such time and upon the conclusion of the bidding, the Auction will be closed, and the Proposal Trustee shall declare the final remaining Binding Offer Bidder the successful bidder (the “**Successful Bidder**” and such bid, the “**Successful Bid**”). The Proposal Trustee, in consultation with the Debtors, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment; and

- vi. upon selection of a Successful Bidder, the Proposal Trustee will require the Successful Bidder to deliver, as soon as practicable, an amended and executed transaction document that reflects the Successful Bid.
55. In the event the Proposal Trustee does not receive a Binding Offer (other than the Stalking Horse Bid), the Stalking Horse Bid will be deemed the Successful Bid, the Debtors will promptly seek Court approval of the Stalking Horse APA and the transactions contemplated therein.
56. The Bidding Procedures provide that the Proposal Trustee, in consultation with the Debtors, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Binding Offer Bidders or the Successful Bidder provided that the Proposal Trustee determines that such modification, amendment, variation or supplement is expressly limited to changes that do not materially alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and that are necessary or useful in order to give effect to the substance of the SSP and the Bidding Procedures. The Proposal Trustee will post on the Case Website, as soon as reasonably practicable, any such modification, amendment, variation or supplement to the Bidding Procedures and inform the bidders impacted by such modifications.
57. Among other things, the Bidding Procedures provide for an orderly and appropriately competitive process through which potential acquirers may submit bids for the Debtors' business and/or assets. Additionally, the Bidding Procedures will allow the Proposal Trustee, in consultation with the Debtors, to conduct the Auction, if required, in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely transaction.
58. In the Proposal Trustee's view, the SSP and the Bidding Procedures are consistent with market practice, provide a reasonable opportunity for potential purchasers to submit higher or otherwise better offers to the Stalking Horse APA, and are reasonable and appropriate in the circumstances.

## **VIII. CASH FLOW FORECAST**

59. The Debtors, in consultation with the Proposal Trustee, have prepared the Cash Flow Forecast for the purpose of projecting their estimated liquidity needs during the Forecast Period. A copy of the Cash

Flow Forecast, notes and a report containing prescribed representations of the Debtors regarding the preparation of the Cash Flow Forecast are attached hereto as **Appendix “E”**.

60. The Cash Flow Forecast assumes that the Debtors’ key suppliers continue to support and fulfill product orders after the Filing Date, and that foot traffic at the stores is not materially impacted by the commencement of the NOI Proceedings.
61. The Cash Flow Forecast has been prepared by the Debtors on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. Due to the integrated nature of the Debtors’ operations, the Cash Flow Forecast is presented on a consolidated basis and includes the receipts and disbursements of the Debtors. The Cash Flow Forecast reflects the Debtors estimates of receipts and disbursements on a weekly basis over the Forecast Period.
62. The Proposal Trustee’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Debtors. Since the hypothetical assumptions need not be supported, the Proposal Trustee’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management of the Debtors for the probable and hypothetical assumptions, and the preparation and presentation of the Cash Flow Forecast.
63. Based on the Proposal Trustee’s review, nothing has come to its attention that causes it 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 First Report, the probable assumptions developed by the Debtors are not suitably supported and consistent with the restructuring plan of the Debtors 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.
64. As at March 4, 2024, the Debtors had \$434,104 of available cash on hand. The Cash Flow Forecast projects that the Debtors will generate cash receipts of approximately \$2.2 million and cash disbursements of approximately \$2.7 million, for a net operating cash outflow of \$409,612 over the Forecast Period. As such, the Debtors are projected to have a cash balance of approximately \$25,000 at the end of the Forecast Period, excluding any proceeds generated from the closing of a transaction through the SSP.

65. The Proposal Trustee notes that the Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. PROCEDURAL CONSOLIDATION**

66. In order to create efficiency, the Debtors are seeking an order procedurally consolidating the NOI Proceedings of each of the five Debtors (the “**Procedural Consolidation**”).
67. As previously discussed, Organic Garage has four active subsidiaries which hold the premises lease for each of the Organic Garage stores. In a going concern sale of the Debtors’ business, a purchaser(s) would also acquire the lease agreements held by the subsidiaries of Organic Garage. Since the business and assets of all Debtors are subject to the same SSP, the Proposal Trustee believes Procedural Consolidation would be reasonable to promote efficiency of the SSP for the benefit of all stakeholders.
68. Furthermore, the day-to-day business activities of the Debtors, such as payroll functions, payments, and inventory stocking are conducted jointly and therefore, a Procedural Consolidation would allow the Proposal Trustee and the Debtors to avoid any duplicative efforts and reduce costs.

## **X. KEY EMPLOYEE RETENTION PLAN**

69. In order to ensure the continued participation of key employees who are critical for the execution of the SSP (the “**Key Employees**”), the Debtors are seeking approval of the KERP whereby the Key Employees will receive retention payments upon the occurrence of certain milestones.
70. The Proposal Trustee understands that beneficiaries of the KERP are either critical to the implementation of the SSP and/or for the continuation of operations during the NOI Proceedings. The Key Employees would be, among other things, processing payroll, updating cashflow forecast, managing store operations and managing supplier inquiries. Additionally, the Proposal Trustee understands the Key Employees will be required to take on additional responsibility related to the management and supervision of store operations during the SSP.
71. The aggregate amount payable under the KERP is \$40,000, to be allocated to the participating Key Employees in accordance with the KERP terms. The Proposal Trustee is of the view that KERP amounts are reasonable to ensure the continued operations of the Debtors’ business during the NOI Proceedings and the successful completion of the SSP.

72. The Debtors are also seeking the sealing of Confidential Exhibit “1” of the Lurie Affidavit, which contains the letters detailing the KERP. The Proposal Trustee supports the sealing of Exhibit Confidential Exhibit “1” of the Lurie Affidavit to avoid any negative effects to the Debtors’ operations should this information be publicly available, and to protect the privacy of the Key Employees who are the beneficiaries of the KERP. A redacted copy of the KERP is attached as Exhibit “D” of the Lurie Affidavit.

## **XI. PROPOSED PRIORITY CHARGES**

73. The Debtors are seeking approval for two priority charges (collectively the “**Charges**”) on the current and future assets, undertakings and properties of the Debtors wherever located, including all proceeds thereof, that rank in the following order:
- (a) First, the Administration Charge (to the maximum amount of \$150,000); and
  - (b) Second, the Director’s Charge (to the maximum amount of \$140,000).

### **Administration Charge**

74. The Debtors are seeking a priority charge up to a maximum of \$150,000 (the “**Administration Charge**”) in favour of the Debtors’ counsel, the Proposal Trustee and its counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the NOI Proceedings. The approval of the Administration Charge is typical in proceedings of this nature.
75. The Debtors’ counsel, the Proposal Trustee and its counsel received retainers in the aggregate amount of \$125,000.
76. The amount of the Administration Charge sought by the Debtors was determined in consultation with the Proposal Trustee.
77. Given the foregoing, the Proposal Trustee is of the view that the proposed Administration Charge is reasonable in the circumstances.

### **Director’s Charge**

78. The Debtors are seeking a priority charge to indemnify its sole director and officer (the “**Director and Officer**”), against obligations and liabilities that he may incur as the director or officer of the Debtors after the commencement of these NOI Proceedings (the “**Director’s Charge**”).

79. The amount of the Director's Charge has been calculated by the Debtors taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment related liabilities that attract potential liability for the Director and Officer.
80. As noted in the Lurie Affidavit, the Debtors currently do not have director and officer insurance, and as such, due to the potential for personal liability, the Director and Officer is unwilling to continue his services and involvement in the NOI Proceedings without the protection of the Director's Charge. As the Debtors will require the participation and experience of the Director and Officer to facilitate the successful completion of the NOI Proceedings, including participating in the SSP, the Proposal Trustee believes that the Director's Charge is required and reasonable in the circumstances.

## **XII. DEBTORS' REQUEST FOR EXTENSION**

81. The Debtors are seeking an extension of the time to file a proposal to April 30, 2024 to permit the Proposal Trustee time to undertake the SSP described above.
82. The Proposal Trustee supports the Debtors' request for the Extension for the following reasons:
- (a) the Debtors are acting in good faith and with due diligence in taking steps to facilitate a sale of its operations;
  - (b) it is the Proposal Trustee's view that an extension will not prejudice or adversely affect any group of creditors;
  - (c) the Cash Flow Forecast indicates that the Debtors are forecast to have sufficient liquidity to continue to fund operations through the period ending April 30, 2024;
  - (d) at least 25 days will be required to establish whether there is any serious interest from Known Potential Bidders in acquiring the Debtors' business and/or assets in connection with the SSP; and
  - (e) given their limited resources, this would permit the Debtors to avoid the costs incurred in re-attending before this Court prior to April 4, 2024 solely for the purpose of seeking a short extension of the stay until after the Binding Offer Deadline.
83. While it is too early to say whether a viable proposal will be presented by the Debtors to their creditors, in the Proposal Trustee's view, the Debtors' request for the Extension is appropriate in the

circumstances, as the current extension request properly reflects the timeframe by which the Proposal Trustee will be able to provide this Court with a meaningful update on the progress of the SSP.

### **XIII. CONCLUSIONS AND RECOMMENDATIONS**


84. For the reasons set out in the First Report, the Proposal Trustee is of the view that the relief requested by the Debtors is both appropriate and reasonable in the circumstances and the Proposal Trustee recommends that this Court make an order, among other things:

- (a) approving the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
- (b) approving the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors, to implement the same;
- (c) approving the Procedural Consolidation in respect of the NOI Proceedings commenced by each of the Debtors;
- (d) approving the KERP for certain critical employees of the Debtors, and sealing the unredacted copy of the KERP at Confidential Exhibit “1” to the Lurie Affidavit;
- (e) granting the Administration Charge and the Director’s Charge, and proposed priority ranking of the Charges; and
- (f) approving the Debtors’ request for the Extension.

All of which is respectfully submitted on this 11<sup>th</sup> day of March 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



---

**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President



---

**Tahreem Fatima**  
**CPA**  
Manager



# **Appendix “A”**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3051650  
Estate No. 31-3051650

In the Matter of the Notice of Intention to make a proposal of:

**Organic Garage (Canada) Ltd.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

---

Date of the Notice of Intention:

March 05, 2024

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

E-File/Dépôt Electronique

Date: March 05, 2024, 12:57

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3051653  
Estate No. 31-3051653

In the Matter of the Notice of Intention to make a proposal of:

**2347018 Ontario Inc.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

---

Date of the Notice of Intention:

March 05, 2024

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: March 05, 2024, 12:44

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3051654  
Estate No. 31-3051654

In the Matter of the Notice of Intention to make a proposal of:

**2412383 Ontario Inc.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

---

Date of the Notice of Intention:

March 05, 2024

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

E-File/Dépôt Electronique

Date: March 05, 2024, 12:51

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3051656  
Estate No. 31-3051656

In the Matter of the Notice of Intention to make a proposal of:

**2507158 Ontario Inc.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

---

Date of the Notice of Intention:

March 05, 2024

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: March 05, 2024, 12:53

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3051657  
Estate No. 31-3051657

In the Matter of the Notice of Intention to make a proposal of:

**2581751 Ontario Inc.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

---

Date of the Notice of Intention:

March 05, 2024

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

E-File/Dépôt Electronique

Date: March 05, 2024, 12:55

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**

# **Appendix “B”**

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Ad Mill Group	635 Hood Road Markham ON L3R4N6		18,736.44
Agropur Cooperative Fine Cheese Division	4600 Armand-Frappier St.Hubert QC J3Z1G5		5,427.72
Aliments Koyo Inc	51 Scottfield Drive Toronto ON M1S5R4		11,736.88
Allegion Canada Access Inc	P.O. Box 9218 Postal Station A Toronto ON		5,211.66
Alliance Import Export Inc.	P.O Box 352 Magog QC J1X3W9		2,277.00
Allmart Distributing	8905 Highway 50 Unit 1 Vaughan ON L4H5A1		12,273.23
Allseas Fisheries Corp.	55 Vansco Road Toronto ON M8Z5Z8		4,026.57
AMJ Health Food Distributors	69 Westmore Dr. Unit # 11 Etobicoke ON M9V3Y6		17,735.72
Arla Foods	675 Rivermede Road Concord ON L4K2G9		7,767.84
Atrium Innovations Inc.	1-150 Via Renzo Drive Richmond Hill ON L4S0J7		4,314.81
Axel Kraft International Ltd.	99 Engelhard Drive Aurora ON L4G3V1		2,701.76
Beland Organic Foods	19-2390 Boul Louis XIV Quebec QC G1C5Y8		6,808.50
BeverageWorld	590 South Service Rd. StoneyCreek ON L8E2W1		1,994.95
Blue Giant Equipment Corp.	410 Admiral Boulevard Mississauga ON L5T2N6		435.05
Body Plus	P.O. Box 5 StationD Scarborough ON M1R4Y7		5,647.53



List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Brooker's Natural Meats	1166 17th Sideroad Schomberg ON L0G1T0		9,780.43
Burnbrae Farms	3356 County Road #27 Lyn ON K0E1M0		24,175.01
Business Systems	5800 Coopers Ave Mississauga ON L4Z 2B9		937.01
Butler Operation	4778 Bloomington Road Stouffville ON L4A 4A4		10,526.17
Camcarb	155 Signet Drive Toronto ON M9L1V1		2,391.11
Canada Bread	# T6249 PO Box 6100 Station F Toronto ON M4Y 2Z2		5,635.42
Canadawide Distributeur de Fruits	1370 rue de Beauharnois Ouest bureau 200 Montreal QC H4N 1J5		12,863.50
Canadian American Boxed Meat Corp.	6905 Kenderry Gate Units #2&3 Mississauga ON L5T 2Y8		12,837.31
Canadian Wild Fruit	2385 Hwy 11 S Gravenhurst ON P1P0C8		521.00
CanPrev	70 North Wind Place Toronto ON M1S3R5		6,762.51
Canuck Express LTD.	39 Manstor Road. Etobicoke ON M9C1B1		1,415.34
Casa Bonita	700 Progress Road Unit 13 Scarborough ON M1H2Z7		1,415.66
Centennial Food Group	50 Leek Crescent Richmond Hill ON L4B4J3		461.10
Cheeky Bee	23 Main Street P.O. Box 99 Warkworth ON K0K3K0		1,867.54
Cintas Canada Limited	40004 PO Box 4372 STN A Toronto ON M5W0J2		1,647.89

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Consolidated Bottle Corporation	77 Union Street Toronto ON M6N3N2		472.34
Crossroads Refrigeration Limited	617 Enfield Road Burlington ON L7T2X9		47,084.50
Culinary Solutions	2426 Kwinter Road Oakville ON L6M0H5		4,043.64
Cultivar Foods	5653 McAdam Road Mississauga ON L4Z1N9		5,599.40
Del Monte	LOCKBOX 914500 PO BOX 4090 STN A Toronto ON M5W0E9		17,589.00
DND Goup Inc	10-8707 Dufferin Street Suite#355 Vaughan ON L4J0A6		17,230.40
DSM Foods Inc.	1681 Langstaff Road #8 Vaughan ON L4K5T3		18,824.33
Ecoideas Innovations Inc.	630 Newpark Boulevard Newmarket ON L3X2S2		10,525.58
EcoTrend Ecologics Ltd.	125 West 3rd Avenue Vancouver BC V5Y1E6		2,240.11
Enviroprise Ltd.	465 Davis Dr. Unit 309 Newmarket ON L3Y7T9		5,654.52
Epic Blend	3333 McQueen Road West Kelowna BC V4T1B7		485.76
Ethical Bean Coffee	1315 Kootenay Street Vancouver BC V5K4Y3		2,569.56
Find Your Weigh Inc.	26 Evita Court Thornhill ON L4J8K6		3,769.87
Flora	7400 Fraser Park Drive Burnaby BC V5J5B9		5,687.23
Fontaine Sante	450 Rue Deslauriers St-Laurent QC H4N1V8		7,356.26

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Freeman Herbs Inc.	4075 North Service Rd Lincoln ON L3J1J4		10,561.82
FreshSpoke Inc.	8000 Yonge Street 2ndFloor Innisfil ON L9S1L5		435.20
Genuine Health	491 College Street Suite 200 Toronto ON M6G1A5		3,860.89
Gourmet Trading Co.	3570 Platinum Drive Unit#5 Mississauga ON L5M2R7		5,154.11
Grainfields Bakery	682 Denison Street Markham ON L3R1C1		8,075.63
Great Canadian Meat Company, The	1390 Hopkins St. Whitby ON L1N2C3		756.72
Green Meadow Eggs	11168 Springerhill Road R.R. 4 Aylmer ON		1,928.25
Harvest to Gather	966 Concession 6 Woodhouse Road Simcoe ON N3Y4K4		22,785.83
Healthology	1273 North Service Road East Oakville ON L6H1A7		2,179.27
Hewitt's Dairy Ltd.	P.O Box 400 128 King Street E. Hagersville ON N0A1H0		58,390.53
Hope Produce	11168 Springerhill Road Aylmer ON N5H2R3		26,453.00
Husky Foods	155 Rainbow Creek Dr. Vaughan ON L4H0A4		3,135.03
ID Foods	1800 Autoroute Laval QC H7S2E7		2,538.89
Imperial Dade Canada Inc.	P.O. BOX 12372 ST:A TORONTO ON M5W0K5		4,100.68
Ingemar Sales Inc.	3-1052 Deta Rd. Mississauga ON L5E2R5		5,543.77

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Instacart	T42940C P.O. Box 4286 Postal STN A Toronto ON M5W5W9		305,495.08
Jofemar USA, Inc.	2200 NW 102nd Ave. Unit #3 Doral FL 33172 USA		575.98
Jonluca Neal	21 Keyes Court Vaughan ON L4H0W6		175,505.74
Joy of the Mountains	P.O. Box 1058 Lumby BC V0E2G0		1,930.52
Kasseler Food Products Inc.	1031 Brevik Place Mississauga ON L4W3R7		8,856.69
Kost Klip Manufacturing Ltd	VH1048 PO Box 9520 STN Terminal Vancouver BC V6B4G3		293.95
Lactalis Canada Inc.	405 The West Mall 10th Floor Etobicoke ON M9C 5J1		1,540.30
Legacy Distributors Inc.	625 Zenway Blvd. Unit 5 Woodbridge ON L4H4J8		3,328.50
Lennie Ciglen	601 Magnetic Dr. Unit 30 Toronto ON M3J3J2		3,128.65
LIDD Consultants Inc	360 rue St-Jacques Suite 1600 Montréal QC H2Y1P5		17,116.68
Live Organic Food Products Ltd.	48 Ingram Dr. North York ON M6M2L6		12,704.46
M.N.R. Distributors Inc.	12725 Warden Ave. Stouffville ON L4A7X5		4,882.34
Mad Mexican Prepared Food Products Inc.	64 Crockford Blvd. Scarborough ON M1R3C3		8,698.74
Marlin Digital Imagine Inc.	30 East Beaver Creek Rd. #101 Richmond Hill ON L4B1J2		487.40
Maslina Products	300 St-Francois-Xavier ste 216 Delson QC J5B1Y1		717.82

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
McLean Meats Inc.	250 Frobisher Dr. Waterloo ON N2V2L8		11,523.50
Merrylynd Organics	2936 Hwy 28 Douro ON K0L2H0		837.00
Midland Food Products	195 Rexdale Blvd Toronto ON M9W1P7		3,145.27
Mike and Mike's	1 Royal Gate Blvd. Unit F Woodbridge ON L4L8Z7		65,252.90
Naked Natural Foods	815 - 207 West Hastings Street Vancouver BC V6B1H7		7,590.00
National Produce Marketing Inc.	55 Plywood Place Toronto ON M8Z5J3		2,177.00
Natural Factors	1550 United Blvd. Coquitlam BC V3K6Y2		14,171.90
Nature's Way of Canada Ltd.	4-15 Garland Avenue Dartmouth NS B3B0A6		3,321.99
Natusoy Foods Ltd.	1835 Meyerside Dr. Unit 1 & 2 Mississauga ON L5T1G4		13,769.93
New Chapter	PO Box 9503 STNA Toronto ON M5W2K3		637.09
Newport Gourmet Foods Inc.	145 Sun Pac Blvd. Brampton ON L6S 5Z6		7,681.72
NJ Bread Co.	525 Loomis Rd. Codrington ON K0K1R0		3,377.19
Nutri Spring Farms Ltd.	801 Collinson Road Dundas ON L9H5E2		2,516.17
Oakville Hydro	P.O. Box 1900, 861 Redwood Square Oakville ON L6J5E3		5,961.04
Oasis Made	2957-6758 Quebec Inc. Oasis Bags Vaudreuil-Dorion QC J7V5V5		19,153.50

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
ONFC	5800 Keaton Crescent Mississauga ON L5R3K2		396,921.42
Ontario Pride Eggs Inc.	860 Trillium Drive Kitchener ON N2R1K4		9,519.28
Ontario Seed Co. Ltd.	PO BOX 7 Waterloo ON N2J3Z6		842.59
Organic Connections Ltd.	Box 78 Wainfleet ON L0S1V0		832.46
Organic Oven	31 Melanie Drive Unit#7 Brampton ON L6T5H8		739.45
Organika Health Products Inc.	13480 Verdun Place Richmond BC V6V1V2		2,607.52
Orkin Canada Corporation	5840 Falbourne Street Mississauga ON L5R4B5		5,515.38
Ozery's Pita Break Inc.	11 Director Court Unit#1 Woodbridge ON L4L4S5		6,367.70
Paper Tec International Inc.	60 HARTLEYWOOD DRIVE SCARBOROUGH ON M1S 3N2		543.41
Paradise Fields	3355 Golf Club Road Binbrook ON L0R1P0		14,668.50
Peak Performance Products	6135 Danville Road Mississauga ON L5T2H7		1,909.70
Pemanna Logistics	1784 Jack Glenn St Oshawa ON L1K0W3		1,884.28
Pfenning's Organic Vegetables Inc.	1209 Waterloo Street Baden ON N3A1T1		13,521.51
Planet Foods	4040E 80 Ave. SE Calgary AB T2C2J7		14,992.42
Protech Plumbing & Drain Services	15 Fairlin Drive Etobicoke ON M9B4J1		1,686.18

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Pure Blue Water Company Inc.	7540 Mill Lane Caledon ON L7E 0M7		854.40
Puresource Natural Products	#5 - 5068 Whitelaw Road RR6 Guelph ON N1H6J3		22,378.78
Purity Life Health Products	6 Commerce Crescent Acton ON L7J2X3		77,608.71
Raw Elements	8473 Wellington RD 50 Rockwood ON N0B2K0		10,207.53
Redhaven Consulting Inc.	205-1155 West 11th Avenue Vancouver BC V6H1K4		9,040.00
RHSM Canada	395 Valermo Drive Toronto ON M8W2L4		1,269.25
Rowe Beef Co.	3066 Jarrow Ave. Mississauga ON L4X2C7		32,801.58
Saputo Dairy Products Canada G.P.	2365 Ch.De La Cote-De-Liesse St-Laurent QC H4N2M7		6,150.19
Seacore Seafood	81 Aviva Park Drive Woodbridge ON L4L9C1		3,683.90
Sellers Publishing, Inc.	161 John Roberts Road SouthPortland ME USA		1,215.15
Sequel Naturals / Vega	101-3001 Wayburne Burnaby BC V5G4W3		9,250.68
Shasha Bread Co. Inc.	20 Plastics Avenue Etobicoke ON M8Z4B7		3,263.31
SIR Solutions	3565 Rue Jarry E. Montreal QC H1Z4K6		18,197.02
Smart Secure Technologies	4711 Yonge Street 10th Floor Toronto ON M2N6K8		5,017.20
Smythe LLP	475 Howe St Vancouver BC V6C2B3		12,600.00

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Socialdrop Inc.	860 Magnetic Drive Toronto ON M3J3J2		13,334.00
Solar Gold Dried Fruit	18 Ballyronan Rd. Toronto ON M3B1V3		4,007.00
Star Marketing East	3289 - 190 St. Surrey BC V3Z1A7		11,221.50
STM Display Sales Inc.	2230 Meadowpine Blvd Mississauga ON L5N6H6		4,808.15
Sundai	143 Johnston Ave Toronto ON M2N 1H1		1,073.50
Sunflower Kitchen Inc.	770 Birchmount Rd Unit 20 Scarborough ON M1K5H3		31,138.28
Sustainables Canada Inc.	63 Medulla Ave Unit 1 Etobicoke ON M8Z5L6		339.00
Sweets From The Earth	101 Canarctic Dr Toronto ON M3J2N7		3,717.96
Tall Grass	375 West 5th Avenue Vancouver BC V5Y1J6		3,323.41
teaBOT	786 King Street West Toronto ON M5V1N6		19,039.66
TeraGo	P.O Box 8956 Postal Station A Toronto ON M5W2C5		2,467.75
TFB & Associates Limited	3100 Steeles Ave. East Suite 205 Markham ON L3R8T3		2,192.75
Tootsi Impex Inc.	8800 Henri Bourassa Ouest St.Laurent QC H4S1P4		39,267.48
Toppits	301 Chrislea Road Vaughan ON L4L8N4		2,738.92
Tree Of Life	6185 McLaughlin Road Mississauga ON L5R3W7		17,386.63



List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Trillium Pure Water Co. Inc.	43 Waller Avenue Toronto ON M6S1B8		12,968.61
TSX Trust Company	301-100 Adelaide Street West Toronto ON M5H4H1		8,501.89
TWPA BATHURST	Room 205 Ontario Food Terminal - 165 The Queensway Etobicoke ON M8Y 1H8		10,027.50
TWPA JUNCTION	Room 205 Ontario Food Terminal - 165 The Queensway Etobicoke ON M8Y 1H8		13,758.80
TWPA LIBERTY	Room 205 Ontario Food Terminal - 165 The Queensway Etobicoke ON M8Y 1H8		8,944.50
TWPA OAKVILLE	Room 205 Ontario Food Terminal - 165 The Queensway Etobicoke ON M8Y 1H8		7,875.00
Uber Castor Canada Inc.	66 Wellington Street West Suite 5300 TD Bank Tower Toronto ON M5K1E6		32,024.08
UNFI Canada Inc.	8755 Keele Street Concord ON L4K2N1		389,575.06
Unifirst	2290 Dunwin Drive Mississauga ON L5L1C7		2,501.02
United Staffing Services Inc.	3359A Bloor Street West Etobicoke ON M8X1G2		5,503.12
Universal Misting Systems Inc.	33 Littleleaf Drive Toronto ON M1B1Y6		866.65
VA Electircal Contracting Inc.	65 Kilbride Dr Whitby ON L1R2B5		694.95
Vegan Broker Inc.	Unit 9-1111 Finch Avenue West Toronto ON M3J2E5		11,125.45
Waste Reduction Group Inc.	Suite 101 - 214 Merton Street Toronto ON M4S1A6		5,626.79

List of Creditors

In the Matter of the Proposal of  
Organic Garage (Canada) Ltd.  
of the City of Toronto, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
Winford Foods Ltd.	5-45 Basaltic Rd Vaughan ON L4K1G5		5,046.21
Yerba Buena's Ltd. / Sopa	318 Salem Ave. Toronto ON M6H3C7		4,111.80
Yorkshire Valley Farms	80 Galaxy Bvd Unit #5 Etobicoke ON M9W4Y8		19,492.49
Zara's Gourmet Kitchen	111 Finchdene Square Unit #4 Scarborough ON M1X1B5		10,784.10
<b>Total</b>			2,603,317.34

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Organic Garage (Canada) Ltd.  
Insolvent Person

List of Creditors

In the Matter of the Proposal of  
2347018 Ontario Inc.  
of the City of Toronto, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
8000 Bathurst Street Realty Inc. c/o M&R Holdings	320 Pharmacy Avenue Unit 1 Toronto ON M1W 2T8		5,982.83
<b>Total</b>			5,982.83

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2347018 Ontario Inc.  
Insolvent Person

List of Creditors

In the Matter of the Proposal of  
2412383 Ontario Inc.  
of the City of Toronto, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
2216198 Ontario Inc. /Rio Can	74 Advance Road Toronto ON M9Z 2T7		43,411.22
<b>Total</b>			43,411.22

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2412383 Ontario Inc.  
Insolvent Person

List of Creditors

In the Matter of the Proposal of  
2507158 Ontario Inc.  
of the City of Toronto, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
Szeto, Ping Hay c/o Gip Sing International Ltd.	PH72 - 4168 Finch Ave E Scarborough ON M1S 5H6		15,539.26
<b>Total</b>			15,539.26

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2507158 Ontario Inc.  
Insolvent Person

List of Creditors

In the Matter of the Proposal of  
2581751 Ontario Inc.  
of the City of Toronto, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
8841896 Canada Inc. C/O Kevric Ontario Real Estate Corporation Inc.	800 de la Gauchetiere West, Suite 240 Montreal QC H5A 1K6		8,503.82
<b>Total</b>			8,503.82

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2581751 Ontario Inc.  
Insolvent Person

# **Appendix “C”**

## STALKING HORSE ASSET PURCHASE AGREEMENT

This Agreement is made as of the 7<sup>th</sup> day of March, 2024 (the “**Effective Date**”)

### AMONG:

**ORGANIC GARAGE (CANADA) LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Company**”)

- and -

**2347018 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Bathurst LeaseCo**”)

- and -

**2507158 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Oakville LeaseCo**”)

- and -

**2581751 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Liberty LeaseCo**” and together with the Company, Bathurst LeaseCo and Oakville LeaseCo, collectively, the “**Vendors**”)

- and -

**MAAB GLOBAL LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Purchaser**”)

### RECITALS:

A. On March 5, 2024, the Vendors, together with 2412383 Ontario Inc. (collectively, the “**OG Group**”), initiated proceedings (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3 (the “**BIA**”) by filing Notices of Intention to Make a Proposal under section 50.4(6) of the BIA. KPMG Inc. was appointed as the proposal trustee in the NOI Proceedings (in such capacity, the “**Proposal Trustee**”).

B. In connection with the NOI Proceedings, the Vendors intend to seek the approval of the Court to implement a sale process (the “**Sale Process**”) pursuant to which this Agreement will serve as the Stalking Horse Bid (as defined herein) to acquire the Purchased Assets (as defined herein).

C. In the event that this Agreement is selected as the Successful Bid (as defined herein) in the Sale Process, the Purchaser will acquire the Purchased Assets subject to, and in accordance with, the terms and conditions set forth in this Agreement and obtaining Court approval of the Transaction (as defined herein).

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties hereby acknowledge and agree as follows:



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Advances**” has the meaning set out in Section 3.4(a).

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act*, R.S.O. 1990, c.B-16.

“**Agreement**” means this asset purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Proposal Trustee, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order by the Court, in form and substance satisfactory to the Purchaser, acting reasonably, among other things, approving and authorizing this Agreement and the Transaction.

“**Assigned Contracts**” means the Contracts listed in **Schedule “B”**, as the same may be modified by the Purchaser prior to the Bid Deadline in accordance with the terms hereof (and including as such Assigned Contracts may be amended, restated, supplemented or otherwise modified from time to time).

“**Assignment and Assumption Agreements**” means the assignment and assumption agreements for the Assigned Contracts, in a form reasonably satisfactory to the Vendors and the Purchaser.

“**Assignment Order**” means an order of the Court assigning to the Purchaser the rights and obligations of the Vendors under the Assigned Contracts for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained, and which will include, if necessary, a mechanism for the resolution of any disputed Cure Costs.

“**Assumed Liabilities**” means: (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in **Schedule “C”**, as the same may be modified by the Purchaser prior to the Bid Deadline in accordance with the terms hereof; and (b) all Liabilities which relate to the Business under any Assigned Contracts, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

“**Authorization**” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

“**Bathurst Lease**” means the lease agreement dated as of March 14, 2013 between Bathurst LeaseCo, as tenant, and 8000 Bathurst Street Realty Inc., as landlord, relating to the premises located at 8020 Bathurst St. #1, Vaughan, Ontario.

“**BIA**” has the meaning set out in the recitals hereto.

“**Bid Deadline**” has the meaning set out in the Sale Process.

“**Business**” means the business conducted by the Company, being an organic and all natural grocery store.

“**Business Day**” means a day on which banks are open for business in Toronto, Ontario, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**Cash Purchase Price**” has the meaning set out in Section 3.3(b).

“**Claims**” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is ten (10) days after the date upon which the conditions set forth in Article 8 have been satisfied or waived, other than any conditions set forth in Article 8 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendors and the Purchaser in writing).

“**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Contracts**” means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which any Vendor is a party, or by which such entity is bound or in which such entity has, or will at Closing have, any rights or by which any of its property or assets are or may be affected.

“**Company**” means Organic Garage (Canada) Ltd., an incorporation incorporated pursuant to the laws of the Province of Ontario.

“**Court**” has means the Ontario Superior Court of Justice (Commercial List).

“**Cure Costs**” means, in respect of the Assigned Contracts, all amounts, costs, fees and expenses: (i) required to be paid to remedy all of the Vendors’ monetary defaults in relation to the Assigned Contracts, other than those arising by reason only of the Vendors’ bankruptcy, insolvency or failure to perform a non-monetary obligation; (ii) necessary to secure a counterparty’s or any other necessary Person’s consent to the assignment of the Assigned Contracts; or (iii) as may be required pursuant to the Approval and Vesting Order or the Assignment Order, as applicable, and which for greater certainty, may be an amount agreed to by the Purchaser and the counterparty to an Assigned Contract.

“**Deposit**” has the meaning set out in Section 3.3(a).

“**Deposit Charge**” has the meaning set out in Section 6.8(c).

“**Deposit Facility**” has the meaning set out in Section 3.4.

“**Discharge**” means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, the full, final, irrevocable, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

“**Excluded Contracts**” means all Contracts that are not Assigned Contracts.

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any individual who is employed by a Vendor immediately prior to the Closing Date.

“**Encumbrance**” means any security interest, lien, Claim, charge, right of retention, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party (including any contractual rights such as purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C, 1985, c. E-15.

“**General Conveyance**” means a general conveyance evidencing the conveyance to the Purchaser of the Company’s interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

“**GST**” means all goods and services tax imposed under Part IX of the *Excise Tax Act*.

“**Income Tax Act**” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

“**Intellectual Property**” means any or all of the following items, wherever located: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, recipes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored.

“**Interim Period**” means the period from the Effective Date to the Closing Time.

“**Leases**” means, collectively, the Bathurst Lease, the Liberty Lease and the Oakville Lease.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Liberty Lease**” means the lease agreement dated as of October 18, 2017, between Liberty LeaseCo, as tenant, 8841896 Canada Inc., as landlord, and the Company, as indemnifier, relating to the premises located at 42 Hanna Ave, Toronto, Ontario.

“**NOI Proceedings**” has the meaning set out in the recitals hereto.

“**Oakville Lease**” means the lease agreement dated as of April 1, 2016, between Oakville LeaseCo, as tenant, and Szeto Ping Hay and Others, as landlord, relating to the premises located at 579 Kerr St., Oakville, Ontario.

“**OG Group**” has the meaning set out in the recitals hereto.

“**Outside Date**” means 11:59 pm (Toronto time) on April 30, 2024, or such later date and time as the Vendors and the Purchaser may agree to in writing.

“**Parties**” means the Vendors and the Purchaser, and “**Party**” means any one of them.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“**Premises**” means the premises leased by the Vendors pursuant to the Leases.

“**Proposal Trustee**” has the meaning set out in the recitals hereto.

“**Proposal Trustee’s Certificate**” has the meaning set out in Section 8.1(e).

“**Purchased Assets**” has the meaning set out in Section 2.1.

“**Purchase Price**” has the meaning set out in Section 4.1.

“**Purchaser**” means MAAB Global Ltd, a corporation incorporated pursuant to the laws of Ontario.

“**Sale Process**” has the meaning set out in the recitals hereto.

“**Sale Process Order**” means an issued order of the Court in the NOI Proceedings approving a Sale Process in respect of the Vendors’ assets, property and undertaking, including the Purchased Assets.

“**Stalking Horse Bid**” has the meaning set out in Section 4.1(a).

“**Successful Bid**” has the meaning set out in the Sale Process.

“**Successful Bidder**” has the meaning set out in the Sale Process.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

“**Transaction**” the transaction contemplated by this Agreement whereby the Purchaser will acquire the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 General Construction**

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The expression “Section” or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

## **1.4 Extended Meanings**

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendors or the Purchaser, or any Affiliates thereof.

## **1.5 Currency**

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

## **1.6 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

## 1.7 Schedules & Amendments to Schedules

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

### SCHEDULES

Schedule A	-	Purchased Assets
Schedule B	-	Assigned Contracts
Schedule C	-	Specific Assumed Liabilities
Schedule D	-	Specific Intellectual Property

The Parties acknowledge that as of the Effective Date, with the exception of Schedule “A”, the Schedules are not complete. The Purchaser shall be entitled to revise Schedules “B”, “C” and “D” from and after the Effective Date, provided that such Schedules must be complete and final on or before the Bid Deadline. Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

## ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

### 2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendors shall sell, assign, transfer and convey to the Purchaser pursuant to the Approval and Vesting Order and the Assignment Order, if applicable, and the Purchaser shall purchase and assume from the Vendors, all of the Vendors’ right, title and interest in, to and under the tangible and intangible assets, properties and rights listed in Schedule “A”, attached hereto (collectively, the “**Purchased Assets**”).

### 2.2 Transfer of Purchased Assets and Assumption of Liabilities

Subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendors to the Purchaser on the Closing Date, and the Purchaser agrees to assume, discharge, perform and fulfill all of the Assumed Liabilities from and after the Closing Date. For certainty, the Purchaser is not assuming any Liabilities of the Vendors other than the Assumed Liabilities and shall have no liability to any Person therefor.

### 2.3 Assigned Contracts

- (a) From and after the date hereof until the Bid Deadline, the Purchaser shall be entitled to make additions, deletions and modifications to the Contracts classified as “Assigned Contracts”, in its sole discretion. For greater certainty: (i) any Assigned Contract subsequently designated by the Purchaser as an Excluded Contract after the date of this Agreement shall be deemed to no longer be an Assigned Contract, and shall be an Excluded Contract; and (ii) any Contract subsequently designated by the Purchaser as an Assigned Contract after the date of this Agreement shall be deemed an Assigned Contract for the purposes of this Agreement.

- (b) Each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assigned Contracts, all consents and approvals required to assign the Assigned Contracts to the Purchaser.
- (c) To the extent that any Assigned Contract is not assignable without the consent or approval of the counterparty or any other Person, and such consent or approval has not been obtained prior to the Closing Date: (i) the applicable Vendor's interest in, to and under such Assigned Contract may be conveyed to the Purchaser pursuant to the Assignment Order; (ii) the Vendors will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date; and (iii) if an Assignment Order is obtained in respect of such Assigned Contract, the Purchaser shall accept the assignment of such Assigned Contract on such terms.
- (d) To the extent that any Cure Costs are payable with respect to any Assigned Contract, the Purchaser shall be responsible for and shall pay all such Cure Costs, which shall be paid either directly to the applicable counterparty or to the Proposal Trustee, as may be agreed to by the parties, which Cure Costs shall be in addition to the Purchase Price. Unless the Parties otherwise agree, to the extent that any Cure Cost is payable with respect to any Assigned Contract, where such Assigned Contract is assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in accordance with the Assignment Order, and where such Assigned Contract is not assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchaser and such counterparty.
- (e) The Vendors shall be entitled to disclaim or seek to disclaim any Excluded Contracts.
- (f) It shall be the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all financial assurances, deposits or security, including without limitation any Cure Costs that may be required by Governmental Authorities or any third parties to permit the transfer of the Purchased Assets, including the Assigned Contracts, to the Purchaser.

#### **2.4 Excluded Assets**

Save and except as otherwise expressly set out herein, the Purchaser may, at its option, exclude any of the Purchased Assets from the Transaction at any time prior to Closing by delivering to the Vendors and the Proposal Trustee written notice of the same, whereupon such asset(s) shall be deemed to no longer form part of the Purchased Assets, provided, however, that there shall be no reduction in the Purchase Price as a result of such exclusion.

#### **2.5 Excluded Liabilities**

Save and except for the Assumed Liabilities explicitly set out herein, if any, the Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Vendors (collectively, the "**Excluded Liabilities**"), which Excluded Liabilities include, but are not limited to, the following:

- (a) all Liabilities and Claims arising or accruing from the use of the Purchased Assets prior to the Closing; and
- (b) all Liabilities that arise out of or result from the employment or engagement by the Vendors of any of the Employees (unless otherwise imposed by Applicable Laws) and/or the termination or severance of such engagement or employment.

### ARTICLE 3 EMPLOYEE MATTERS

#### 3.1 Employment Offers

The Purchaser may, in its sole discretion, offer new employment, conditional upon Closing, to such Employees as determined by the Purchaser, in its sole discretion. Any such offer shall be made at least two Business Days prior to Closing, on terms and conditions substantially similar and no less favourable than the terms and conditions on which such Employees are employed immediately prior to Closing.

#### 3.2 Employment Terminations

Notwithstanding the foregoing, the Vendors shall terminate, in writing, the employment of all Employees at least 24 hours prior to the Closing Date and shall provide proof of such written termination to the Purchaser as a deliverable at Closing.

### ARTICLE 4 PURCHASE PRICE

#### 4.1 Purchase Price

The purchase price payable by the Purchaser for the Purchased Assets shall be \$275,000 (the “**Purchase Price**”) plus the Assumed Liabilities. The Purchase Price shall be satisfied in accordance with Section 4.3. For certainty, the Purchaser may increase the Purchase Price at any time up until the Bid Deadline upon notice to the Vendors in accordance with the Sale Process.

#### 4.2 Allocation of Purchase Price

The Purchaser and the Vendors agree that the Purchase Price and the Assumed Liabilities shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as agreed between the Vendors and the Purchaser on Closing, acting reasonably.

#### 4.3 Satisfaction of Purchase Price

The Purchaser shall pay and satisfy the Purchase Price in accordance with the following:

- (a) Deposit. The Purchaser shall initiate a wire transfer to the Proposal Trustee for a deposit in the amount of \$100,000, along with proof of the wire transfer, upon execution of this Agreement, and such funds must be received by the Proposal Trustee no later than five (5) business days, or March 13, 2024, to be dealt with in accordance with Section 4.4 and credited against the Purchase Price at Closing (the “**Deposit**”).
- (b) Cash Purchase Price. At the Closing Time, the Purchaser shall pay to the Proposal Trustee the balance of the Purchase Price, being \$175,000, in immediately available funds (the “**Cash Purchase Price**”).
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, which the Purchaser shall assume on the Closing Date, shall be satisfied by the Purchaser performing the Assumed Liabilities as and when they become due.



#### 4.4 Deposit Facility

The Purchaser hereby authorizes the Vendors to utilize the Deposit as a non-revolving loan (the “**Deposit Facility**”) to fund the general working capital requirements of the Vendors during the NOI Proceeding; provided that:

- (a) funds advanced from the Deposit Facility (“**Advances**”) shall be utilized in accordance with the cash flow projections filed with the Court in the NOI Proceeding;
- (b) any Advances shall be accounted for and reported to the Purchaser and the Proposal Trustee; and
- (c) prior to any Advance being funded under the Deposit Facility, the Vendors shall seek and obtain an order of the Court granting a priority charge (the “**Deposit Charge**”) in favour of the Purchaser against the assets, properties and undertaking of the Vendors. The Deposit Charge shall secure all of the obligations of the Vendors under the Deposit Facility and shall rank in priority to all other Encumbrances on the assets of the Vendors, subject only to an “administration charge” and “directors’ charge” granted by Court order in the NOI Proceedings.

#### 4.5 Transfer Taxes

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser’s acquisition of the Purchased Assets.
- (b) Where the Vendors are required under Applicable Law to collect or pay Transfer Taxes, the Purchaser will pay the amount of such Transfer Taxes to the Vendors at Closing. The Vendors shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due.
- (c) Except where the Vendors are required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendors will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner. If the Vendors are required under Applicable Law to pay any such Transfer Taxes which are not paid by the Purchaser at Closing, the Purchaser shall promptly reimburse the Vendors the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes.
- (d) The Purchaser shall indemnify the Vendors for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendors may pay or for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

### ARTICLE 5 SALE PROCESS, DEPOSIT REPAYMENT

#### 5.1 Sale Process and Deposit Repayment

- (a) The Vendors shall conduct the Sale Process in accordance with the terms of the issued Sale Process Order. The Vendors shall bring a motion for the Sale Process Order to be heard on or before March 20, 2024. The Sale Process Order shall recognize the within offer by the Purchaser and the Purchase Price: (i) as a baseline or “stalking horse bid” in respect of the Purchased Assets (the “**Stalking Horse Bid**”); and (ii) as a deemed “Qualified Bid”, with an attendant right on the part of the Purchaser to participate as a bidder in any Auction (as defined in the Sale Process). The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a superior bid can be obtained for the Purchased Assets, and that the within Stalking Horse Bid may or may not be the Successful Bid for the Purchased Assets.
- (b) In consideration for the Purchaser’s expenditure of time and money and agreement to act as the initial bidder through the Stalking Horse Bid, and the preparation of this Agreement, and in performing due diligence pursuant to this Agreement, and subject to Court approval, the Purchaser shall be entitled to the repayment of reasonable out-of-pocket professional fees, disbursements and expenses of any kind or nature whatsoever incurred in connection with the SISP and the Transaction, to a maximum amount of \$15,000 (the “**Expense Reimbursement**”), which Expense Reimbursement shall be payable to the Purchaser in the event that the Stalking Horse Bid is not the Successful Bid.
- (c) In the event that the Stalking Horse Bid is not the Successful Bid, in addition to the Expense Reimbursement, the Purchaser shall be entitled to repayment in full of the Deposit, including all Advances under the Deposit Facility, and all of the foregoing entitlements shall be paid to the Purchaser in priority to any and all Claims and interests that any other Person now has or may hereafter have against the property of the OG Group (the “**Deposit Repayment**”).

## ARTICLE 6 REPRESENTATIONS AND WARRANTIES

### 6.1 Representations and Warranties of the Vendors

The Vendors hereby represent and warrant as of the date hereof and as of the Closing Time as follows, and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendors are corporations incorporated and existing under the *Business Corporations Act* (Ontario), are in good standing under such act and have the power and authority to enter into, deliver and perform their obligations under this Agreement and to own or lease and to operate and use the Purchased Assets and to carry on the Business as now conducted by the Vendors.
- (b) Corporate Authorization. The execution, delivery and, subject to obtaining the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendors of this Agreement has been authorized by all necessary corporate action on the part of the Vendors.
- (c) Residency. The Vendors are not non-residents of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.

## 6.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendors as of the date hereof and as of the Closing Time, and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the Ontario, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the organizational documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (f) Residency. The Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act*.

## 6.3 As is, Where is

- (a) The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances and permitted Encumbrances), the Assumed Liabilities and all related operations of the Vendors, and, based solely thereon, has determined to proceed with the Transaction contemplated by this Agreement. The representations and warranties of the Vendors shall merge on Closing and shall thereafter be of no further force and effect. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an “*as is, where is*” basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever.
- (b) The Purchaser has received a copy of any Assigned Contracts and is familiar with the terms, agreements, covenants, obligations and conditions therein. The Purchaser shall be solely responsible for negotiating with and attempting to obtain the agreement of any landlord to

amend any Lease contemplated to be an Assigned Contract as may be required by the Purchaser to allow the Purchaser to use the respective Premises for any purpose. For greater certainty, such amendments are not a Closing delivery or a condition of Closing.

- (c) The Purchaser acknowledges that the applicable Assigned Contract (that is, a lease) may be subject to permitted Encumbrances and the applicable Vendor shall not be responsible for rectifying any permitted Encumbrances prior to the Closing Date, other than as contemplated by this Agreement.
- (d) The remedies expressly set forth in this Agreement are the Purchaser's sole and exclusive remedies relating to this Agreement, the Transaction contemplated hereby, the Purchased Assets, the Assumed Liabilities and all related operations of the Vendors or any of them.
- (e) The Purchaser acknowledges and agrees that the enforceability of this Agreement against the Vendors is subject to entry of the Approval and Vesting Order.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing**

Closing shall take place on the Closing Date effective as of the Closing Time electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### **7.2 Vendors' Closing Deliveries**

At or before the Closing Time, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (b) a true copy of the Assignment Order, if applicable, as issued and entered by the Court (if requested by the Purchaser);
- (c) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the applicable Vendor;
- (d) the General Conveyance, duly executed by the Vendors;
- (e) a specific assignment of any Intellectual Property;
- (f) proof of the written termination by the Vendors of the employment of all of their Employees prior to the Closing Date;
- (g) a certificate of an officer of each Vendor dated as of the Closing Date confirming that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time; and
- (h) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

### 7.3 Purchaser's Closing Deliveries

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Proposal Trustee, as applicable), the following:

- (a) payment of the Cash Purchase Price in immediately available funds;
- (b) payment of all Transfer Taxes payable on Closing to the Vendors or the Proposal Trustee, as applicable (or evidence of payment by the Purchaser thereof to the relevant Governmental Authorities) in accordance with Section 4.4;
- (c) the payment of all Cure Costs to be paid by the Purchaser pursuant to Section 2.3 to the Vendors or the Proposal Trustee, or evidence that such Cure Costs have been or will be paid directly to the applicable counterparty;
- (d) the General Conveyance, duly executed by the Purchaser;
- (e) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the Purchaser;
- (f) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (g) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## ARTICLE 8 CONDITIONS OF CLOSING

### 8.1 Conditions Precedent in favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (b) No Order. No Applicable Law and no judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction; and
- (c) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (d) Proposal Trustee's Certificate. The Proposal Trustee shall have provided an executed certificate of the Proposal Trustee substantially in the form attached to the Approval and

Vesting Order (the “**Proposal Trustee’s Certificate**”) confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendors.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in Section 8.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

## **8.2 Conditions Precedent in favour of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Successful Bid. This Agreement shall have been designated as the Successful Bid in accordance with the terms of the Sale Process.
- (b) Assignment of Leases. The Purchaser shall have successfully negotiated the assignment of the Leases, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024. For certainty, this condition shall automatically expire on April 5, 2024, and shall be deemed to have been satisfied or waived unless the Purchaser has otherwise notified the Vendors, in writing, with a copy to the Proposal Trustee. The Purchaser may request that, concurrently with the application for the Approval and Vesting Order, the Vendors seek an Assignment Order in respect of any Leases for which the consent of the necessary contract parties cannot be obtained. Notwithstanding the foregoing or anything to the contrary herein, the issuance of the Assignment Order is not a condition precedent to the obligation of the Purchaser to complete the Transaction.
- (c) Vendors’ Deliverables. The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.
- (d) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 6.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (e) No Breach of Covenants. The Vendors shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 8.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set forth in this Section 8.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendors, with a copy to the Proposal Trustee, to terminate this Agreement.

### 8.3 Conditions Precedent in favour of the Vendors

The obligation of the Vendors to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 7.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 6.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date, or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 8.3 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in this Section 8.3 is not satisfied or performed on or prior to the Outside Date, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

### 8.4 Proposal Trustee's Certificate

The Parties acknowledge and agree that the Proposal Trustee shall be entitled to deliver to the Purchaser, and file with the Court, the executed Proposal Trustee's Certificate without independent investigation, upon receiving written confirmation from the Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Proposal Trustee shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Proposal Trustee may deliver the executed Proposal Trustee's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Proposal Trustee's written confirmation that all such funds have been received, the Proposal Trustee's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

## ARTICLE 9 TERMINATION

### 9.1 Grounds for Termination

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors (with the consent of the Proposal Trustee) and the Purchaser;
- (b) by the Purchaser upon written notice to the Vendors if there has been a material breach by the Vendors of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Purchaser notified the Vendors of such breach;

- (c) by the Vendors (with the consent of the Proposal Trustee) upon written notice to the Purchaser if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Vendors notified the Purchaser of such breach;
- (d) by the Vendors (with the consent of the Proposal Trustee) or the Purchaser upon written notice to the other Parties if the Closing has not occurred on or prior to the Outside Date; provided that the failure to close by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement.

## **9.2 Effect of Termination.**

If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of: (a) this Section 9.2; and (b) Section 5.1 with respect to the Purchaser's entitlement to the Expense Reimbursement and Deposit Repayment. Notwithstanding the foregoing, if the Transaction is terminated solely as a result of the Vendors' failure to perform any of their obligations under this Agreement, then the Deposit shall be repaid to the Purchaser in full, without deduction or setoff. If the Transaction is terminated solely as a result of the Purchaser's failure to perform any of its obligations under this Agreement, the Deposit and any other payments made by the Purchaser will be forfeited to the Vendors on account of its liquidated damages, and the Purchased Assets may be resold by the Vendors; provided, however, that in no circumstance will any termination or failure to close the Transaction compromise any amount owing to the Purchaser under the Deposit Facility.

## **10.1 Notice**

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

MAAB Global Ltd.

Attention: Bruce Bent  
Email: brpbent32@gmail.com

with a copy to:

Loopstra Nixon LLP  
130 Adelaide Street West, Suite 2800  
Toronto, Ontario M5H 3P5

Attention: Graham Phoenix  
Email: gphoenix@ln.law

- (b) in the case of the Vendors, as follows:

c/o Organic Garage (Canada) Ltd.  
579 Kerr Street  
Oakville, Ontario L6K 3E1

Attention: Matt Lurie



Email: mlurie@organicgarage.com

with a copy to:

Miller Thomson LLP  
40 King Street West, Suite 5800  
Toronto, Ontario M5H 3S1

Attention: Asim Iqbal  
Email: aiqbal@millerthomson.com

(c) in each case, with a further copy to the Proposal Trustee as follows:

KPMG Inc.  
333 Bay Street, #4600  
Toronto, Ontario M5H 2S5

Attention: Pritesh Patel  
Email: pritpatel@kpmg.ca

with a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

Attention: Kyle Plunkett  
Email: kplunkett@airdberlis.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

## **10.2 Time**

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

## **10.3 Survival**

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

#### **10.4 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

#### **10.5 Entire Agreement**

This Agreement and the Exhibits and Schedules attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendors and the Purchaser.

#### **10.6 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

#### **10.7 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

#### **10.8 Assignment**

- (a) This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendors or the Proposal Trustee, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendors and the Proposal Trustee; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.
- (b) This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

#### **10.9 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

#### **10.10 Counterparts**

This Agreement may be executed electronically in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

#### **10.11 Severability**

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

### **10.12 Proposal Trustee's Capacity**

In addition to all of the protections granted to the Proposal Trustee under the BIA or any order of the Court in this NOI Proceeding, the Vendors and the Purchaser acknowledge and agree that the Proposal Trustee, acting in its capacity as Proposal Trustee of the OG Group and not in its personal capacity, is not a signatory to this Agreement and will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Proposal Trustee.

***[Signature Page Follows]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

DocuSigned by:  
By: Matt Lurie  
Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2347018 ONTARIO INC.**

DocuSigned by:  
By: Matt Lurie  
Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2507158 ONTARIO INC.**

DocuSigned by:  
By: Matt Lurie  
Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2581751 ONTARIO INC.**

DocuSigned by:  
By: Matt Lurie  
Name: Matt Lurie  
Title: Director

I have authority to bind the Corporation.

For the Purchaser:

**MAAB GLOBAL LTD.**

By: \_\_\_\_\_  
Name: Bruce Bent  
Title: Authorized Signing Authority

I have authority to bind the Corporation.

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

By: \_\_\_\_\_

Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2347018 ONTARIO INC.**

By: \_\_\_\_\_

Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2507158 ONTARIO INC.**

By: \_\_\_\_\_

Name: Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2581751 ONTARIO INC.**


By: \_\_\_\_\_

Name: Matt Lurie  
Title: Director

I have authority to bind the Corporation.

For the Purchaser:

**MAAB GLOBAL LTD.**

By:  \_\_\_\_\_  
Name: Bruce Bent

Title: Authorized Signing Authority

I have authority to bind the Corporation.

**SCHEDULE "A"**  
**PURCHASED ASSETS**

1. All of the Vendors' right, title and interest in and to all equipment of the Vendors used in connection with the operation of the Business at the Premises, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances.
2. All Intellectual Property owned by the Vendors and primarily used in connection with the Business.
3. The Assigned Contracts

**SCHEDULE "B"**  
**ASSIGNED CONTRACTS**

1. The Leases

**[To be completed / confirmed prior to the Bid Deadline]**

**SCHEDULE "C"**  
**SPECIFIC ASSUMED LIABILITIES**

*Nil - no specific assumed liabilities identified*

**[To be completed / confirmed prior to the Bid Deadline]**



**SCHEDULE "D"**  
**SPECIFIC INTELLECTUAL PROPERTY**

**[To be completed prior to the Bid Deadline]**

# **Appendix “D”**

## Schedule A

### Bidding Procedures for the Sale Process

#### INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (collectively, the “**Debtors**” or the “**Organic Group**”) each filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”, and the proceedings, the “**NOI Proceedings**”).
2. KPMG Inc., a licensed insolvency trustee, was appointed as the Trustee acting *in re* the proposal of the Debtors (the “**Trustee**”) under the NOI Proceedings.
3. It is anticipated that on March 14, 2024, the Organic Group will apply to the Ontario Superior Court of Justice, Commercial List (the “**Court**”), for an order (the “**Sale Process Order**”), among other things, (i) administratively consolidating the NOI Proceedings of the Debtors, and (ii) authorizing the Trustee, with the assistance of the Organic Group’s management team, to undertake a sale process (“**Sale Process**”) for the sale of the Organic Group’s (A) property, assets and undertaking or shares in the capital of one or more of the Debtors (collectively, the “**Property**”), including liquidation offers for the Debtors’ inventory and equipment, and/or (B) business operations (the “**Business**”). The Sale Process will be conducted by the Trustee in the manner set forth herein and in accordance with the Sale Process Order.
4. Among other things, the Sale Process Order will also: (a) approve the procedures set out in this Schedule (the “**Bidding Procedures**”) for the solicitation of offers or liquidation proposals (each, a “**Bid**”) for the acquisition of the Property and the Business or some portion thereof; and (b) approve the form of stalking horse agreement (as same may be amended from time to time pursuant to its terms and the Sale Process Order, the “**Stalking Horse Agreement**”) to be entered into between Organic Garage (Canada) Ltd., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. Organic Group, as vendors, and Maab Global Ltd. (the “**Stalking Horse Bidder**”), as purchaser, for the purposes of serving as the stalking horse bid in the Sale Process (the “**Stalking Horse Bid**”). For the avoidance of doubt, the implementation of the transactions contemplated by the Stalking Horse Agreement is conditional upon the Stalking Horse Bid being selected as a Successful Bid (as defined below) in accordance with the Bidding Procedures and Court approval of the Stalking Horse Agreement and the transactions contemplated therein on a subsequent motion to be brought by the Debtors following the completion of the Sale Process.

#### Bidding Procedures

##### *Opportunity*

5. The Sale Process is intended to solicit interest in and opportunities for a sale of all or part of the Organic Group's Property and Business (the “**Opportunity**”). The Opportunity may include one or more of a liquidation proposal for the Debtors’ equipment, or a sale of all,

substantially all or one or more components of the Organic Group's Property and Business as a going concern or otherwise.

6. Any sale of any of the Property in the Business will be on an "*as is, where is*" basis and without surviving representations or warranties of any kind, nature, or description by the Trustee, the Organic Group or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Organic Group in and to the Property to be acquired will be sold free and clear of, *inter alia*, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, except as otherwise provided in such Court orders and definitive documents.
7. The Stalking Horse Agreement constitutes a Binding Offer (as defined below) by the Stalking Horse Bidder (which constitutes a Binding Offer Bidder (as defined below)) for all purposes and at all times under this Sale Process and will serve as the Stalking Horse Bid for purposes of this Sale Process and the Bidding Procedures and have the right to participate in the Auction (as defined below), if any. Notwithstanding the Stalking Horse Agreement and proposed transactions therein, all interested parties are encouraged to submit bids based on any form of Opportunity that they may elect to advance pursuant to the Sale Process, including as a Sale Proposal (as defined below), a Partial Sale Proposal (as defined below), or a Liquidation Proposal (as defined below). A copy of the Stalking Horse Agreement will be made available to all Qualified Bidders (as defined below) and a form of such purchase agreement, to be uploaded to the VDR (as defined below), may be used as the basis for any Binding Offer made in the Sale Process.
8. The Bidding Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Organic Group, the Property and the Business, the manner in which bidders may participate in the Sale Process, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder (as defined below) and the requisite approvals to be sought from the Court in connection therewith.
9. The Trustee, in consultation with the Organic Group, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Binding Offer Bidders or the Successful Bidder(s) (as each are defined below) provided that such modification, amendment, variation or supplement is expressly limited to changes that do not alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and are necessary or useful in order to give effect to the substance of the Sale Process, the Bidding Procedures or the Sale Process Order. Notwithstanding the foregoing, the dates or time limits indicated in the table contained below may be extended by the Trustee, as the Trustee deems necessary or appropriate, or by order of the Court.
10. The Trustee will post on the Trustee's website and serve on the service list maintained in the NOI Proceedings, as soon as practicable, any such modification, amendment, variation or supplement to these Bidding Procedures and inform the bidders impacted by such modifications.

11. The Sale Process will be conducted by the Trustee in the manner set forth herein and in accordance with the Sale Process Order. In the event of a dispute as to the interpretation or application of the Sale Process Order or these Bidding Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute. For the avoidance of doubt, all bidders shall be deemed to have consented to the jurisdiction of the Court in connection with any disputes relating to the Sale Process, including the qualification of bids, the construction and enforcement of the Sale Process, and closing of a Successful Bid, as applicable.
12. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, the Auction and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
13. A summary of the key dates pursuant to the Sale Process is as follows:

<b>Milestone</b>	<b>Date</b>
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA (each as defined below) and access to VDR	By no later than March 6, 2024
Binding Offer Deadline (as defined below)	By no later than 5:00 p.m. (Eastern Time) on April 10, 2024, unless terminated early in accordance with the terms of this Sales Process
Auction, if needed	Date and time to be designated by Trustee, if Needed
Selection of Successful Bid	By no later than April 12, 2024
Approval Motion (as defined below)	By no later than April 23, 2024 or the earliest date available thereafter
Closing of Successful Bid	As soon as possible but no later than April 30, 2024

## Solicitation of Interest: Notice of the Sale Process

14. As soon as reasonably practicable after the Filing Date,
  - a. the Trustee, in consultation with the Organic Group, will prepare a list of potential bidders, including (i) parties that have approached the Debtors or the Trustee indicating an interest in the Opportunity, (ii) strategic and financial parties who the Trustee, in consultation with the Organic Group, believe may be interested in purchasing all or part of the Business or the Property, and (iii) parties that showed an interest in the Organic Group and/or their Property prior to the date of the Sale Process Order including by way of the previous, out-of-court strategic review process, in each case whether or not such party has submitted a letter of intent or similar document (collectively, the “**Known Potential Bidders**”); and
  - b. the Trustee, with the assistance of the Organic Group, will prepare (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the contemplated process under the Sale Process and inviting recipients of the Teaser Letter to express their interest; and (ii) a non-disclosure agreement in form and substance satisfactory to the Trustee and Organic Group and their respective counsel, which shall enure to the benefit of any purchaser of the Business or Property or any part thereof (an “**NDA**”).
15. As soon as reasonably practicable, but, in any event, by no later than five (5) business days after the granting of the Sale Process Order:
  - c. a notice of the Sale Process (and such other relevant information which the Trustee, in consultation with the Organic Group, considers appropriate) (the “**Notice**”) will be published by the Trustee in one or more trade industry and/or insolvency-related publications as may be considered appropriate by the Trustee;
  - d. the Trustee, with the assistance of the Organic Group, will provide the Known Potential Bidders with a copy of the Bidding Procedures approved by the Court.
16. The Trustee will cause the Teaser Letter and NDA to be sent to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

### ***Virtual Data Room***

17. A confidential virtual data room or rooms (collectively the “**VDR**”) in relation to the Opportunity will be made available by the Trustee to Potential Bidders (as defined below) that have executed the NDA. The VDR will be made available as soon as practicable. The Trustee, in consultation with the Organic Group, may establish separate VDRs (including “**clean rooms**”), if the Organic Group reasonably determines that doing so would further the Organic Group’s and any Potential Bidder’s compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information. The Trustee may also, in consultation with the Organic Group, limit the access of any Potential Bidder to any confidential information in the VDR where the Trustee, in consultation with the

Organic Group, reasonably determines that such access could negatively impact the Sale Process, the ability to maintain the confidentiality of the information, the Business, the Property or their value.

### ***Qualified Bidders***

18. Any party who wishes to participate in the Sale Process (a "**Potential Bidder**") must provide to the Trustee and counsel to the Organic Group, at the addresses specified in **Appendix "B"** hereto (including by email transmission), an NDA executed by it, acceptable to the Trustee, in consultation with the Organic Group, and written confirmation of the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
19. A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "**Qualified Bidder**" if the Trustee, in its reasonable judgment, and in consultation with the Organic Group, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or liquidation transaction pursuant to the Sale Process. All Qualified Bidders will be granted access to the VDR. For the avoidance of doubt, the Stalking Horse Bidder is, and will be deemed to be, a Qualified Bidder. The Trustee will provide to each Qualified Bidder a copy of the Stalking Horse Agreement and any material amendment thereto.
20. The Organic Group, the Trustee and their respective advisors make no representation or warranty as to the information contained in the VDR, Teaser Letter or otherwise made available pursuant to the Sale Process.
21. At any time during the Sale Process, the Trustee may, in its reasonable judgment, and in consultation with the Organic Group, eliminate a Qualified Bidder from the Sale Process, in which case such bidder will be eliminated from the Sale Process and will no longer be a "Qualified Bidder" for the purposes of the Sale Process.
22. Potential Bidders must rely solely on their own independent review, diligence, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the Sale Process and any transaction they enter into with one or more of the entities comprising the Organic Group.

### ***Due Diligence***

23. The Trustee and the Organic Group, shall, subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials and information relating to the Property and Business as the Trustee, in consultation with the Organic Group, may deem appropriate. Due diligence access may include management presentations, access to the VDR, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Trustee, in its reasonable judgment, and in consultation with the Organic Group, may agree. Any access or interactions with the Organic Group's management and personnel shall be coordinated through, and involve a representative of, the Trustee.

24. The Trustee will designate one or more representatives of the Trustee to be solely responsible for coordinating and responding to all requests for information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither the Trustee, nor the Organic Group through the Trustee, will be obligated to furnish any information relating to the Property or Business to any person other than to Qualified Bidders. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Trustee, in consultation with the Organic Group, determines such information to represent proprietary or sensitive competitive information.

### **Formal Binding Offers**

25. Any Qualified Bidder (other than the Stalking Horse Bidder) that wishes to make a formal offer to (A) acquire all or substantially all of the Property or Business, whether through an asset purchase, a share purchase or a combination thereof (either one, a “**Sale Proposal**”) or a portion of the Property or the Business (a “**Partial Sale Proposal**”) or (B) to liquidate all or substantially all of the equipment of the Debtors (a “**Liquidation Proposal**”) must submit a binding offer (a “**Binding Offer**”): (i) in the case of a Sale Proposal or a Partial Sale Proposal, a marked version compared to the Stalking Horse Agreement, a copy of which will be posted in the VDR; or (ii) in the case of a Liquidation Proposal, in the form of a liquidation agreement in form and substance satisfactory to the Trustee, in consultation with the Organic Group (the “**Binding Offer Bidder**”), in each case, to the Trustee, no later 5 p.m. EST on April 10, 2024 (the “**Binding Offer Deadline**”).

26. A Binding Offer will be considered if it:

- (a) provides for net cash proceeds on closing no less than the aggregate of: (A) the amount of cash payable under the Stalking Horse Agreement, plus (B) the amount of cash payable to cover the Expense Reimbursement as defined in the Stalking Horse Agreement (\$15,000), plus (C) a minimum overbid amount of \$25,000 (the amounts set forth in this paragraph 26(a), the “**Minimum Purchase Price**”); provided, however, that the Trustee may, in its reasonable judgment, and in consultation with the Organic Group, deem this criterion satisfied if the Sale Proposal, a Partial Sale Proposal or a Liquidation Proposal, together with one or more other non-overlapping Sale Proposal, a Partial Sale Proposal or a Liquidation Proposal, in the aggregate, meet or exceed the Minimum Purchase Price and such Minimum Purchase Price is payable in full in cash on closing (such bids, “**Aggregated Bids**”, and each an “**Aggregated Bid**”) (the amount of the Minimum Purchase Price will be confirmed by the Trustee with Potential Bidders);
- (b) is submitted on or before the Binding Offer Deadline by a Qualified Bidder;
- (c) is made by way of binding, definitive transaction document(s) that is/are executed by the Binding Offer Bidder;
- (d) in the case of a Sale Proposal or Partial Sale Proposal, identifies any executory contracts and leases of the Organic Group that the Binding Offer Bidder will



assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;

- (e) is not subject to any financing condition, diligence condition or internal or board approval;
- (f) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the Binding Offer;
- (g) contains or identifies the key terms and provisions to be included in any Approval Order;
- (h) in the case of a Sale Proposal or Partial Sale Proposal, contains the Binding Offer Bidder's proposed treatment of employees of the applicable Organic Group entities (for example, anticipated employment offers and treatment of post-employment benefits);
- (i) includes acknowledgments and representations of the Binding Offer Bidder that it:
  - (i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer; (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property and/or the Business in making its Binding Offer; (iii) did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity or the completeness of any information provided in connection therewith, other than as expressly set forth in the Binding Offer or other transaction document submitted with the Binding Offer; and (iv) promptly will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities;
- (j) includes evidence satisfactory to the Trustee of funds available to pay the Minimum Purchase Price on closing;
- (k) provides for any anticipated corporate, licensing, securityholder, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (l) does not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections;
- (m) in the case of a Sale Proposal or Partial Sale Proposal, includes:
  - (i) the specific purchase price in Canadian dollars and a description of any non-cash consideration;

- (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
  - (iii) a specific indication of the sources of capital for the Binding Offer Bidder and the structure and financing of the transaction; and
  - (iv) a description of those liabilities and obligations (including operating liabilities) which the Binding Offer Bidder intends to assume and which such liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;
- (n) in the case of a Liquidation Proposal, includes the scope of the Property to be included in the liquidation, including goods, lease designation rights, and receivables, if application, and any related exclusions;
  - (o) includes payment of a deposit in the amount of not less than 25% of the cash purchase price payable on closing (the “**Deposit**”) by wire transfer to the Proposal Trustee;
  - (p) is accompanied by an acknowledgement that if the Binding Offer Bidder is selected as a Successful Bidder, that the Deposit will be non-refundable subject to approval of such Successful Bid by the Court and the terms described in paragraph 38 below;
  - (q) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on the date that is ten (10) days from the date of the issuance of the Approval Order approving such bid, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing and in any event no later than April 30, 2024 (the “**Outside Date**”); and
  - (r) includes such other information as reasonably requested or identified as being necessary or required by the Trustee, in consultation with the Organic Group.

27. By submitting an offer for consideration at a Binding Offer, it is deemed that such Binding Offer: (i) may be accepted by the Organic Group by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two (2) business days after the date of closing of the applicable Successful Bid; and (B) the Outside Date (as defined below).

28. The Trustee, in its reasonable judgment, and in consultation with the Organic Group, may waive compliance with any one or more of the requirements specified above and consider such non-compliant Binding Offer. For the avoidance of doubt, the completion of any Binding Offer shall be subject to the approval of the Court.

29. In the circumstance that a Binding Offer, including one or more Binding Offers comprising an Aggregated Bid, does not provide for net cash proceeds on closing that are at least equal to the Minimum Purchase Price, the Trustee may elect that such Binding Offer nevertheless be considered as a potential Successful Bid and be entitled to participate in the Auction.

30. If the Trustee concludes, in its sole discretion, that there are no active participants in the Sale Process or no prospect that a Binding Offer that is superior to the Stalking Horse Bid will be submitted by the Binding Offer Deadline, the Trustee may terminate the Sale Process before the Binding Offer Deadline, *so long as* such termination occurs no more than 10 days prior to the Binding Offer Deadline. The Trustee will communicate a decision to terminate the Sale Process by issuing a notice to the service list maintained in the NOI Proceedings. The Stalking Horse Bid will be deemed the Successful Bid and the Organic Group will proceed to seek Court approval of the Stalking Horse Agreement as the Successful Bid.

### **Selection of Successful Bid**

31. The Trustee, in consultation with the Organic Group, may, following the receipt of any Binding Offer, including one or more Binding Offers comprising an Aggregated Bid, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered.

32. The Trustee may negotiate with Binding Offer Bidders, including Binding Offers comprising an Aggregated Bid, in any manner it considers appropriate in its business judgment with a view to maximizing the value of the Property, including at the Auction (as defined below).

33. The Trustee and the Organic Group, will (i) review and evaluate each relevant Binding Offer; and (ii) identify the highest and otherwise best Binding Offer (the “**Successful Bid**”, and the Binding Offer Bidder making such Successful Bid, the “**Successful Bidder**”). The Trustee, in consultation with the Organic Group, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment. In the event that no Binding Offer (other than the Stalking Horse Bid) is selected as the Successful Bid, the Organic Group will promptly seek Court approval of the Stalking Horse Agreement and the transactions contemplated therein.

34. If the Trustee determines that more than one Binding Offer (other than the Stalking Horse Bid) should be considered, the Trustee may, without being obligated to do so, conduct an auction (the “**Auction**”) to select the highest and/or best Binding Offer in accordance with the procedure set out below.

(a) The Auction will commence at a time to be designated by the Trustee and may, in the discretion of the Trustee, be held virtually via videoconference, teleconference or such other reasonable means as the Trustee deems appropriate. The Trustee will consult with the parties permitted to attend the Auction to arrange for the Auction to be so held. Subject to the terms hereof, the Trustee, in consultation with the Organic Group, may postpone the Auction.

(b) The identity of each Binding Offer Bidder participating in the Auction will be disclosed, on a confidential basis, to other Binding Offer Bidders participating in the Auction.

(c) Except as otherwise permitted in the Trustee’s discretion, only the Organic Group, the Trustee and the Binding Offer Bidders, and, in each case, their respective

professionals and representatives, will be permitted to attend the Auction. Only Binding Offer Bidders (including, for greater certainty, the Stalking Horse Bidder) are eligible to participate in the Auction.

- (d) Binding Offer Bidders will participate in the Auction through a duly authorized representative.
- (e) Except as otherwise set forth herein, the Trustee may waive and/or employ and announce at the Auction additional rules, including rules to facilitate the participation of parties participating in an Aggregated Bid, that are reasonable under the circumstances for conducting the Auction, provided that such rules are:
  - (i) not inconsistent with the Initial Order, the Sale Process, the Bidding Procedures, the BIA, or any order of the Court issued in connection with the NOI Proceedings;
  - (ii) disclosed to each Binding Offer Bidder; and
  - (iii) designed, by the Trustee, in its reasonable judgment, and in consultation with the Organic Group, to result in the highest and otherwise best offer.
- (f) The Trustee may arrange for the actual bidding at the Auction to be transcribed or recorded. Each Binding Offer Bidder participating in the Auction will designate a single individual to be its spokesperson during the Auction.
- (g) Each Binding Offer Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with the Organic Group or any other person, without the consent of the Trustee, regarding the Sale Process, that has not been disclosed to all other Binding Offer Bidders. For greater certainty, communications between the Stalking Horse Bidder and either the Organic Group or the Trustee with respect to and in preparation of the Stalking Horse Agreement, the Sale Process and the Bidding Procedures, prior to the issuance of the Sale Process Order and the commencement of the Sale Process will not represent collusion nor communications prohibited by this paragraph.
- (h) Prior to the Auction, the Trustee will identify the highest and best of the Binding Offers received and such Binding Offers will constitute the opening bid for the purposes of the Auction (the “**Opening Bid**”). Subsequent bidding will continue in minimum increments valued at not less than \$25,000.00 cash in excess of the Opening Bid. Each Binding Offer Bidder will provide evidence of its financial wherewithal and ability to consummate the transaction at the increased purchase price. Further, in the event that an Aggregated Bid qualifies to participate in the Auction, modifications to the bidding requirements may be made by the Trustee, in consultation with the Organic Group, to facilitate bidding by the participants in the Aggregated Bid.
- (i) All Binding Offer Bidders will have the right, at any time, to request that the Trustee announce, subject to any potential new bids, the then-current highest and best bid and, to the extent requested by any Binding Offer Bidder, use reasonable efforts to

clarify any and all questions such Binding Offer Bidder may have regarding the Trustee's announcement of the then-current highest and best bid.

- (j) Each participating Binding Offer Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Binding Offer Bidder. The Trustee and the Organic Group shall determine which Binding Offer Bidders have submitted the highest and otherwise best Binding Offer of the Auction, which shall be a Successful Bid. The Trustee, in consultation with the Organic Group, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment. At such time and upon the conclusion of the bidding, the Auction will be closed, and the Binding Offer Bidder with the highest and otherwise best Binding Offer of the Auction will be a Successful Bidder.
- (k) Upon selection of a Successful Bidder(s), if any, the Successful Bidder(s), if any, shall deliver to the Trustee and the Organic Group, an amended and executed transaction document that reflects their final bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the motion material for the hearing to consider the Approval Motion.
- (l) Any bids submitted after the conclusion of the Auction will not be considered.
- (m) The Trustee, in consultation with the Organic Group, shall be at liberty to modify or to set additional procedural rules for the Auction as it sees fit, including to conduct the Auction by way of written submissions.

35. A Successful Bid, if any, will be selected by no later than 5:00 p.m. (Eastern Time) on April 12, 2024 (or such later date immediately thereafter if the Auction is conducted and not completed in one day). If the applicable Successful Bid is terminated for any reason prior to the Outside Date, the Organic Group and the Trustee may elect to, or by further order of the Court, seek to complete the transactions contemplated by the Stalking Horse Bid and will promptly seek to close the transaction contemplated by such Stalking Horse Bid, which will be deemed to be a Successful Bid. The Organic Group will be deemed to have accepted such Stalking Horse Bid only when the Organic Group and the Trustee have made such election.

### ***Approval of Successful Bid***

36. The Organic Group will apply to the Court (the "**Approval Motion**") for one or more orders: (i) approving the Successful Bid(s) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby; and (ii) granting a vesting order(s) to the extent that such relief is contemplated by the Successful Bid(s) so as to vest title to any purchased assets and/or shares in the name of the applicable Successful Bidder(s) (collectively, the "**Approval Order(s)**"). The Approval Motion will be held on a date to be scheduled by the Organic Group and confirmed by the Court upon application by the Organic Group. With the consent of the Trustee, the Approval Motion may be adjourned or rescheduled by the Organic Group without further notice, by an announcement of the

adjourned date at the Approval Motion or in a notice to the service list maintained in the NOI Proceedings prior to the Approval Motion. The Organic Group will consult with the Trustee and the applicable Successful Bidder regarding the motion material to be filed by the Organic Group for the Approval Motion.

37. All Binding Offers (other than the Successful Bid(s)) will be deemed rejected on and as of the date of the closing of the applicable Successful Bid(s)), with no further or continuing obligation of the Organic Group or the Trustee to any unsuccessful Binding Offer Bidders, including the Stalking Horse Bidder.

### ***Deposits***

38. The Deposit(s):

- (a) will, upon receipt from the Binding Offer Bidder(s), be retained by the Trustee and deposited in a non-interest-bearing trust account;
- (b) received from the Successful Bidder(s) will:
  - (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of the Approval Order(s), upon closing of the approved transaction; and
  - (ii) otherwise be held and refunded in accordance with the terms of the definitive documentation in respect of the applicable Successful Bid, provided that all such documentation will provide that the Deposit will be retained by the Organic Group and forfeited by the Successful Bidder, if its Successful Bid fails to close by the Outside Date and such failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of its Successful Bid; and
- (c) received from the Binding Offer Bidder(s) that are not a Successful Bidder will be fully refunded to the Binding Offer Bidder(s) that paid the Deposit(s), as applicable, as soon as practical following the closing of the applicable Successful Bid.

### ***“As is, Where is”***

39. Any sale (or sales), including in the case of liquidation, of the Property or the Business or portions thereof will be on an “**as is, where is**” basis except for representations and warranties that are customarily provided in purchase agreements for a company subject to NOI Proceedings. Any such representations and warranties provided for in the definitive documents will not survive closing.

### **Confidentiality**

40. For greater certainty, other than as required in connection with any Auction or Approval Motion, neither the Organic Group nor the Trustee will disclose: (i) the identity of any Potential Bidder or Qualified Bidder (other than the Stalking Horse Bidder); or (ii) the terms

of any bid, Sale Proposal, Partial Sale Proposal, Liquidation Proposal, or Binding Offer (other than the Stalking Horse Agreement), to any other bidder or any of its affiliates, except to the extent the Trustee, with the consent of such applicable parties is seeking to combine separate bids into Aggregated Bids. Potential Bidders, Qualified Bidders (including the Stalking Horse Bidder), Known Potential Bidders, Binding Offer Bidders and each of their respective affiliates shall not communicate with, or contact, directly or indirectly, any other Potential Bidder, Qualified Bidder (including the Stalking Horse Bidder), Known Potential Bidder, Binding Offer Bidder, or their respective affiliates, without the express written consent of the Trustee, and such communications or discussions are to take place under the supervision of the Trustee.

### **Further Orders**

41. At any time during the Sale Process, the Organic Group or the Trustee may apply to the Court for advice and directions with respect to any aspect of this Sale Process including, but not limited to, the continuation of or termination of the Sale Process or with respect to the discharge of its powers and duties hereunder.

### **Additional Terms**

42. In addition to any other requirement of the Sale Process:

- (a) Any consent, approval or confirmation to be provided by the Stalking Horse Bidder, the Organic Group and/or the Trustee is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the BIA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email will be deemed to have been provided in writing for the purposes of this paragraph.
- (b) Prior to seeking Court approval for any transaction or bid contemplated by this Sale Process, the Trustee will provide a report to the Court on the Sale Process, parts of which may be filed under seal, including in respect of any and all bids received.

43. This Sale Process does not, and will not be interpreted to create any contractual or legal relationship between the Organic Group and any other party, other than as specifically set forth in the NDA or any other definitive agreement executed.

44. Notwithstanding anything to the contrary herein, the Trustee shall have no liability whatsoever to any person or entity, including without limitation any Potential Bidder, Qualified Bidder (including the Stalking Horse Bidder), Binding Offer Bidder, Known Potential Bidder, Successful Bidder, or any other creditor or stakeholder, or any Applicant, as a result of implementation or otherwise in connection with this Sale Process, except to the extent that any such liabilities result from the gross negligence or wilful misconduct of the Trustee, as determined by the Court, and all such persons or entities shall have no claim against the Trustee in respect of the Sale Process for any reason whatsoever.

## APPENDIX "B"

### **The Trustee:**

#### **KPMG INC.**

333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5

Attention: Pritesh Patel

Email: [pritchpatel@kpmg.ca](mailto:pritchpatel@kpmg.ca)

with copies to:

#### **Aird & Berlis LLP**

Brookfield Place, 181 Bay St. #1800  
Toronto, ON M5J 2T9

Attention: Kyle Plunkett and Adrienne Ho

Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com) / [aho@airdberlis.com](mailto:aho@airdberlis.com)

### **The Debtors**

#### **Organic Group**

##### **c/o Miller Thomson LLP**

Scotia Plaza, 40 King Street West  
Suite 5800  
Toronto, ON M5H 3S1

Attention: Asim Iqbal and Sam Massie

Email: [aiqbal@millerthomson.com](mailto:aiqbal@millerthomson.com) / [smassie@millerthomson.com](mailto:smassie@millerthomson.com)

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# **Appendix “E”**

**Organic Garage (Canada) Ltd. et al (the "Debtors")**  
**Consolidated Weekly Cash Flow Forecast for the Period March 4, 2024 to May 5, 2024**  
(in \$CAD)

Week Ending	Notes	Forecast 1 10-Mar	Forecast 2 17-Mar	Forecast 3 24-Mar	Forecast 4 31-Mar	Forecast 5 7-Apr	Forecast 6 14-Apr	Forecast 7 21-Apr	Forecast 8 28-Apr	Forecast 9 5-May	Total
<b>Receipts</b>											
Collections from store sales	1	386,947	367,599	349,219	331,758	298,583	223,937	167,953	125,965	-	2,251,960
<b>Total Receipts</b>		<b>386,947</b>	<b>367,599</b>	<b>349,219</b>	<b>331,758</b>	<b>298,583</b>	<b>223,937</b>	<b>167,953</b>	<b>125,965</b>	<b>-</b>	<b>2,251,960</b>
<b>Disbursements</b>											
Cost of sales	2	274,732	260,996	247,946	235,548	211,994	-	-	-	-	1,231,216
Payroll & benefits	3	109,028	-	104,000	-	114,415	-	104,000	-	129,769	561,211
Rent	4	81,710	81,710	-	-	93,815	-	93,815	-	-	351,050
Utilities	5	13,831	-	-	-	30,815	-	-	-	30,815	75,460
Merchant fees and bank charges	6	22,956	-	-	-	-	19,994	-	-	22,956	65,906
General and administrative	7	13,074	5,650	7,019	5,650	5,650	13,074	7,019	5,650	5,650	68,435
Professional fees	8	-	56,500	-	56,500	-	-	84,750	-	-	197,750
Key employee retention plan	9	-	-	-	-	-	-	-	-	40,000	40,000
HST remittance	10	-	-	-	-	-	-	-	27,049	43,495	70,544
<b>Total Disbursements</b>		<b>515,331</b>	<b>404,856</b>	<b>358,965</b>	<b>297,698</b>	<b>456,688</b>	<b>33,068</b>	<b>289,584</b>	<b>32,699</b>	<b>272,684</b>	<b>2,661,573</b>
<b>Net Cash Flow</b>		<b>(128,384)</b>	<b>(37,256)</b>	<b>(9,745)</b>	<b>34,060</b>	<b>(158,106)</b>	<b>190,869</b>	<b>(121,631)</b>	<b>93,265</b>	<b>(272,684)</b>	<b>(409,612)</b>
<b>Cash Balance</b>											
Opening		434,104	305,720	268,464	258,718	292,778	134,673	325,542	203,911	297,176	434,104
Net Cash Flow		(128,384)	(37,256)	(9,745)	34,060	(158,106)	190,869	(121,631)	93,265	(272,684)	(409,612)
<b>Closing Cash Balance</b>		<b>305,720</b>	<b>268,464</b>	<b>258,718</b>	<b>292,778</b>	<b>134,673</b>	<b>325,542</b>	<b>203,911</b>	<b>297,176</b>	<b>24,492</b>	<b>24,492</b>

Notes:

- Collection from store sales are based on historical weekly sales with marginal decreases week over week in March as a result of these NOI proceedings. The forecast assumes the debtors reduce inventory purchasing in April which will cause sales and collections to decrease at a higher rate of 25% week over week. The forecast assumes a transaction closes on or before April 30, 2024.
- Purchases are forecasted on a cash-on-delivery basis and are based on historical sales margins. Forecast assumes purchases stop after the first week of April in anticipation of inventory wind-down for transaction closing.
- Payroll and benefits for the Company's employees that are retained during these NOI proceedings for the operation of the grocery stores and to assist with the sales process. The forecast also includes payment of all pre-filing wages and accrued vacation pay owed to employees.
- Includes post-filing monthly payments to the landlords for use of Company's leased stores to be made in semi-monthly payments on 1st and 15th in accordance with proposed Court order.
- Includes post-filing utilities costs for the Debtors' stores.
- Merchant fees and bank charges primarily include charges for the processing of credit cards used in stores by customers.
- General and administrative disbursements include payments for printer lease, store insurance and miscellaneous other expenses.
- Professional fees for the company's legal counsel, the Proposal Trustee and its legal counsel.
- Includes retention payments to four employees who are critical to the sales process and continued operations of the Debtors.
- Includes monthly HST remittances for the post-filing period.

This cash flow statement is prepared pursuant to the requirements of paragraphs 50(6)(b) and 50.4(2)(b) of the *Bankruptcy and Insolvency Act* and solely for that purpose.

Dated at Toronto, Ontario, this 8th day of March, 2024.



Organic Garage (Canada) Ltd. et al

Matt Lurie, President  
Name of Signing Officer

This cash flow statement of is prepared in accordance with paragraph 50.4(2) of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the attached Notes to the Statement of Projected Cash-Flow and the Trustee's Report of the Cash-Flow Statement dated the 8th day of March, 2024.

KPMG Inc., Trustee  
Per:



Pritesh Patel, Senior Vice President

IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**Court / Estate File Nos:** 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)  
PROCEEDING COMMENCED AT TORONTO**

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**FIRST REPORT OF THE PROPOSAL TRUSTEE**  
March 11, 2024

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*Lawyers for KPMG Inc., in its Capacity as Proposal Trustee*

# TAB 3

**Court / Estate File Nos: 31-3051650**

**ORGANIC GARAGE (CANADA) LTD. ET AL**

**SECOND REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 19, 2024**

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### APPENDICES

**APPENDIX "A" – SSP ORDER DATED MARCH 14, 2024**

**APPENDIX "B" – PROPOSAL TRUSTEE'S FIRST REPORT (WITHOUT APPENDICES)**

**APPENDIX "C" – NOTICE TO SERVICE LIST DATED APRIL 5, 2024**

**APPENDIX "D" – JANUARY 31, 2024 INTERNAL BALANCE SHEET FOR ORGANIC GARAGE**

**APPENDIX "E" – CASH FLOW FORECAST FOR THE PERIOD FROM APRIL 15, 2024 TO MAY 17, 2024**

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**SECOND REPORT OF KPMG INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 19, 2024**

## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). KPMG Inc. (“**KPMG**”) was appointed as proposal trustee (in such capacity, the “**Proposal Trustee**”) in each of the Debtors’ NOI proceedings.
2. On March 14, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SSP Order**”) approving, among other things:
  - (a) an Asset Purchase Agreement dated March 7, 2024 (the “**Stalking Horse APA**”) between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo, and Liberty LeaseCo (collectively, the “**Vendors**”), as vendors, and MAAB Global Ltd. (“**MAAB**” or the “**Stalking Horse Bidder**”) to act as the stalking horse sale agreement (the “**Stalking Horse Bid**”) in the proposed SSP (as defined herein);
  - (b) the proposed sale solicitation process (the “**SSP**”) the Debtors intended to have the Proposal Trustee carry out, including the bidding procedures (the “**Bidding Procedures**”) to be used in connection therewith;
  - (c) procedural consolidation of the proposal proceedings in respect of each of the Debtors to continue under Estate No. 31-3051650; and
  - (d) an extension of the stay of proceedings provided for under section 69 of the BIA, including extending the stay to the Subsidiaries (as defined herein), and an extension of the time for the Debtors to file a proposal pursuant to section 62(1) of the BIA to April 30, 2024 (the “**Stay Period**”).
3. A copy of the SSP Order is attached hereto as **Appendix “A”**.
4. To date, the Proposal Trustee has filed one report in respect of the Debtors’ NOI proceedings dated March 11, 2024 (the “**First Report**”). A copy of the First Report (without appendices), which among



other things, provided background information on the Debtors, the Stalking Horse APA, and the SSP, is attached hereto as **Appendix “B”**.

## **II. PURPOSE OF REPORT**

5. The purpose of the report (the **“Second Report”**) is to provide the Court with information pertaining to:
  - (a) an overview of the activities of the Proposal Trustee since the Filing Date;
  - (b) the Debtors’ actual receipts and disbursements for the period from March 4, 2024 to April 14, 2024, including a comparison of actual to forecast results as compared to the Debtors’ cash flow filed on March 15, 2024;
  - (c) the results of the SSP;
  - (d) the Debtors’ cash flow projection (the **“Revised Cash Flow Forecast”**) for the period from April 15, 2024 to May 17, 2024 (the **“Forecast Period”**) and
  - (e) the Debtors’ request for an extension of the time to file a proposal to May 17, 2024 (the **“Second Extension”**) and the Proposal Trustee’s recommendation that this Court issue an order (the **“Stay Extension Order”**) approving same.

## **III. TERMS OF REFERENCE**

6. In preparing this Second Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors’ books and records, and discussions with the Debtors’ representatives and their legal counsel (collectively, the **“Information”**). In accordance with industry practice, except as otherwise described in the Second Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (**“GAAS”**) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG 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 Debtors' 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 Proposal Trustee expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved.
8. Capitalized terms not otherwise defined herein are as defined in the affidavit of Matt Lurie, the chief executive officer and director of each of the Debtors, sworn April 19, 2024 (the "**Second Lurie Affidavit**") and filed in support of the Debtors' motion returnable April 26, 2024. This Second Report should be read in conjunction with the Second Lurie Affidavit, as certain information contained in the Second Lurie Affidavit has not been included herein to avoid unnecessary duplication.
9. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

#### **IV. BACKGROUND**

##### **Corporate Overview**

11. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin Foods Inc. ("**Oragin**").
12. The leases for each of Organic Garage's stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the "**Junction Store**");
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the "**Bathurst Store**");

- (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the “**Oakville Store**”); and
- (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the “**Liberty Store**”).

### **Oragin Foods Inc.**

- 13. Oragin acquired Organic Garage in 2016 through a plan of arrangement under the British Columbia *Business Corporations Act*. Oragin is a reporting issuer in the Provinces of British Columbia, Alberta, and Ontario, and is listed on the NEX (a subsidiary of the TSX-V), the OTC QX, and the Frankfurt stock exchange. Oragin is subject to a cease trade order and is currently suspended from trading on all three exchanges.
- 14. Oragin’s primary assets include its equity interests in its subsidiaries, including Organic Garage. Oragin also has a subsidiary with operations which was formed during an amalgamation agreement with the Future of Cheese Company Corp. (“**Future of Cheese**”) on February 17, 2021. Other inactive subsidiaries of Oragin include 2664669 Ontario Inc. and 1047023 B.C. Ltd, neither of which hold any material assets or liabilities.
- 15. On application by a creditor of Oragin, the Court issued a Bankruptcy Order against Oragin on March 25, 2024. Zeifman Partners Inc. was appointed trustee of the estate of Oragin (the “**Oragin Trustee**”).
- 16. The Proposal Trustee notes that the Debtors’ internal balance sheet as at January 31, 2024 showed current and long-term loans totaling approximately \$6.7 million owing to “Organic Garage Ltd.”, the predecessor name of both Organic Garage and Oragin (the “**Intercompany Accounts**”). Attached here to as **Appendix “D”** is a copy of the January 31, 2024 balance for Organic Garage. The CEO of the Debtors was not aware of what these entries relate to, as the accounting records were maintained by the former CFO of Oragin (the “**Former CFO**”), who resigned from Oragin in November 2022. As such, the Intercompany Accounts were not included on the Debtors’ creditors listing filed with the NOI.
- 17. On April 17, 2024, the Proposal Trustee received a letter from the Oragin Trustee noting the Former CFO was examined under oath on April 15, 2024 under s.163(1) of the BIA and the Former CFO confirmed that the indebtedness owed by Organic Garage to Oragin was approximately \$6.9 million.

18. To date, the Proposal Trustee has not received any documentation to support this intercompany debt aside from the balance sheet entries, but the Proposal Trustee continues to investigate the Intercompany Accounts to understand the nature of unsecured amounts owing, if any, by the Debtors to Oragin.

### **Stalking Horse Bid**

19. As described in greater detail in the First Report, the Vendors and MAAB entered into the Stalking Horse APA dated March 7, 2024, pursuant to which MAAB agreed to purchase the Purchased Assets (as defined in the Stalking Horse APA), subject to higher or otherwise better offers in the SSP, and approval of the Court.
20. On March 11, 2024, MAAB funded a refundable deposit in the amount of approximately \$101,000 (the “**Deposit**”) to Debtors’ counsel to hold in trust. Upon issuance of the SSP Order, the Deposit was remitted to the Proposal Trustee.
21. One of the primary objectives of these NOI proceedings was to implement the SSP with a view to providing a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of the circumstances.
22. The Stalking Horse APA contained a condition precedent in favour of the Stalking Horse Bidder relating to the successful negotiation of an assignment of the leases contemplated in the Stalking Horse Bid, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024 (the “**Lease Condition Date**”). This provided the Stalking Horse Bidder the right to terminate the Stalking Horse APA on or before the Lease Condition Date.
23. On the Lease Condition Date, the Stalking Horse Bidder notified the Proposal Trustee in writing that it was exercising its right to terminate the Stalking Horse APA, with the intention of placing a new bid by the Bid Deadline (as defined herein). The Proposal Trustee delivered notice of same to the service list for the NOI proceedings and all the Potential Bidders (as defined herein), a copy of which is attached hereto as **Appendix ”C”**.

## V. ACTIVITIES OF THE PROPOSAL TRUSTEE

24. To date, the Proposal Trustee is of the view that Debtors have provided the Proposal Trustee with its full co-operation and unrestricted access to its books and records. The Proposal Trustee's activities since the Filing Date have included, among other things:
- (a) assisting the Debtors with the preparation of the consolidated cash flow forecast for the period from March 4, 2024 to May 5, 2024 (the "**Filing Cash Flow**") and the Revised Cash Flow Forecast, including the review of the underlying assumptions;
  - (b) implementing procedures for the monitoring of the Debtors' receipts and disbursements and for the ongoing reporting of variances to the Filing Cash Flow;
  - (c) issuing the prescribed notice to Debtors' creditors advising of the filing of the Debtors' NOI, as required under the BIA;
  - (d) preparing the First Report and attending before this Court for the SSP Order;
  - (e) responding to calls and inquiries from the Debtors' creditors regarding the NOI proceedings;
  - (f) drafting of the teaser, non-disclosure agreement and other materials related to the SSP, including populating and maintaining the virtual data room (the "**VDR**");
  - (g) advertising the SSP in the Globe & Mail (National Edition) on March 19, 2024;
  - (h) engaging Danbury Global Limited to prepare a forced liquidation value appraisal of the Debtors' equipment and fixtures located at Liberty Store, the Bathurst Store, the Junction Store and the Oakville Store;
  - (i) contacting prospective interested parties in connection with the SSP, including facilitating due diligence efforts and responding to questions from interested parties and organizing site visits and calls with the Debtors' management, as requested;
  - (j) providing regular updates to the Debtors and their counsel in connection with the SSP;
  - (k) corresponding and communicating with the Royal Bank of Canada ("**RBC**") and its legal counsel in regard to pre-filing amounts owing to RBC under a credit card facility provided to Organic Garage (the "**Credit Card Facility**");

- (l) responding to information requests from counsel to Organic Garage arising from the examination of Mr. Lurie conducted by counsel to Tobias Ihde, a creditor of Oragin;
- (m) responding to questions and information requests from the Oragin Trustee in regard to, among other things, details on KPMG's historical involvement with Oragin or any of its subsidiaries, the status of the NOI proceedings, details on the status of the SSP, including the selection of the Stalking Horse APA, the Debtors' actual to forecast cash flows, and the Debtors' historical financials, including the treatment of Intercompany Accounts;
- (n) attending to administrative matters, including maintaining the Case Website; and
- (o) preparing the Second Report.

## VI. RECEIPTS AND DISBURSEMENTS FOR MARCH 4, 2024, TO APRIL 14, 2024

25. As noted, the Proposal Trustee has implemented procedures for monitoring the Debtors' consolidated receipts and disbursements on a weekly basis, including a review of forecast to actual variance analyses as compared to the Filing Cash Flow.
26. Set out below is a summary of Debtors' actual to forecast results for the 6-week period from March 4, 2024 to April 14, 2024 (the "Reporting Period"):

<b>Organic Garage (Canada) Ltd. et al (the "Debtors")</b>			
<b>Variance Analysis - 6 weeks ending April 14, 2024</b>			
<b>(in \$CAD)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance Fav/(Unfav.)</b>
<b>Receipts</b>			
Collections from store sales	2,089,464	1,958,043	131,420
HST and other deposits	158,784	-	158,784
<b>Total Receipts</b>	<b>2,248,248</b>	<b>1,958,043</b>	<b>290,205</b>
<b>Disbursements</b>			
Cost of sales	1,374,038	1,231,216	(142,822)
Payroll and benefits	319,148	327,443	8,295
Rent	257,660	257,235	(425)
Utilities	15,627	44,646	29,019
Merchant fees and bank charges	45,229	42,950	(2,279)
General and administrative	20,970	50,117	29,146
RBC withdrawals	88,698	-	(88,698)
Professional fees	295,976	113,000	(182,976)
<b>Total Disbursements</b>	<b>2,417,346</b>	<b>2,066,605</b>	<b>(350,741)</b>
<b>Net Cash Flow</b>	<b>(169,098)</b>	<b>(108,562)</b>	<b>(60,536)</b>

<b>Bank Balance</b>			
Opening	261,558	434,104	(172,546)
Net Cash Flow	(169,098)	(108,562)	(60,536)
<b>Closing Bank Balance</b>	<b>92,460</b>	<b>325,542</b>	<b>(233,082)</b>
Collections in transit	157,360	-	157,360
<b>Book value of cash</b>	<b>249,820</b>	<b>325,542</b>	<b>(75,722)</b>

27. As shown in the above table, the Debtors reported a net cash outflow of approximately \$169,000 (excluding collections in transit) over the Reporting Period. This resulted in a \$60,000 unfavourable net cash flow variance as compared to forecast.
28. Key variances between actual and forecasted results over the Reporting Period include:
- (a) *Opening balance* – the opening bank balance had an unfavourable variance of approximately \$172,000. The Proposal Trustee understands that there is a delay in the clearing of credit card transactions by at least one business day, causing sales collections from Friday, Saturday, and Sunday to be deposited into the Organic Garage bank accounts the following week. Furthermore, cash at three stores is picked up on a weekly basis and deposited into the Organic Garage bank accounts the following week. Therefore, the unfavourable variance in the opening balance was a result of timing differences in respect of cash in transit and the clearing of credit card transactions.
  - (b) *Collections for store sales* – collections from store sales had a favourable variance of approximately \$131,000. There was approximately an additional \$157,000 of sales in transit to be deposited into the Organic Garage bank account for week ended April 14, 2024. As a result, there was a total favourable variance in collections of approximately \$289,000. This was offset by an increase in cost of sales by approximately \$143,000.
  - (c) *Professional fees* – professional fees were higher than expected by approximately \$183,000, primarily due to the un-forecast opposition to the SSP Order, the subsequent cross examination of Mr. Lurie, and responding to substantial information and document requests from the Oragin Trustee and counsel to Mr. Tobias Idhe, none of which was considered in the preparation of the Filing Cash Flow;
  - (d) *HST refund* – the Debtors received an un-forecast HST refund of approximately \$159,000 relating to pre-filing periods; and

(e) *RBC withdrawals* - On April 3, 2024 and April 4, 2024, RBC debited the Organic Garage bank accounts for approximately \$87,400 and \$1,298, respectively, for a total of \$88,698, representing the pre-filing amount owing under the Credit Card Facility plus legal fees and costs incurred by RBC post-filing. Counsel to RBC advised the Proposal Trustee that RBC was entitled to exercise its right to set-off the amounts owed to RBC against the Debtors' cash balances on deposit with RBC. The Proposal Trustee has received a copy of RBC's security documents but, as at the date of this Second Report, has not requested a legal opinion on the validity and enforceability of the security granted by Organic Garage in favour of RBC. The Proposal Trustee is discussing with its counsel what further actions, if any, the Proposal Trustee should take in this regard.

29. As a result of foregoing, the ending bank balance is lower than forecast by approximately \$233,000, in part due to timing of collections. After considering the collections in transit of \$157,000, the book value of cash is lower than forecast by approximately \$76,000.

## VII. RESULTS OF THE SALE SOLICITATION PROCESS

30. As described in greater detail in the First Report, the Stalking Horse Bid established a benchmark for the Debtors' business and/or assets and the SSP provided a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of the circumstances. Among other things, the SSP included Bidding Procedures that incorporated the Stalking Horse Bid and the ability of the Proposal Trustee, in consultation with the Debtors, to conduct an auction if qualified and competitive bids were received.

31. A summary of the key aspects of the SSP and its results are summarized below:

(a) commencing on March 6, 2024, the Proposal Trustee contacted 118 potential interested parties (collectively, the "**Interested Parties**"), including 35 strategic parties, 72 financial parties, and 11 liquidators, with regards to the transaction opportunity and the SSP. Each of the Interested Parties received an email containing background information on the NOI proceedings, a copy of a process summary and overview of the Debtors and the key dates pursuant to the Bidding Procedures, and information on next steps to explore the opportunity. Any Interested Parties interested in pursuing the opportunity further were then provided with the non-disclosure agreement ("**NDA**");



- (b) Interested Parties looking to obtain additional information regarding the Debtors’ opportunity were required to execute the NDA to obtain access to the VDR maintained by the Proposal Trustee. A total of 14 parties executed the NDA (collectively, the “**Potential Bidders**”);
- (c) the VDR contained financial, operational, and other pertinent information related to the Debtors, as well as copies of the SSP Order, the Bidding Procedures and an electronic copy of the Stalking Horse APA to be used by Potential Bidders to submit an offer in the SSP;
- (d) over the course of the SSP, the Proposal Trustee followed up with the Interested Parties to confirm their receipt of the email communication with respect to the SSP, and to gauge their potential interest in pursuing the transaction opportunity. The Proposal Trustee also offered to arrange calls with any Potential Bidder to discuss the Bidding Procedures or inquire about any other aspects of the SSP;
- (e) throughout the course of the SSP, the Proposal Trustee kept the Debtors apprised on the status of the SSP and any diligence requests received from Potential Bidders;
- (f) as noted above, the Stalking Horse Bidder terminated the Stalking Horse APA on April 5, 2024 and accordingly, the Proposal Trustee notified all Potential Bidders that there was no longer a minimum bid requirement pursuant to the SSP;
- (g) Potential Bidders were required to submit “Qualified Bids” (as defined in the Bidding Procedures) to the Proposal Trustee on or before 5pm EST on April 10, 2024 (the “**Bid Deadline**”);
- (h) four offers (the “**Qualified Bids**”) were received by the Proposal Trustee by the Bid Deadline in respect of the Debtors’ assets, one of which was a new offer submitted by the Stalking Horse Bidder, summarized as follows:
  - i. two of the Qualified Bids were Partial Sale Proposals (as defined in the Bidding Procedures), each in respect of a single separate store (the “**Separate Store Bids**” and each offeror, a “**Separate Store Bidder**”). For clarity, the Separate Store Bids did not relate to the same store; and
  - ii. two of the Qualified Bids were Sale Proposals in respect of multiple stores (the “**Multiple Store Bids**” and each offeror, a “**Multiple Store Bidder**”), which contained overlapping assets;

- (i) the Proposal Trustee reviewed all Qualified Bids and concluded that the Separate Store Bids were higher in value, on an individual store basis, as compared to the Multiple Store Bids in respect of the same stores;
  - (j) accordingly, on April 11, 2024, the Proposal Trustee contacted the Multiple Store Bidders and requested resubmissions in respect of the Multiple Store Bids, to exclude the Liberty Store. The Proposal Trustee advised the Multiple Store Bidders to resubmit their bid as best and final to the Proposal Trustee by no later than 12pm EST on April 12, 2024 (the “**Bid Resubmission Deadline**”), after which the Proposal Trustee would make its determination based on the Qualified Bids in hand.
32. At the Bid Resubmission Deadline, the Proposal Trustee received only one revised bid from the Multiple Store Bidders (in such capacity, the “**Highest Multiple Store Bidder**”). Accordingly, on April 12, 2024 the Proposal Trustee advised the Separate Store Bidders and the Highest Multiple Store Bidder that their respective bids were declared the “Successful Bids” pursuant to the Bidding Procedures, subject to approval by the Court.
33. The Proposal Trustee intends to bring a motion on May 2, 2024 to seek approval of the Successful Bids and the transactions contemplated thereunder, and will report further to the Court on the details of each of the Successful Bids.

## **VIII. REVISED CASH FLOW FORECAST**

34. The Debtors, in consultation with the Proposal Trustee, have prepared the Revised Cash Flow Forecast for the purpose of projecting their estimated liquidity needs during the Forecast Period. A copy of the Revised Cash Flow Forecast with accompanying notes is attached hereto as **Appendix “E”**.
35. The Revised Cash Flow Forecast assumes that the Liberty Store will close on April 30, 2024 and the Oakville Store, Junction Store and Bathurst Store will each close on May 12, 2024.
36. The Revised Cash Flow Forecast also assumes that no rent will be paid during the Forecast Period and the landlords will draw against the existing rent deposits on hand for each location.
37. The Revised Cash Flow Forecast has been prepared by the Debtors on a conservative basis using probable and hypothetical assumptions set out in the notes to the Revised Cash Flow Forecast. Due to the integrated nature of the Debtors’ operations, the Revised Cash Flow Forecast is presented on a

consolidated basis and includes the receipts and disbursements of the Debtors. The Revised Cash Flow Forecast reflects the Debtors' estimates of receipts and disbursements on a weekly basis over the Forecast Period.

38. The Proposal Trustee's review of the Revised Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Debtors. Since the hypothetical assumptions need not be supported, the Proposal Trustee's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Revised Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management of the Debtors for the probable and hypothetical assumptions, and the preparation and presentation of the Revised Cash Flow Forecast.
39. Based on the Proposal Trustee's review, nothing has come to its attention that causes it to believe that, in all material respects:
  - (a) the hypothetical assumptions are not consistent with the purpose of the Revised Cash Flow Forecast;
  - (b) as at the date of this Second Report, the probable assumptions developed by the Debtors are not suitably supported and consistent with the restructuring plan of the Debtors or do not provide a reasonable basis for the Revised Cash Flow Forecast, given the hypothetical assumptions; or
  - (c) the Revised Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
40. As at April 14, 2024, the Debtors had \$92,460 of available cash on hand (excluding cash in transit). The Revised Cash Flow Forecast projects that the Debtors will generate cash receipts of approximately \$1.0 million and cash disbursements of approximately \$0.8 million over the Forecast Period. As such, the Debtors are projected to have a cash balance of approximately \$0.2 million at the end of the Forecast Period, excluding any proceeds generated from the closing of any transaction(s) through the SSP.
41. The Proposal Trustee notes that the Revised Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. DEBTORS' REQUEST FOR EXTENSION**

42. The current Stay Period expires on April 30, 2024.
43. The Debtors are seeking an extension of the Stay Period to May 17, 2024 to permit the Proposal Trustee time to seek approval from the Court in respect of the Successful Bids and close the transactions thereunder.
44. The Proposal Trustee supports the Debtors' request for the Second Extension for the following reasons:
  - (a) the Debtors are acting in good faith and with due diligence in taking steps to facilitate a sale of their operations;
  - (b) it is the Proposal Trustee's view that an extension will not prejudice or adversely affect any group of creditors;
  - (c) the Revised Cash Flow Forecast indicates that the Debtors are forecast to have sufficient liquidity to continue to fund operations through the period ending May 17, 2024; and
  - (d) the approval motion in respect of the Successful Bids is scheduled to be heard by the Court on May 2, 2024 (the "**Sale Approval Motion**").
45. After the expiry of the Second Extension, if granted by the Court, each of the Debtors will be deemed to have made an assignment into bankruptcy as a consequence of not filing a proposal within the time period granted by the Court. As such, the assessment of claims and distribution of proceeds to creditors will be addressed through the bankruptcy.

## **X. CONCLUSIONS AND RECOMMENDATIONS**

46. For the reasons set out in the Second Report, the Proposal Trustee is of the view that the relief requested by the Debtors is both appropriate and reasonable in the circumstances and the Proposal Trustee recommends that this Court make the Stay Extension Order, among other things, approving the Debtors' request for the Second Extension.

All of which is respectfully submitted on this 19<sup>th</sup> day of April 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



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**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President



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**Tahreem Fatima**  
**CPA**  
Manager

# **Appendix “A”**

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

THE HONOURABLE ) THURSDAY THE 14<sup>th</sup>  
 )  
JUSTICE STEELE ) DAY OF MARCH, 2024

B E T W E E N:

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*  
*ACT*, R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC.,  
2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**ORDER  
(Sale Process, Procedural Consolidation, Charges, KERP)**

THIS MOTION, made by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (collectively the “**Companies**”), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) was heard this day by Zoom video conference.

**ON READING** the Notice of Motion, the Affidavit of Matthew Lurie sworn March 8, 2024 and the exhibits thereto (the “**Lurie Affidavit**”), and the First Report of KPMG Inc. (“**KPMG**”) dated March 8, 2024 (the “**First Report**”), in its capacity as proposal trustee of the Companies (in such capacity, the “**Proposal Trustee**”), and on being advised that the secured creditors who are likely affected by the charge created herein were given notice, and on hearing

the submissions of counsel for the Companies and counsel for the Proposal Trustee, and those other parties present, no one else appearing although duly served as appears from the Affidavit of Service of Shallon Garrafa, filed,

### **SERVICE AND INTERPRETATION**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record and the First Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service hereof.

2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Lurie Affidavit.

### **PROCEDURAL CONSOLIDATION**

3. **THIS COURT ORDERS** that the following proposal proceedings shall be procedurally consolidated into one proceeding and shall continue under Estate No. 31-3051650 (the “**Consolidated Proceeding**”):

- (a) Estate No. 31-3051650 in respect of Organic Garage;
- (b) Estate No. 31-3051654 in respect of 2412383 Ontario Inc.;
- (c) Estate No. 31-3051653 in respect of 2347018 Ontario Inc.;
- (d) Estate No. 31-3051656 in respect of 2507158 Ontario Inc.; and
- (e) Estate No. 31-3051657 in respect of 2581751 Ontario Inc. (together the “**Proposal Proceedings**”).

4. **THIS COURT ORDERS** that the style of cause in the within proceedings is hereby amended and shall be assigned to the Consolidated Proceeding:



**Court File No:** 31-3051650

**Estate File No.** 31-3051650

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED***

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO  
INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

5. **THIS COURT ORDERS** that the procedural consolidation pursuant to this Order shall not:

- (a) affect the separate legal status and corporate structures of any of the Companies;
- (b) cause any of the Companies to be liable to any claim for which it is otherwise not liable, or cause any of the Companies to have an interest in an asset to which it otherwise would not have; or
- (c) affect the Proposal Trustee's or any creditor's right to seek to disallow any claim, including on the basis that such claim is duplicative.

6. **THIS COURT ORDERS** that the Proposal Proceedings are not substantively consolidated, and nothing in this Order shall be construed to that effect.

7. **THIS COURT ORDERS** that the Proposal Trustee is authorized and directed to administer the Proposal Proceedings, on a consolidated basis, for all purposes in carrying out its duties and responsibilities as trustee under the BIA, including, without limitation:

- (a) sending notices to creditors of the Companies pursuant to one consolidated notice;

- (b) calling and conducting any meetings of creditors of the Companies pursuant to one combined advertisement;
- (c) issuing consolidated reports in respect of each of the estates of the Companies;
- (d) preparing, filing, advertising and distributing any and all filings or notices relating to the administration of the estates of the Companies;
- (e) taxing its fees, and those of its counsel; and
- (f) bringing motions to this Court.

8. **THIS COURT ORDERS** that the Companies shall file a copy of this Order in the Court file for each of the Proposal Proceedings but that all other or further materials in the Proposal Proceedings shall be filed with the Court only in the Consolidated Proceeding.

9. **THIS COURT ORDERS** that for avoidance of doubt, any motion, application or action in respect of the Companies shall be brought and filed in the Consolidated Proceeding and if so brought and filed it shall be deemed brought and filed in each of the Proposal Proceedings as appropriate, without prejudice to any rules of court or otherwise that are applicable.

#### **EXTENSION OF THE TIME TO FILE A PROPOSAL**

10. **THIS COURT ORDERS** that, pursuant to subsection 50.4(9) of the BIA, the time for filing a proposal with the Official Receiver in respect of each of the Companies, including the stay of proceedings, is extended up to and including April 30, 2024.

## **RENT**

11. **THIS COURT ORDERS** that until any of the Companies' real property leases are disclaimed in accordance with the BIA, the Companies shall pay all amounts constituting rent or payable as rent under the applicable real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable Company and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including to March 5, 2024 (the "**NOI Filing Date**") shall also be paid.

## **NO INTERFERENCE WITH RIGHTS**

12. **THIS COURT ORDERS** that until the expiry of the date by which the Companies must file a proposal pursuant to section 50.4(1) of the BIA (including as such date may be extended pursuant to section 50.4(9) of the BIA, the "**Proposal Outside Date**"), no individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence, permit, lease, purchase order or other arrangement, whether written or oral (each, an "**Agreement**"), in favour of or held by the Companies, except with the written consent of the Companies and the Proposal Trustee, or leave of this Court

## CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that until the expiry of the Proposal Outside Date, all Persons having an Agreement with the Companies 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, merchant and credit card processing services, insurance, transportation services, utility or other services to the Companies, 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 Companies, and that the Companies 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 Companies in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Companies and the Proposal Trustee, or as may be ordered by this Court.

14. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that are or may become due from the Companies to such Person in respect of obligations relating to the period prior to the NOI Filing Date, against any amounts that are or may become due from such Person to the Companies in respect of obligations arising on or after the NOI Filing Date, in each case without the consent of the Companies and the Proposal Trustee, or as may be ordered by this Court. For greater certainty and without limiting the generality of the foregoing, no merchant or credit card service provider (a “**Provider**”) shall be entitled to set off any monies that are in its possession or control as of the NOI Filing Date, or that come into its possession and control

subsequent to the NOI Filing Date, against any amounts that may be owing to the Provider, or may become owing to the Provider, in respect of transactions prior to the NOI Filing Date, including in respect of any customer chargebacks relating to sales by the Companies prior to the NOI Filing Date.

#### **DIRECTOR'S CHARGE**

15. **THIS COURT ORDERS** that the Companies shall indemnify their directors and officers (“**D&O**”) against obligations and liabilities that they may incur as a directors or officers of the Companies after the NOI Filing Date, except to the extent that the obligation or liability was incurred as a result of the D&O’s gross negligence or wilful misconduct.

16. **THIS COURT ORDERS** that the D&O of the Companies shall be entitled to the benefit of and is hereby granted a charge (the “**Director’s Charge**”) on all of the Companies’ assets, undertakings and properties acquired for, or used in relation to a business carried on by the Companies, including all proceeds thereof (collectively, the “**Property**”), which charge shall not exceed an aggregate amount of \$140,000, as security for the indemnity provided in paragraph 31 of this Order. The Director’s Charge shall have the priority set out in paragraphs 31 and 33 of this Order.

#### **ADMINISTRATION CHARGE**

17. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and the Companies’ counsel shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property. The Administration Charge shall not exceed an aggregate amount of \$95,000, as security for their professional fees and disbursements incurred at

the standard rates and charges of the Companies' counsel, the Proposal Trustee and its counsel both before and after the making of this Order in respect of these proceedings.

18. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and 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, except any validly perfected security interest in favour of equipment lessors.

#### **PROPOSAL TRUSTEE**

19. **THIS COURT ORDERS** that the Proposal Trustee continues to be and is hereby authorized to take all steps required to fulfill its duties under the BIA or as an officer of the Court including, to perform such duties are required to give effect to the terms of this Order and such Other orders as may be made by this Court from time to time.

20. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order, the Proposal Trustee shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Companies' business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Trustee being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

21. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee 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 *Environmental Protection Act* (Canada), the *Environmental Protection Act* (Ontario), the *Water Resources Act* (Ontario), or the *Occupational Health and Safety Act* (Ontario) and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee’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.

22. **THIS COURT ORDERS** that the Trustee shall provide any creditor of the Companies with the information provided by the Companies in response to reasonable requests for information made in writing by such creditor addressed to the Trustee. The Trustee 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 Trustee has been advised by the Companies is confidential, or that the Trustee has determined must be kept confidential so as to facilitate the Sale Process, the Trustee shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Trustee and the Companies may agree.

### **NO LIABILITY OF PROPOSAL TRUSTEE**

23. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee 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 to the Proposal Trustee under the BIA or any applicable legislation.

### **KEY EMPLOYEE RETENTION PLAN**

24. **THIS COURT ORDERS** that the KERP, an unredacted version of which is attached as **Confidential Exhibit “1”** to the Lurie Affidavit and a redacted version as Exhibit “E” to the Lurie Affidavit is approved.

### **APPROVAL OF SALE PROCESS**

25. **THIS COURT ORDERS** that sale process set out in Schedule “A” to this order in respect of the Companies’ assets and/or business (the “**Sale Process**”) is approved. The Proposal Trustee may take such steps as are necessary or desirable to carry out the Sale Process, provided that any definitive agreement to be executed by the Companies in respect of the sale of all or part of the Companies’ Property shall require further approval of this Court.

26. **THIS COURT ORDERS** that the Companies and the Proposal Trustee are authorized and directed to take such steps as they deem necessary or advisable to carry out and perform their



obligations under the Sale Process and to take such steps and execute such documentation as may be necessary or incidental to the Sale Process.

27. **THIS COURT ORDERS** that any step taken by the Companies or the Proposal Trustee in connection with the Sale Process prior to the date of this Order is approved and ratified.

28. **THIS COURT ORDERS** that the Proposal Trustee, the Companies, and their respective assistants, affiliates, partners, employees, representatives and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct in performing their obligations under the Sales Process as determined by this Court.

29. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Proposal Trustee and the Companies are hereby authorized and permitted to disclose and transfer to each potential bidder (the “**Bidders**”) and to their advisors, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Companies’ records pertaining to its past and current employees, but only to the extent desirable or required to negotiate or attempt to complete one or more sales of the Property ( each, a “**Sale**”). Each Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Proposal Trustee and the Companies, or in the alternative destroy all such information. The Successful Bidder(s) (as defined

in the Sale Process) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s) (as defined in the Sale), shall be entitled to use the personal information provided to it that is related to the Property acquired pursuant to the Sale in a manner which is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Proposal Trustee and the Companies, or ensure that all other personal information is destroyed.

### **APPROVAL OF STALKING HORSE APA**

30. **THIS COURT ORDERS** that the execution, delivery, and entry into by the Companies of the Stalking Horse Purchase Agreement dated as of March 7, 2024 (the “**Stalking Horse APA**”) between the Companies and Maab Global Ltd. (the “**Stalking Horse Purchaser**”), substantially in the form attached as Exhibit “F” to the Lurie Affidavit is confirmed, authorized and approved. For greater certainty, the Stalking Horse APA is approved only as a bid in the Sale Process (as defined herein) and the transaction contemplated therein is subject to prior Court approval.

### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

31. **THIS COURT ORDERS** that the priorities of the Director’s Charge, the Administration Charge, and the Deposit Charge (as defined herein) (collectively, the “**Charges**”) as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$95,000.00); and

Second – Directors’ Charge (to the maximum amount of \$140,000.00).

32. **THIS COURT ORDERS** that the filing, registration or perfection of 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.

33. **THIS COURT ORDERS** that the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other Encumbrances in favour of any person.

34. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Companies also obtain the prior written consent of the Proposal Trustee the beneficiaries of the Charges, or further Order of this Court.

35. **THIS COURT ORDERS** that the Charges 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 Companies, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any agreements or document to establish the Charges shall create or be deemed to constitute a breach by the Companies of any Agreement to which it is a party;
- (b) that the Stalking Horse Purchaser shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the applicable Companies entering into the Stalking Horse APA or the creation of the Deposit Charge; and
- (c) the payments, if any, made by the Companies pursuant to this Order and the granting of the Deposit Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

36. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Companies’ interests in such real property leases.

**SEALING**

37. **THIS COURT ORDERS** that the unredacted copy of the KERP attached as Confidential Exhibit “1” to the Lurie Affidavit shall be filed with the Court and be kept confidential and under seal with the Court until further order of the Court.

## SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in these proceedings, 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 of the Rules of Civil Procedure (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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 at the following [URL:https://kpmg.com/ca/en/home/services/advisory/deal-advisory/creditorlinks.html](https://kpmg.com/ca/en/home/services/advisory/deal-advisory/creditorlinks.html).

39. **THIS COURT ORDERS** that the Proposal Trustee and the Companies and their respective counsel be and are hereby authorized but not obligated, to serve or distribute this Order, any other materials, orders, communication, correspondence or other information as may be necessary or desirable in connection with the Sale Process to any Person or interested party that the Proposal Trustee or the Companies consider appropriate. For greater certainty, any such distribution, communication or correspondence shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

40. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Companies and the Proposal Trustee 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 Companies' creditors or other interested parties at their respective addresses as last shown on the records of the Companies 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.

41. **THIS COURT ORDERS** that the Proposal Trustee shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the "**Service List**"). The Proposal Trustee shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to these proceedings. Notwithstanding the foregoing, the Proposal Trustee shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

#### **GENERAL**

42. **THIS COURT ORDERS** that the Companies or the Proposal Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

43. **THIS COURT ORDERS** that this Order and its effects shall survive the filing by the Companies of a proposal pursuant to the terms of the BIA, the issuance of an initial order in regard to the Companies pursuant to the terms of the *Companies Creditors' Arrangement Act* or the bankruptcy of the Companies, unless this Court orders otherwise.

44. **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, and this Order is enforceable without the need for entry and filing.



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*(Signature of judge, officer or registrar)*

Court File No.: 31-3051650  
Estate File No.: 31-3051650

AND IN THE MATTER ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC.,  
2347018 ONTARIO INC., 2368123 ONTARIO INC., 2507158 ONTARIO INC.,  
2557479 ONTARIO INC., AND 2581751 ONTARIO INC.

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

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**MILLER THOMSON LLP**

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Lawyers for Organic Garage (Canada) Ltd. et al



# **Appendix “B”**

**Court / Estate File Nos:** 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

**ORGANIC GARAGE (CANADA) LTD. ET AL.**

**FIRST REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

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## APPENDICES

**APPENDIX "A"** – CERTIFICATES OF FILING ISSUED BY THE SUPERINTENDENT OF BANKRUPTCY

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**APPENDIX "D"** – BIDDING PROCEDURES

**APPENDIX "E"** – CASH FLOW FORECAST FOR THE PERIOD MARCH 4, 2024 TO MAY 5, 2024

Court / Estate File Nos: 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**FIRST REPORT OF KPMG INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, , the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). Attached hereto as **Appendix “A”** are copies of each of the Certificates of Filing of a Notice of Intention to Make a Proposal issued by the Office of the Superintendent of Bankruptcy for each of the Debtors.
2. KPMG Inc. (“**KPMG**” or the “**Proposal Trustee**”) consented to act as proposal trustee in the NOI proceedings of each of the Debtors.
3. KPMG LLP, an affiliate of the Proposal Trustee, was previously retained by ECS Law Professional Corporation, on behalf of Oragin Foods Inc. (“**Oragin**”), the parent company of Organic Garage, pursuant to an engagement letter dated on August 18, 2023, to provide certain financial advisory services to Oragin in respect of its liquidity challenges.
4. The principal purpose of these NOI proceedings is to create a stabilized environment to provide the Debtors the opportunity to carry out a sale process for their business and assets, or to restructure their business, so that they can present a proposal to their creditors.
5. This report (the “**First Report**”) is being filed by the Proposal Trustee in connection with the Debtors’ motion returnable March 14, 2024 for certain relief, including approval of a formal sale solicitation process (the “**SSP**”).

## II. PURPOSE OF REPORT

6. The purpose of the First Report is to provide the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) with information pertaining to:
  - (a) additional background information in respect of the Debtors’ operations, creditors and causes of financial difficulties;

- (b) the Debtors' cash flow projections (the "**Cash Flow Forecast**") for the period from March 4, 2024 to and including May 5, 2024 (the "**Forecast Period**");
- (c) the sale transaction contemplated under the Stalking Horse Asset Purchase Agreement dated March 7, 2024 (the "**Stalking Horse APA**") entered into between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo and Liberty LeaseCo (collectively, the "**Vendors**"), as vendors, and MAAB Global Ltd. ("**MAAB**" or the "**Stalking Horse Bidder**"), as purchaser, and the salient terms thereof, for the sale of the Purchased Assets (as defined Stalking Horse APA) which, subject to the approval of this Court, is proposed to act as the stalking horse offer (the "**Stalking Horse Bid**") in the proposed SSP;
- (d) the Debtors' proposed post-filing strategy, including an outline of the SSP to be carried out by the Proposal Trustee and a description of the bidding procedures (the "**Bidding Procedures**") to be used in connection therewith;
- (e) the proposed key employee retention plan (the "**KERP**") to be extended by Organic Garage to certain senior management personnel;
- (f) the proposed priority of the Administration Charge and the Director's Charge (each as defined herein);
- (g) an extension of the time for the Debtors to file a proposal to April 30, 2024 (the "**Extension**"); and
- (h) the recommendation by the Proposal Trustee that this Court issue an order (the "**SSP Order**") approving, among other things:
  - i. the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
  - ii. the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors' and their advisors, to implement same;
  - iii. that the NOI proceedings for the Debtors (collectively, the "**NOI Proceedings**") be administratively consolidated and continued under one title of proceedings, bearing Court/Estate File No. 31-3051650;
  - iv. the KERP and sealing the unredacted copy of the KERP;

- v. each of the Administration Charge and the Director's Charge (each as defined herein), and the proposed priority ranking of such charges; and
- vi. the Debtors' request for the Extension.

### III. TERMS OF REFERENCE

7. In preparing this First Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors' books and records, and discussions with the Debtors' representatives and their legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the First Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Future orientated financial information contained in the Cash Flow Forecast is based on the Debtors' 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 Proposal Trustee expresses no assurance as to whether the Cash Flow Forecast will be achieved.
9. Capitalized terms not otherwise defined herein are as defined in the affidavit of Matt Lurie, the chief executive officer and director of each of the Debtors, sworn March 8, 2024 (the "**Lurie Affidavit**") and filed in support of the Debtors' motion returnable March 14, 2024. This First Report should be read in conjunction with the Lurie Affidavit, as certain information contained in the Lurie Affidavit has not been included herein in order to avoid unnecessary duplication.
10. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

## IV. BACKGROUND

12. Information with respect to the Debtors' business, operations and causes of insolvency are detailed extensively in the Lurie Affidavit. The information contained herein is not intended to be an exhaustive review of all matters relating to the business of the Debtors and accordingly, the Proposal Trustee recommends that readers review the materials filed by the Debtors in respect of its motion.

### Corporate Overview

13. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage's focus is to provide its customers with organic products at affordable prices. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin. Organic Garage's registered head office is located in Toronto, Ontario.
14. The leases for each of Organic Garage's stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI Proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the “**Junction Store**”);
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the “**Bathurst Store**”);
  - (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the “**Oakville Store**”); and
  - (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the “**Liberty Store**”).
15. Organic Garage's remaining two subsidiaries, 2368123 Ontario Inc. and 2557479 Ontario Inc., are either inactive or contain no material assets, and are not included in these NOI Proceedings.



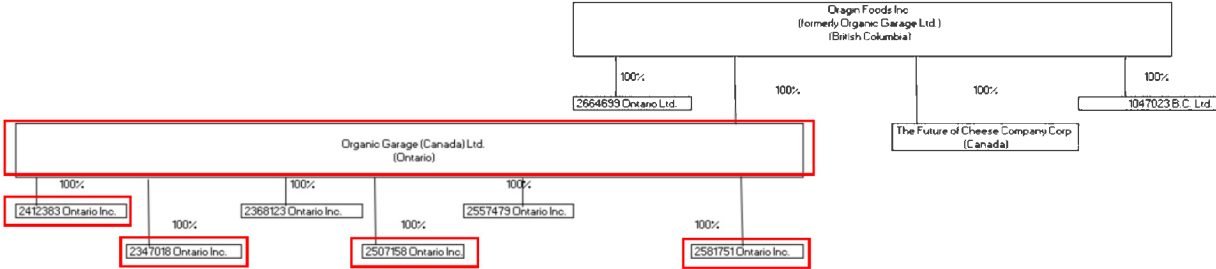
16. As at the date of this First Report, Organic Garage employed approximately 100 employees, comprised of approximately 20 full-time employees who are store managers, assistant managers or in head office functions. The remaining employees are part-time and employed at retail locations. Further, the Proposal Trustee understands that as of the Filing Date, Organic Garage’s workforce was not unionized<sup>1</sup> and Organic Garage does not maintain a pension plan for its employees.

**Oragin Foods Inc.**

17. Oragin acquired Organic Garage in 2016 through a plan of arrangement under the British Columbia *Business Corporations Act*. Oragin is a reporting issuer in the Provinces of British Columbia, Alberta, and Ontario, and is listed on the NEX (a subsidiary of the TSX-V), the OTC QX, and the Frankfurt stock exchange. Oragin is subject to a cease trade order and is currently suspended from trading on all three exchanges.

18. Oragin’s primary assets include its equity interests in its subsidiaries, including Organic Garage. Oragin also has a subsidiary with operations which was formed during an amalgamation agreement with the Future of Cheese Company Corp. (“**Future of Cheese**”) on February 17, 2021. Other inactive subsidiaries of Oragin include 2664669 Ontario Inc. and 1047023 B.C. Ltd, neither of which hold any material assets or liabilities.

19. An organizational chart for Oragin, with the Debtors in these NOI Proceedings outlined in red, is set forth below:



20. Due to the failure in completing certain required interim filings, on or about January 6, 2023, Oragin was issued a cease trade order (the “**CTO**”) which remains in effect as at the date of this report.

<sup>1</sup> The employees in respect of the Junction Store recently voted to unionize. As at the Filing Date, no collective bargaining agreement has been negotiated or finalized.

21. None of Oragin, the Future of Cheese, 2368123 Ontario Inc., 2557479 Ontario Inc., 2664669 Ontario Inc. and 1047023 B.C. Ltd are debtors in these NOI Proceedings.

### Historical Financial Results

22. The Debtors' unaudited and internal operating results for fiscal 2022 and 2023 are summarized in the table below:

<b>Organic Garage (Canada) Ltd. et al Historical Operating Results Summary - Unaudited (in \$000s CAD)</b>		
	Year ended <b>31-Jan-23</b>	Year ended <b>31-Jan-24</b>
Sales	22,358	22,094
Cost of sales	15,589	16,012
Gross profit	6,769	6,082
Total SG&A expenses (excl. interest and depreciation)	6,747	6,595
EBITDA	21	(513)

23. For the year ended January 31, 2023, the Debtors generated minimal earnings before interest, taxes, depreciation and amortization (“**EBITDA**”) of approximately \$21,000. In the year ended January 31, 2024, the Debtors incurred EBITDA losses of approximately \$513,000. The Proposal Trustee understands management implemented a number of cost-saving initiatives over the past 2 years in an effort to reduce the cash burn. Despite these efforts, the Debtors have not been able to return to profitability.
24. The Proposal Trustee understands that the market in which the Debtors operate in has been negatively impacted by the COVID-19 pandemic which has led to, among other things, significant supply chain pressures. In particular, wholesale vendors have significantly decreased the fill rates for grocery orders leading to reduced inventory at the Debtors' stores, which ultimately resulted in revenue losses for the Debtors. Primarily due to these reasons, the Debtors have experienced lower margins and deterioration of profitability over the past couple years.
25. Set out below is an unaudited summary of the Debtors' assets as at January 31, 2024:

Organic Garage (Canada) Ltd. et al Summary of Assets as at January 31, 2024 - Unaudited (in \$CAD)	
Current Assets	
Cash	133,296
Accounts receivable	42,213
Inventory	1,402,296
Lease receivable	150,520
Prepaid and other current assets	111,050
<b>Total current assets</b>	<b>1,839,374</b>
Fixed Assets	6,861,081
Right of Use Assets	5,703,739
<b>Total Assets</b>	<b>14,404,195</b>

26. As at January 31, 2024, the book value of the Debtors' current assets (which primarily consisted of inventory) and fixed assets (which is comprised of leasehold improvements, store fixtures and refrigeration equipment) was \$1.8 million and \$6.8 million, respectively. The Proposal Trustee notes that the book value is not necessarily representative of the realizable value of these assets, particularly the fixed assets, in a forced liquidation scenario.
27. As noted below, the Debtors estimate that they collectively had unsecured obligations totaling approximately \$2.7 million as at the Filing Date.

### Causes of Insolvency

28. As detailed above and in the Lurie Affidavit, the Debtors have incurred significant net losses over the past 12 months due to a number of factors, including the impact of unsustainable supply chain pressures.
29. On October 25, 2019, Oragin issued two unsecured convertible debentures (together, the "**Convertible Debentures**") for total net proceeds of \$2,925,000, and total face value of \$3,000,000, including an original issue discount of \$75,000. The Convertible Debentures matured on October 25, 2022 (the "**Maturity Date**"), upon which date the holders (the "**Holder**s") of the Convertible Debentures issued notices of default to Oragin for failure to repay the debt.
30. The Proposal Trustee understands the Debtors are not borrowers or guarantors of the Convertible Debentures. Accordingly, the Holders are not included on the Debtors' creditor listings.
31. Based on discussions with the management of the Debtors, the Proposal Trustee understands that prior to and following the Maturity Date, Oragin engaged in discussions with the Holders with the

objective of coming to mutually beneficial terms with regard to the repayment of the Convertible Debentures. However, despite these efforts, Oragin and the Holders were unable to conclude on terms that were mutually agreeable.

32. The Proposal Trustee further understands that Oragin made efforts to secure financing and/or a sale of Organic Garage to repay the Holders, in whole or in part, but these efforts did not ultimately result in a transaction. Moreover, Oragin was unable to raise equity capital due to the CTO.
33. As a result of financial losses, coupled with an inability to raise additional equity capital, the Debtors exhausted their liquidity and elected to each file an NOI to restructure the business.
34. In November 2023, one of the Holders filed an application (the “**Oragin Bankruptcy Application**”) for a bankruptcy order in respect of Oragin. The Proposal Trustee understands the Oragin Bankruptcy Application is scheduled to be heard on March 25 and 26, 2024.

#### **Creditors**

35. A copy of the creditor lists included in each of the Debtors’ NOI filings are attached hereto as **Appendix “B”**.
36. As reflected in Appendix “B”, the Debtors estimate that they collectively have unsecured obligations totaling approximately \$2.7 million as at the Filing Date.
37. As noted in the Lurie Affidavit, Organic Garage has a limited number of other creditors with registered security interests in the personal property registration system, certain of which appear to relate to leasing and/or financing of equipment. One of the registrations is from Royal Bank of Canada relating to an operating line of credit. The Proposal Trustee understands no amounts were outstanding on the line of credit as at the Filing Date. However, there is an outstanding balance under a credit card facility in the amount of approximately \$100,000.
38. The Debtors advised the Proposal Trustee that all employee related amounts are current, and all required remittances of employee withholdings and sales taxes (HST and PST) have been made when due.
39. The Proposal Trustee understands the Debtors intend to pay the accrued pre-filing vacation pay (approximately \$5,000 in total) to its employees during these NOI Proceedings. The Debtors have provided for this payment in the Cash Flow Forecast.

## V. OBJECTIVES OF THE NOI PROCEEDINGS

40. The Proposal Trustee understands that the primary objectives of these NOI proceedings are to:
- (a) ensure the Debtors have the necessary stability to maintain operations as a going concern;
  - (b) implement the SSP with a view to providing a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of these circumstances; and
  - (c) effect a going concern sale of the business of the Debtors, either to the Stalking Horse Bidder or another party/parties as a result of the SSP, with a view to maximizing value for the benefit its stakeholders, including, among others, employees, creditors, and partners.

## VI. THE STALKING HORSE APA

41. The Vendors, the Stalking Horse Bidder, and their respective counsel, in consultation with the Proposal Trustee, have negotiated the terms and provisions of the Stalking Horse APA pursuant to which the Stalking Horse Bidder is proposed to, on an ‘as is, where is’ basis, acquire the Purchased Assets, subject to higher or otherwise better offers, and approval of the Court.
42. The material terms of the Stalking Horse APA, a copy of which is attached hereto as **Appendix “C”**, are as follows:
- (a) Purchaser: MAAB Global Ltd.;
  - (b) Purchased Assets: comprised of:
    - i. all of the Vendors’ right, title and interest in and to all equipment of the Vendors used in connection with the operation of the business, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances;
    - ii. all intellectual property owned by the Vendors and primarily used in connection with the business; and
    - iii. the Assigned Contracts;

- (c) Assigned Contracts: consist primarily of real property leases for the Liberty Store, the Bathurst Store and the Oakville Store (collectively, the “**Leases**”), as same may be modified by the Stalking Horse Bidder prior to April 5, 2024. The Stalking Horse Bidder shall be responsible for payment of any cure costs relating to the Assigned Contracts;
- (d) Assignment of Leases: the Stalking Horse APA has a condition precedent in favour of the Stalking Horse Bidder relating to the successful negotiated assignment of the Leases, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024 (the “**Lease CP**”);
- (e) Purchase Price: the total purchase price is \$275,000 (the “**Purchase Price**”);
- (f) Deposit: a refundable deposit in the amount of \$101,000 (the “**Deposit**”). The Deposit may be used by the Debtors as a non-revolving loan (as discussed further below), if required. The Deposit was sent by the Stalking Horse Bidder on March 11, 2024 and is expected to be received by the Debtors’ counsel in short order. The Deposit will be held in trust by the Debtors’ counsel;
- (g) Closing Date: ten (10) days after the date on which the Court issues an order (the “**Approval and Vesting Order**”) approving the transactions contemplated under the Stalking Horse APA and not later than the Outside Date;
- (h) Expense Reimbursement: up to \$15,000 for repayment of professional fees and expenses incurred by the Stalking Horse Bidder relating to the transaction contemplated by the Stalking Horse APA;
- (i) Assignment Order: the Stalking Horse Bidder may request that, concurrently with the application for the Approval and Vesting Order, the Vendors seek an order (the “**Assignment Order**”) in respect of any Leases for which the consent of the necessary contract parties cannot be obtained. The issuance of the Assignment Order is not a condition precedent to the obligation of the Purchaser to complete the transaction contemplated by the Stalking Horse APA;
- (j) Outside Date: April 30, 2024;
- (k) Termination: the Stalking Horse APA may be terminated prior to the Closing Date upon the occurrence of, but not limited to, one of the following:

- i. by mutual agreement of the Vendors and the Stalking Horse Bidder;
  - ii. by the Vendors or the Stalking Horse Bidder if the closing of the transaction has not occurred by the Outside Date, provided that the failure to close by such deadline is not caused by a breach of Stalking Horse APA by the party proposing to terminate the Stalking Horse APA; or
  - iii. by the Vendors or the Stalking Horse Bidder if there has been a material breach of the Stalking Horse APA by the other party where such breach has not been cured within five (5) business days.
- (l) Financing: the Stalking Horse APA does not contain any financing conditions and the Proposal Trustee understands that the Stalking Horse Bidder has made satisfactory arrangements in respect of necessary financing to complete the transaction should it be selected as the Successful Bidder.
43. As noted above, the Stalking Horse APA contains the Lease CP, which provides the Stalking Horse Bidder with the right to terminate the Stalking Horse APA on or before April 5, 2024 if it cannot negotiate the assignment of the Leases on terms acceptable to the Stalking Horse Bidder. The Proposal Trustee notes that the Lease CP is reasonable in the circumstances as the Stalking Horse Bidder has not had an opportunity to discuss the Leases with the applicable landlords as at the date of the Stalking Horse APA, but the Proposal Trustee understands the Stalking Horse Bidder intends to engage with the relevant parties as soon as practical hereafter. In the event the Lease CP is not satisfied or waived the Stalking Horse Bidder by April 5, 2024, the Proposal Trustee will deliver notice forthwith to update the service list for the NOI Proceedings and any Potential Bidder (as defined below) in SSP.
44. As further noted above, the Deposit has been made available to the Debtors by the Stalking Horse Bidder to contribute towards the Debtors' ongoing working capital requirements during NOI proceedings, pursuant to a proposed senior secured, super-priority facility (the "**Deposit Facility**"). The Stalking Horse Bidder informed the Debtors that its willingness to provide such financing was predicated on entering into the Stalking Horse APA.
45. Prior to any Advance being funded under the Deposit Facility, the Vendors shall seek to obtain a Court order granting a priority charge (the "**Deposit Charge**") in favour of the Stalking Horse Bidder against the assets, properties and undertaking of the Vendors. The Deposit Charge shall secure all of

the obligations of the Vendors under the Deposit Facility and shall rank in priority to all other Encumbrances on the assets of the Vendors, subject only to the Administration Charge and the Director's Charge. The Proposal Trustee notes that based on the Cash Flow Forecast, the Debtors are not projected to require interim financing during the Forecast Period. Accordingly, the Debtors are not seeking approval of the Deposit Facility or the Deposit Charge on the within motion.

46. The Stalking Horse APA provides for payment of the Expense Reimbursement to the Stalking Horse Bidder in the event MAAB is not the Successful Bidder pursuant to the SSP. The Proposal Trustee notes that the Stalking Horse APA does not contemplate a break fee and that the Expense Reimbursement represents approximately 5.5% of the Purchase Price.
47. The Proposal Trustee has reviewed recent comparable stalking horse agreements wherein bid protections have been approved in transactions of this nature, and notes that the proposed Expense Reimbursement is within the range of market parameters (as a percentage of purchase price), which typically range between 1.0% to 7.0% of the purchase price with an average of 3.7%. The Proposal Trustee is of the view that the proposed Expense Reimbursement is fair and reasonable in the circumstances given the time and expense incurred by the Stalking Horse Bidder to date, and will not unduly "chill" bidding on the Purchased Assets as part of the proposed SSP (as described in further detail below).
48. Based on preliminary discussions with an appraisal firm specializing in liquidations, the Proposal Trustee understands the Purchase Price is near the higher end of the forced liquidation value for the Purchased Assets, as noted in the Lurie Affidavit. The Proposal Trustee has engaged a liquidator to provide an appraisal report in respect of the equipment located at the Debtors' stores, which report should be delivered to the Proposal Trustee prior to the Binding Offer Deadline.
49. The Stalking Horse APA sets a "floor price" for the Purchased Assets and based on the foregoing is near the high end of realizations that would be achieved in a liquidation of same. The SSP, as discussed below, will provide for a fair and transparent marketing process that should allow the Debtors to maximize realizations by seeking higher or otherwise better offers for the Purchased Assets.

## **VII. THE SALE SOLICITATION PROCESS**

50. As set out in the Lurie Affidavit, the Debtors, with the assistance of their advisors and in consultation with the Proposal Trustee, have concluded that a restructuring focusing on completing a sale of the



assets and business of the Debtors pursuant to the proposed SSP, will maximize value for all stakeholders.

**Bidding Procedures<sup>2</sup>**

51. Given the Debtors’ limited liquidity, the Debtors, in consultation with the Proposal Trustee, developed the SSP to promote a competitive, fair, and expedient sale process that seeks to maximize the value of the Debtors’ business and/or assets.
  
52. The purpose of the SSP is to identify one or more purchasers for the Debtors’ business and/or assets, which may include one or more of a liquidation proposal for the Debtors’ fixed assets (a “**Liquidation Proposal**”), or a sale of all of the Debtors’ assets (including the Purchased Assets) or a portion thereof as a going concern or otherwise (a “**Sale Proposal**”). In order to provide interested parties with an opportunity to bid on the Debtors’ business and/or assets, the Proposal Trustee proposes to aggressively market the Debtors’ business and assets to prospective purchasers for a period of approximately 35 days. As noted below, the proposed timelines are reasonable in the circumstances and reflective of the Debtors’ limited liquidity and the Cash Flow Forecast.
  
53. The following table summarizes the key dates and timelines pursuant to the SSP:

Date	Event
On or about March 6, 2024	Proposal Trustee to distribute a Teaser Letter to Known Potential Bidders, and upon execution of the NDA, access to the VDR
April 10, 2024 at 5:00 p.m. (EST)	Binding Offer Deadline (unless terminated early in accordance with the terms of the Sales process)
Auction, if needed	Date and time to be designated by the Proposal Trustee
By no later than April 12, 2024	Selection of Successful Bidder
By April 23, 2024 or the earliest date available thereafter	Sale Approval Motion to approve and authorize the sale transaction(s) to the Successful Bidder(s)

<sup>2</sup> Terms used but not otherwise defined in this section have the meaning ascribed to them in the Bidding Procedures.

As soon possible but no later than April 30, 2024	Closing of Successful Bid
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54. The key features of the Bidding Procedures, a copy of which is attached hereto as **Appendix “D”**, are outlined below:
- (a) Notice: in advance of the date of the within motion, commencing on March 6, 2024, the Proposal Trustee distributed: (i) an offering summary describing the transaction opportunity and outlining the proposed Binding Offer Deadline to a list of interested parties (the “**Known Potential Bidders**”), which list has been developed by the Proposal Trustee and Organic Garage. Any Known Potential Bidder interested in exploring the opportunity further will be provided with a form of non-disclosure agreement (the “**NDA**”) by the Proposal Trustee. Within five (5) business days after the granting of the SSP Order, the Proposal Trustee will provide Known Potential Bidders that execute an NDA with a copy of the Bidding Procedures. The Proposal Trustee will cause the Teaser Letter and NDA to be sent to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Proposal Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.
  - (b) Diligence: Any party that wishes to participate in the SSP (a “**Potential Bidder**”) will be required to provide the Proposal Trustee: with (i) an executed NDA and (ii) a letter detailing the identity of the Potential Bidder, its direct and indirect principals, and contact information for such Potential Bidder. Potential Bidders that wish to commence due diligence on the Purchased Assets will be provided, by the Proposal Trustee, with a copy of the Stalking Horse APA and any material amendment thereto, as well as access to a virtual data room (the “**VDR**”) that contains confidential financial and other information relating to the Debtors and its operations.
  - (c) Qualified Bidder: A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "Qualified Bidder" if the Proposal Trustee, in its reasonable judgment, and in consultation with the Debtors, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or liquidation transaction pursuant to the SSP. The Stalking Horse Bidder is considered a “Qualified Bidder” pursuant to the Bidding Procedures.

- (d) Binding Offers: Any Qualified Bidder (in such capacity, a “**Binding Offer Bidder**”), other than the Stalking Horse Bidder, that wishes to make a formal bid must submit a binding offer (a “**Binding Offer**”), in the case of a Sale Proposal or a Partial Sale Proposal, in the form of a markup to the Stalking Horse APA to show any amendments and modifications thereto, or in the case of a Liquidation Proposal, in a form of liquidation agreement in form and substance satisfactory to the Proposal Trustee, in consultation with the Debtors. In addition to the foregoing, a Binding Offer must comply with, among other things:
- i. form of consideration for the proposed sale must be in cash;
  - ii. includes evidence, satisfactory to the Proposal Trustee, in consultation with the Debtors, of the ability to close the transaction within the timeframes contemplated by the SSP;
  - iii. includes a written statement that such offer be binding and irrevocable unless and until the earlier of: (i) two (2) business days after the date of closing of the Successful Bid; and (ii) the Outside Date;
  - iv. provides for net cash proceeds on closing that exceeds the Purchase Price by at least \$40,000, which represents the sum of: (i) the Expense Reimbursement; and (ii) a minimum overbid amount of \$25,000;
  - v. be accompanied by a deposit of not less than 25% of the cash purchase price payable on closing;
  - vi. in the case of a Sale Proposal, (i) identifies any executory contracts and leases of the Debtors that the Qualified Bidder will assume and (ii) contains the Qualified Bidder’s proposed treatment of employees of the Debtors;
  - vii. in the case of a Liquidation Proposal, includes the scope of the Debtors’ assets to be included in the liquidation, including goods, lease designation rights, and receivables and any related exclusions;
  - viii. does not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections; and

- ix. be received by the Proposal Trustee on or prior to 5:00 p.m. (prevailing Eastern Time) on April 10, 2024 (the “**Binding Offer Deadline**”).
- (e) Early Termination: If the Proposal Trustee concludes, in its sole discretion, that there are no active participants in the SSP or no prospect that a Binding Offer that is superior to the Stalking Horse Bid will be submitted by the Binding Offer Deadline, the Proposal Trustee may terminate the SSP before the Binding Offer Deadline, *so long as* such termination occurs no more than 10 days prior to the Binding Offer Deadline.
- (f) Auction: If the Proposal Trustee determines that more than one Binding Offer (other than the Stalking Horse Bid) should be considered, the Proposal Trustee may, without being obligated to do so, conduct an auction (the “**Auction**”) to select the highest and/or best Binding Offer. Significant aspects of the Auction include the following:
- i. the Auction will commence at a date and time to be designed by the Proposal Trustee;
  - ii. only the Proposal Trustee, the Debtors, the Stalking Horse Bidder, and any other Binding Offer Bidders, along with their respective representatives and advisors, will be entitled to attend the Auction;
  - iii. prior to the Auction, the Proposal Trustee will identify which of the Binding Offer(s) will constitute the opening bid (the “**Opening Bid**”) at the Auction;
  - iv. bidding at the Auction will begin with the Opening Bid and continue in bidding increments (each a “**Subsequent Bid**”) providing a net incremental value of at least an additional \$25,000 cash in excess of the Opening Bid;
  - v. each participating Binding Offer Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Binding Offer Bidder. At such time and upon the conclusion of the bidding, the Auction will be closed, and the Proposal Trustee shall declare the final remaining Binding Offer Bidder the successful bidder (the “**Successful Bidder**” and such bid, the “**Successful Bid**”). The Proposal Trustee, in consultation with the Debtors, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment; and

- vi. upon selection of a Successful Bidder, the Proposal Trustee will require the Successful Bidder to deliver, as soon as practicable, an amended and executed transaction document that reflects the Successful Bid.
55. In the event the Proposal Trustee does not receive a Binding Offer (other than the Stalking Horse Bid), the Stalking Horse Bid will be deemed the Successful Bid, the Debtors will promptly seek Court approval of the Stalking Horse APA and the transactions contemplated therein.
56. The Bidding Procedures provide that the Proposal Trustee, in consultation with the Debtors, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Binding Offer Bidders or the Successful Bidder provided that the Proposal Trustee determines that such modification, amendment, variation or supplement is expressly limited to changes that do not materially alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and that are necessary or useful in order to give effect to the substance of the SSP and the Bidding Procedures. The Proposal Trustee will post on the Case Website, as soon as reasonably practicable, any such modification, amendment, variation or supplement to the Bidding Procedures and inform the bidders impacted by such modifications.
57. Among other things, the Bidding Procedures provide for an orderly and appropriately competitive process through which potential acquirers may submit bids for the Debtors' business and/or assets. Additionally, the Bidding Procedures will allow the Proposal Trustee, in consultation with the Debtors, to conduct the Auction, if required, in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely transaction.
58. In the Proposal Trustee's view, the SSP and the Bidding Procedures are consistent with market practice, provide a reasonable opportunity for potential purchasers to submit higher or otherwise better offers to the Stalking Horse APA, and are reasonable and appropriate in the circumstances.

## **VIII. CASH FLOW FORECAST**

59. The Debtors, in consultation with the Proposal Trustee, have prepared the Cash Flow Forecast for the purpose of projecting their estimated liquidity needs during the Forecast Period. A copy of the Cash

Flow Forecast, notes and a report containing prescribed representations of the Debtors regarding the preparation of the Cash Flow Forecast are attached hereto as **Appendix “E”**.

60. The Cash Flow Forecast assumes that the Debtors’ key suppliers continue to support and fulfill product orders after the Filing Date, and that foot traffic at the stores is not materially impacted by the commencement of the NOI Proceedings.
61. The Cash Flow Forecast has been prepared by the Debtors on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. Due to the integrated nature of the Debtors’ operations, the Cash Flow Forecast is presented on a consolidated basis and includes the receipts and disbursements of the Debtors. The Cash Flow Forecast reflects the Debtors estimates of receipts and disbursements on a weekly basis over the Forecast Period.
62. The Proposal Trustee’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Debtors. Since the hypothetical assumptions need not be supported, the Proposal Trustee’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management of the Debtors for the probable and hypothetical assumptions, and the preparation and presentation of the Cash Flow Forecast.
63. Based on the Proposal Trustee’s review, nothing has come to its attention that causes it 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 First Report, the probable assumptions developed by the Debtors are not suitably supported and consistent with the restructuring plan of the Debtors 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.
64. As at March 4, 2024, the Debtors had \$434,104 of available cash on hand. The Cash Flow Forecast projects that the Debtors will generate cash receipts of approximately \$2.2 million and cash disbursements of approximately \$2.7 million, for a net operating cash outflow of \$409,612 over the Forecast Period. As such, the Debtors are projected to have a cash balance of approximately \$25,000 at the end of the Forecast Period, excluding any proceeds generated from the closing of a transaction through the SSP.

65. The Proposal Trustee notes that the Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. PROCEDURAL CONSOLIDATION**

66. In order to create efficiency, the Debtors are seeking an order procedurally consolidating the NOI Proceedings of each of the five Debtors (the “**Procedural Consolidation**”).
67. As previously discussed, Organic Garage has four active subsidiaries which hold the premises lease for each of the Organic Garage stores. In a going concern sale of the Debtors’ business, a purchaser(s) would also acquire the lease agreements held by the subsidiaries of Organic Garage. Since the business and assets of all Debtors are subject to the same SSP, the Proposal Trustee believes Procedural Consolidation would be reasonable to promote efficiency of the SSP for the benefit of all stakeholders.
68. Furthermore, the day-to-day business activities of the Debtors, such as payroll functions, payments, and inventory stocking are conducted jointly and therefore, a Procedural Consolidation would allow the Proposal Trustee and the Debtors to avoid any duplicative efforts and reduce costs.

## **X. KEY EMPLOYEE RETENTION PLAN**

69. In order to ensure the continued participation of key employees who are critical for the execution of the SSP (the “**Key Employees**”), the Debtors are seeking approval of the KERP whereby the Key Employees will receive retention payments upon the occurrence of certain milestones.
70. The Proposal Trustee understands that beneficiaries of the KERP are either critical to the implementation of the SSP and/or for the continuation of operations during the NOI Proceedings. The Key Employees would be, among other things, processing payroll, updating cashflow forecast, managing store operations and managing supplier inquiries. Additionally, the Proposal Trustee understands the Key Employees will be required to take on additional responsibility related to the management and supervision of store operations during the SSP.
71. The aggregate amount payable under the KERP is \$40,000, to be allocated to the participating Key Employees in accordance with the KERP terms. The Proposal Trustee is of the view that KERP amounts are reasonable to ensure the continued operations of the Debtors’ business during the NOI Proceedings and the successful completion of the SSP.

72. The Debtors are also seeking the sealing of Confidential Exhibit “1” of the Lurie Affidavit, which contains the letters detailing the KERP. The Proposal Trustee supports the sealing of Exhibit Confidential Exhibit “1” of the Lurie Affidavit to avoid any negative effects to the Debtors’ operations should this information be publicly available, and to protect the privacy of the Key Employees who are the beneficiaries of the KERP. A redacted copy of the KERP is attached as Exhibit “D” of the Lurie Affidavit.

## **XI. PROPOSED PRIORITY CHARGES**

73. The Debtors are seeking approval for two priority charges (collectively the “**Charges**”) on the current and future assets, undertakings and properties of the Debtors wherever located, including all proceeds thereof, that rank in the following order:

- (a) First, the Administration Charge (to the maximum amount of \$150,000); and
- (b) Second, the Director’s Charge (to the maximum amount of \$140,000).

### **Administration Charge**

74. The Debtors are seeking a priority charge up to a maximum of \$150,000 (the “**Administration Charge**”) in favour of the Debtors’ counsel, the Proposal Trustee and its counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the NOI Proceedings. The approval of the Administration Charge is typical in proceedings of this nature.

75. The Debtors’ counsel, the Proposal Trustee and its counsel received retainers in the aggregate amount of \$125,000.

76. The amount of the Administration Charge sought by the Debtors was determined in consultation with the Proposal Trustee.

77. Given the foregoing, the Proposal Trustee is of the view that the proposed Administration Charge is reasonable in the circumstances.

### **Director’s Charge**

78. The Debtors are seeking a priority charge to indemnify its sole director and officer (the “**Director and Officer**”), against obligations and liabilities that he may incur as the director or officer of the Debtors after the commencement of these NOI Proceedings (the “**Director’s Charge**”).



79. The amount of the Director's Charge has been calculated by the Debtors taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment related liabilities that attract potential liability for the Director and Officer.
80. As noted in the Lurie Affidavit, the Debtors currently do not have director and officer insurance, and as such, due to the potential for personal liability, the Director and Officer is unwilling to continue his services and involvement in the NOI Proceedings without the protection of the Director's Charge. As the Debtors will require the participation and experience of the Director and Officer to facilitate the successful completion of the NOI Proceedings, including participating in the SSP, the Proposal Trustee believes that the Director's Charge is required and reasonable in the circumstances.

## **XII. DEBTORS' REQUEST FOR EXTENSION**

81. The Debtors are seeking an extension of the time to file a proposal to April 30, 2024 to permit the Proposal Trustee time to undertake the SSP described above.
82. The Proposal Trustee supports the Debtors' request for the Extension for the following reasons:
- (a) the Debtors are acting in good faith and with due diligence in taking steps to facilitate a sale of its operations;
  - (b) it is the Proposal Trustee's view that an extension will not prejudice or adversely affect any group of creditors;
  - (c) the Cash Flow Forecast indicates that the Debtors are forecast to have sufficient liquidity to continue to fund operations through the period ending April 30, 2024;
  - (d) at least 25 days will be required to establish whether there is any serious interest from Known Potential Bidders in acquiring the Debtors' business and/or assets in connection with the SSP; and
  - (e) given their limited resources, this would permit the Debtors to avoid the costs incurred in re-attending before this Court prior to April 4, 2024 solely for the purpose of seeking a short extension of the stay until after the Binding Offer Deadline.
83. While it is too early to say whether a viable proposal will be presented by the Debtors to their creditors, in the Proposal Trustee's view, the Debtors' request for the Extension is appropriate in the

circumstances, as the current extension request properly reflects the timeframe by which the Proposal Trustee will be able to provide this Court with a meaningful update on the progress of the SSP.

### **XIII. CONCLUSIONS AND RECOMMENDATIONS**


84. For the reasons set out in the First Report, the Proposal Trustee is of the view that the relief requested by the Debtors is both appropriate and reasonable in the circumstances and the Proposal Trustee recommends that this Court make an order, among other things:

- (a) approving the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
- (b) approving the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors, to implement the same;
- (c) approving the Procedural Consolidation in respect of the NOI Proceedings commenced by each of the Debtors;
- (d) approving the KERP for certain critical employees of the Debtors, and sealing the unredacted copy of the KERP at Confidential Exhibit “1” to the Lurie Affidavit;
- (e) granting the Administration Charge and the Director’s Charge, and proposed priority ranking of the Charges; and
- (f) approving the Debtors’ request for the Extension.

All of which is respectfully submitted on this 11<sup>th</sup> day of March 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



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**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President



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**Tahreem Fatima**  
**CPA**  
Manager

# **Appendix “C”**

## Patel, Pritesh

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**From:** Adrienne Ho <aho@airdberlis.com>  
**Sent:** Friday, April 5, 2024 3:33 PM  
**To:** aiqbal@millerthomson.com; mfaheim@millerthomson.com; Kyle Plunkett; Adrienne Ho; Miranda Spence; Patel, Pritesh; Fatima, Tahreem; gphoenix@LN.Law; adrian.gajadhar@rbc.com; joy.achu@twpa.ca; wkarr@busys.ca; sbart@mandrholdings.com; kbernardo@ricocan.com; c.wynter@kevril.ca; DPeat@dv-law.com; ddaoust@dv-law.com; thomasszeto123@gmail.com; insolvency.unit@ontario.ca; tdiamond@diamondkilmer.ca; BRadcliffe@dickinson-wright.com; harveyash@yorklegal.ca; fred@fredtayar.com; dpreger@dickinsonwright.com; osbservice-bsfservice@ised-isde.gc.ca; stanvir@mccarthy.ca; aouellette@ufcw1006a.ca; lprince@ufcw1006a.ca  
**Subject:** IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA) LTD. ET AL (Court File No. 31-3051560) [EXTERNAL]

To the Service List:

Please be advised that the Maab Global Ltd. (“**Maab**”), the Stalking Horse Bidder, has advised the Proposal Trustee that it is not waiving section 8.2(b) of the Stalking Horse Asset Purchase Agreement, which has not been satisfied. Accordingly, the Stalking Horse Bidder will be withdrawing its bid from the Sale Process and the Stalking Horse Asset Purchase Agreement is effectively terminated.

However, the Proposal Trustee has also been advised that Maab intends to submit a new enhanced bid in accordance with the Sale Process.

Best Regards,

**Adrienne Ho**

T 416.637.7980  
F 416.863.1515  
E [aho@airdberlis.com](mailto:aho@airdberlis.com)

**Aird & Berlis LLP** | Lawyers  
Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Canada M5J 2T9 | [airdberlis.com](http://airdberlis.com)



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# **Appendix “D”**

## Balance Sheet

As of 31 January 2024

	31 Jan 24
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Chequing/Savings</b>	
Cash	104.96
Invoice pmts/Marketing credits	17,206.57
ROYAL BANK	115,902.49
TD CANADA TRUST	81.61
<b>Total Chequing/Savings</b>	133,295.63
<b>Accounts Receivable</b>	
Accounts Receivable	
Allowance for bad debts	-5,000.00
Accounts Receivable - Other	47,213.07
<b>Total Accounts Receivable</b>	42,213.07
<b>Total Accounts Receivable</b>	42,213.07
<b>Other Current Assets</b>	
AR Cost Of Goods	-45,025.26
Cashier Floats	10,900.00
<b>Inventory Asset</b>	
<b>Inventory-Junction</b>	
Junction- Grocery	311,886.38
Junction- Meat	15,857.45
Junction- Produce	17,589.20
<b>Total Inventory-Junction</b>	345,333.03
<b>Inventory-Liberty</b>	
Liberty-Grocery	290,585.29
Liberty-Meat	10,375.39
Liberty-Produce	19,160.91
<b>Total Inventory-Liberty</b>	320,121.59
<b>Inventory - Bathurst</b>	
Bathurst-Grocery	265,351.48
Bathurst-Meat	10,050.72
Bathurst-Produce	18,833.17
<b>Total Inventory - Bathurst</b>	294,235.37
<b>Inventory - Oakville</b>	
Oakville- Grocery	273,296.34
Oakville-Meat	10,361.01
Oakville-Produce	24,023.69
<b>Total Inventory - Oakville</b>	307,681.04
<b>Inventory - Warehouse</b>	
Warehouse- Produce	0.37
Warehouse-Grocery	134,924.37
Warehouse-Supplies	0.11
<b>Total Inventory - Warehouse</b>	134,924.85
<b>Total Inventory Asset</b>	1,402,295.88
Lease Receivable	150,520.00
<b>Prepays</b>	
Prepaid - LT	145,175.00
<b>Total Prepays</b>	145,175.00
<b>Total Other Current Assets</b>	1,663,865.62
<b>Total Current Assets</b>	1,839,374.32

## Balance Sheet

As of 31 January 2024

	31 Jan 24
<b>Fixed Assets</b>	
<b>Air Conditioner</b>	
Acc Amort-Air Conditioner	-66,432.79
Air Conditioner - Other	77,239.34
<b>Total Air Conditioner</b>	10,806.55
<b>Branding/Design</b>	
Acc Amort- Branding/Design	-90,395.42
Branding/Design - Other	196,285.16
<b>Total Branding/Design</b>	105,889.74
<b>Computer Equipment</b>	
ACC.AMORT-Computer Equip.	-167,418.98
Computer Equipment - Other	253,999.32
<b>Total Computer Equipment</b>	86,580.34
<b>Computer Installation</b>	
Acc Amort-Computer Install	-12,376.11
Computer Installation - Other	12,669.50
<b>Total Computer Installation</b>	293.39
<b>Computer Software</b>	
ACC AMORT-Software	-483,990.30
Computer Software - Other	612,712.45
<b>Total Computer Software</b>	128,722.15
<b>Construction in progress</b>	
<b>Base Building</b>	
Doors	12,279.47
Finish Carpentry	21,306.60
Metals Misc	2,832.00
Rough Carpentry	18,893.00
<b>Total Base Building</b>	55,311.07
<b>Brick</b>	
Installation	38,200.00
<b>Total Brick</b>	38,200.00
<b>Consultants</b>	232,544.64
<b>Contractor Fee</b>	50,296.31
<b>Design/Branding</b>	199,885.04
<b>Drywall</b>	28,714.00
<b>Electrical</b>	158,823.78
<b>Fire Safety and Sprinklers</b>	15,809.91
<b>Fixturing Installation</b>	25,679.40
<b>Floor</b>	
Cutting	40,125.00
Finishing	49,500.00
Floor - Other	11,272.24
<b>Total Floor</b>	100,897.24
<b>General Conditions</b>	74,398.50
<b>HVAC</b>	85,270.43
<b>Insurance</b>	7,127.94
<b>Leashold Improvements</b>	
Leaseholds Other	-550.00
Leashold Improvements - Other	53,662.50
<b>Total Leashold Improvements</b>	53,112.50
<b>Other</b>	5,086.15
<b>Painting</b>	40,815.23



## Balance Sheet

As of 31 January 2024

	31 Jan 24
Permits/Applications	26,924.41
Plumbing	
RO System	24,150.00
Plumbing - Other	118,114.52
<b>Total Plumbing</b>	<b>142,264.52</b>
Promotional Advertising	8,938.48
Signs Design/Install	172,432.60
Smallwares	34,555.31
Store Equipment	
Lighting	125,165.60
Racking	145,457.82
Refrigeration	653,537.53
Walk Ins	57,558.00
Store Equipment - Other	39,499.44
<b>Total Store Equipment</b>	<b>1,021,218.39</b>
Technology	
Communications	8,334.78
Security	29,400.00
Technology - Other	12,291.52
<b>Total Technology</b>	<b>50,026.30</b>
Utilities	
Utilities-RITC	1,030.40
Utilities - Other	15,291.24
<b>Total Utilities</b>	<b>16,321.64</b>
Washroom	5,609.70
Construction in progress - Other	-2,427,373.48
<b>Total Construction in progress</b>	<b>222,890.01</b>
Equipment under capital lease	
Acc Amort-Equip Capital Lease	-333,135.15
Equipment under capital lease - Other	589,188.08
<b>Total Equipment under capital lease</b>	<b>256,052.93</b>
Furniture and Equipment	
ACC.AMORT-Furn & Equip.	-34,419.22
Furniture and Equipment - Other	41,200.09
<b>Total Furniture and Equipment</b>	<b>6,780.87</b>
Kitchen Equipment	
ACC.AMORT-Kitchen Equipment	-16,845.59
Kitchen Equipment - Other	17,285.79
<b>Total Kitchen Equipment</b>	<b>440.20</b>
Leasehold Improvements	
Acc Amort-Leaseholds	-755,771.93
Leasehold Improvements - Other	2,766,294.73
<b>Total Leasehold Improvements</b>	<b>2,010,522.80</b>
Leasehold Installation	
Acc Amort-Leasehold install	-12,318.05
Leasehold Installation - Other	20,983.65
<b>Total Leasehold Installation</b>	<b>8,665.60</b>
Leaseholds under capital lease	
Acc Amort-LHolds capital lease	-41,784.86
Leaseholds under capital lease - Other	78,342.00

## Balance Sheet

As of 31 January 2024

	31 Jan 24
Total Leaseholds under capital lease	36,557.14
Refrigeration Equipment	
ACC.AMORT-Refrigeration Equip.	-465,775.04
Refrigeration Equipment - Other	1,607,349.79
Total Refrigeration Equipment	1,141,574.75
Refrigeration Installation	
Acc Amort-Refrig Equip Install	-40,971.38
Refrigeration Installation - Other	50,786.88
Total Refrigeration Installation	9,815.50
Signs	
Acc Amort-Signs	-388,624.59
Signs - Other	739,753.84
Total Signs	351,129.25
Signs Installation	
Acc Amort-Signs Install	-3,444.85
Signs Installation - Other	3,854.99
Total Signs Installation	410.14
Software Installation	
Acc Amort - Software Install	-16,733.91
Software Installation - Other	16,734.09
Total Software Installation	0.18
Store Equipment	
ACC.AMORT-Store Equip.	-1,620,762.42
Store Equipment - Other	4,076,023.71
Total Store Equipment	2,455,261.29
Store Equipment Installation	
Acc Amort-Store Equip Install	-71,330.49
Store Equipment Installation - Other	83,350.95
Total Store Equipment Installation	12,020.46
Trade Show Booth	
Acc Amort - Trade Show Booth	-58,329.08
Trade Show Booth - Other	74,996.70
Total Trade Show Booth	16,667.62
Total Fixed Assets	6,861,080.91
Other Assets	
Right of Use Asset	
ROU Amortization	-2,769,291.72
Right of Use Asset - Other	8,473,031.00
Total Right of Use Asset	5,703,739.28
Total Other Assets	5,703,739.28
<b>TOTAL ASSETS</b>	<b>14,404,194.51</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	2,373,290.59
Total Accounts Payable	2,373,290.59
Credit Cards	

## Balance Sheet

As of 31 January 2024

	31 Jan 24
BLANCHE VISA 9720	50.93
CIBC MC	-150.28
Home Depot	-6.63
NANCY VISA 9068	9.75
NAZZ VISA 9696	0.87
RANDEE VISA 9092	0.87
ROYAL BANK VISA	32,671.95
SHAWNA VISA 9662	2.33
<b>Total Credit Cards</b>	<b>32,579.79</b>
<b>Other Current Liabilities</b>	
Advances	7,748.69
COG's Credits-Waiting Approval	-205.20
Coin Order	-22,488.22
Deposit Warehouse Sublease	77,683.77
EHT Payable	-126.24
Gift Certificate - Sale	320,278.42
Gift Certificate Redemption	-298,718.25
HST	-76,798.89
KIOSK RENT DEPOSITS	15,298.03
Loan-Organic Garage Ltd. - CD	2,917,423.11
RB Capital Lease-Current	-4.40
Vacation Accrued Every Pay	36,531.35
<b>Total Other Current Liabilities</b>	<b>2,976,622.17</b>
<b>Total Current Liabilities</b>	<b>5,382,492.55</b>
<b>Long Term Liabilities</b>	
Lease Liability	
Lease Liability - Long-term	8,194,926.55
Lease Liability - Short-term	-0.55
<b>Total Lease Liability</b>	<b>8,194,926.00</b>
Loan-Future of Cheese	-162,231.69
Loan-Organic Garage Ltd.	3,342,857.78
Note payable- OrganicGarageLtd	500,000.00
<b>Total Long Term Liabilities</b>	<b>11,875,552.09</b>
<b>Total Liabilities</b>	<b>17,258,044.64</b>
<b>Equity</b>	
Capital stock	200.00
Common shares-\$0.40 Oct/16	1,000,000.00
Finder's Fee	-26,950.00
Retained Earnings	-3,301,712.21
Share issuance cost	-29,009.20
Net Income	-496,378.72
<b>Total Equity</b>	<b>-2,853,850.13</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>14,404,194.51</b>

# **Appendix “E”**

**Organic Garage (Canada) Ltd. et al (the "Debtors")**  
**Consolidated Weekly Cash Flow Forecast for the Period April 15, 2024 to May 17, 2024**  
(in \$CAD)

Week		Forecast	Forecast	Forecast	Forecast	Forecast	
Week Ending	Notes	1	2	3	4	5	Total
		21-Apr	28-Apr	5-May	12-May	17-May	
<b>Receipts</b>							
Collections from store sales	1	320,785	253,309	202,647	162,117	62,755	1,001,613
<b>Total Receipts</b>		<b>320,785</b>	<b>253,309</b>	<b>202,647</b>	<b>162,117</b>	<b>62,755</b>	<b>1,001,613</b>
<b>Disbursements</b>							
Cost of sales	2	180,000	40,000	40,000	-	-	260,000
Payroll & benefits	3	104,000	-	114,415	-	91,272	309,687
Rent	4	-	-	-	-	-	-
Utilities	5	12,678	-	30,815	-	15,407	58,900
Merchant fees and bank charges	6	2,323	-	22,956	-	11,478	36,757
General and administrative	7	7,019	5,650	5,650	5,650	4,396	28,365
Professional fees	8	42,032	50,597	-	20,000	33,700	146,329
Key employee retention plan	9	-	-	-	-	40,000	40,000
<b>Total Disbursements</b>		<b>348,052</b>	<b>96,247</b>	<b>213,835</b>	<b>25,650</b>	<b>196,254</b>	<b>880,037</b>
<b>Net Cash Flow</b>		<b>(27,267)</b>	<b>157,062</b>	<b>(11,188)</b>	<b>136,467</b>	<b>(133,498)</b>	<b>121,576</b>
<b>Cash Balance</b>							
Opening		92,460	65,193	222,255	211,067	347,534	Ending
Net Cash Flow		(27,267)	157,062	(11,188)	136,467	(133,498)	121,576
<b>Closing Cash Balance</b>		<b>65,193</b>	<b>222,255</b>	<b>211,067</b>	<b>347,534</b>	<b>214,036</b>	<b>214,036</b>

Notes:

- Collection from store sales are based on historical weekly sales. The forecast assumes the debtors will wind-down the purchasing of additional inventory starting Week 2 which will cause sales and collections to decrease at a rate of 20% week over week. The forecast assumes that the Liberty store will close on April 30, 2024 while the remaining stores will close on or before May 13, 2024. The forecast also assumes that, at closing, inventory from the Liberty store will be transferred to the remaining open stores for sale.
- Purchases are forecasted on a cash-on-delivery basis. Forecast assumes that only purchases of fresh produce will continue after Week 1, in anticipation of inventory wind-down for transaction closing.
- Payroll and benefits for the Company's employees that are retained during these NOI proceedings for the operation of the grocery stores and to assist with the closing of the transaction.
- Forecast assumes landlord for each store will draw on rent deposits to pay rent through to the Closing Date.
- Includes post-filing utilities costs for the Debtors' stores.
- Merchant fees and bank charges primarily include charges for the processing of credit cards used in stores by customers.
- General and administrative disbursements include payments for printer lease, store insurance and miscellaneous other expenses.
- Professional fees for the company's legal counsel, the Proposal Trustee and its legal counsel.
- Includes retention payments to four employees who are critical to the sales process and continued operations of the Debtors.

This cash flow statement is prepared pursuant to the requirements of paragraphs 50(6)(b) and 50.4(2)(b) of the *Bankruptcy and Insolvency Act* and solely for that purpose.

Dated at Toronto, Ontario, this 18th day of April, 2024.



Organic Garage (Canada) Ltd. et al

Matt Lurie, President  
Name of Signing Officer

This cash flow statement of is prepared in accordance with paragraph 50.4(2) of the *Bankruptcy and Insolvency Act* and should be read in conjunction with the attached Notes to the Statement of Projected Cash-Flow dated the 18th day of April, 2024.

KPMG Inc., Trustee  
Per:



Pritesh Patel, Senior Vice President

IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**Court / Estate File Nos:** 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)  
PROCEEDING COMMENCED AT TORONTO**

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**SECOND REPORT OF THE PROPOSAL  
TRUSTEE  
April 19, 2024**

---

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*Lawyers for KPMG Inc., in its Capacity as Proposal Trustee*

# TAB 4

**Court File No.: BK-24-03051650-0031**  
**Estate File Nos: 31-3051650**

**ORGANIC GARAGE (CANADA) LTD. ET AL**

**THIRD REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 23, 2024**



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**Court File No.: BK-24-03051650-0031**  
**Estate File Nos: 31-3051650**

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**THIRD REPORT OF KPMG INC.**  
**IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 23, 2024**

## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). KPMG Inc. (“**KPMG**”) was appointed as proposal trustee (in such capacity, the “**Proposal Trustee**”) in each of the NOI proceedings.
2. On March 14, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SSP Order**”) approving, among other things:
  - (a) an Asset Purchase Agreement dated March 7, 2024 (the “**Stalking Horse APA**”) between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo, and Liberty LeaseCo, as vendors, and MAAB Global Ltd. (“**MAAB**” or the “**Stalking Horse Bidder**”), as purchaser, to act as the stalking horse sale transaction (the “**Stalking Horse Bid**”) in the proposed sale and solicitation process (the “**SSP**”);
  - (b) the SSP to be carried out by the Proposal Trustee, including the bidding procedures (the “**Bidding Procedures**”) to be used in connection therewith;
  - (c) the key employee retention plan (the “**KERP**”) extended by Organic Garage to certain senior management personnel;
  - (d) the procedural consolidation of the proposal proceedings in respect of each of the Debtors to continue under the Estate No. 31-3051650; and
  - (e) an extension of the time by which the Debtors have to file a proposal pursuant to section 62(1) of the BIA to April 30, 2024.
3. To date, the Proposal Trustee has filed two (2) reports with this Court in respect of the NOI proceedings:

- (a) a first report dated March 11, 2024 (the “**First Report**”), which, among other things, provided background information on the Debtors, the Stalking Horse APA and the SSP, and is attached hereto (without appendices) as **Appendix “A”**; and
- (b) a second report with the Court dated April 19, 2024 (the “**Second Report**”) in connection with the Debtors’ motion returnable on April 26, 2024 for an order extending the time to file a proposal to May 17, 2024 (the “**Second Extension**”). A copy of the Second Report, which among other things, provided a summary of the results of the SSP, is attached hereto (without appendices) as **Appendix “B”**.

## II. PURPOSE OF REPORT

- 4. The purpose of this report (the “**Third Report**”) is to provide the Court with information pertaining to:
  - (a) the activities of the Proposal Trustee since the date of the Second Report;
  - (b) the three (3) proposed transactions (the “**Transactions**”) that resulted from the SSP, which are as follows:
    - (i) a transaction (the “**Liberty Transaction**”) between 1000858769 Ontario Inc. (“**769 Ontario**”), as purchaser, and Organic Garage and Liberty LeaseCo (together in such capacity, the “**Liberty Vendors**”), as vendors, for sale of the Liberty Purchased Assets (as defined herein), pursuant to an asset purchase agreement dated April 16, 2024 between 769 Ontario and the Liberty Vendors (the “**Liberty APA**”);
    - (ii) a transaction (the “**Junction Transaction**”) between Junction Road Nominee Inc. (the “**Junction Nominee**”), as purchaser, and Organic Garage and Junction LeaseCo (together in such capacity, the “**Junction Vendors**”), as vendors, for the sale of the Junction Purchased Assets (as defined herein) pursuant to an asset purchase agreement dated April 19, 2024 between the Junction Nominee and the Junction Vendors (the “**Junction APA**”); and
    - (iii) a transaction (the “**OG Transaction**”) between MAAB, as purchaser, and Organic Garage, Bathurst LeaseCo and Oakville LeaseCo (together in such capacity, the “**OG Vendors**”), as vendors, for the sale of the OG Purchased Assets (as defined herein)

pursuant to an asset purchase agreement dated April 14, 2024 between MAAB and the OG Vendors (the “**OG APA**”).

- (c) the remaining matters to be completed in these NOI proceedings;
- (d) the fees of the Proposal Trustee and its counsel, Aird & Berlis LLP (“**Aird & Berlis**”), for the period from February 15, 2024 to April 19, 2024, and the Proposal Trustee’s estimate of professional fees and disbursements, including those of its counsel, required to complete the administration of these NOI proceedings (the “**Remaining Fees and Disbursements**”); and
- (e) the Proposal Trustee’s recommendation that this Court:
  - (i) make orders approving, among other things:
    - A. the Liberty Transaction, and authorizing and directing the Liberty Vendors to take such steps as necessary to complete the Liberty Transaction, and vesting in 769 Ontario, as at closing, all of the Liberty Vendors’ right, title and interest in and to the Liberty Purchased Assets, free and clear of all liens, charges, security interests and other encumbrances, other than permitted encumbrances as identified in the Liberty APA (the “**Liberty Approval and Vesting Order**”);
    - B. the Junction Transaction, and authorizing and directing the Junction Vendors to take such steps as necessary to complete the Junction Transaction, and vesting in Junction Nominee, as at closing, all of the Junction Vendors’ right, title and interest in and to the Junction Purchased Assets, free and clear of all liens, charges, security interests and other encumbrances, other than permitted encumbrances as identified in the Junction APA (the “**Junction Approval and Vesting Order**”); and
    - C. the OG Transaction and authorizing and directing the OG Vendors to take such steps as necessary to complete the OG Transaction, and vesting in MAAB, as at closing, all of the OG Vendors’ right, title and interest in and to the OG Purchased Assets, free and clear of all liens, charges, security interests and other encumbrances, other than permitted encumbrances as identified in the OG APA (the “**OG Approval and Vesting Order**”);
  - (ii) make an order (the “**Fees and Activities Approval Order**”), among other things:

- A. sealing the confidential appendices to the Third Report, pending completion of the Transactions;
- B. approving the First Report, Second Report and the Third Report, and the activities and conduct described therein; and
- C. approving the accounts of the Proposal Trustee and its counsel, Aird & Berlis, including the Remaining Fees and Disbursements, as set out in the Third Report.

### **III. TERMS OF REFERENCE**

- 5. In preparing this Third Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors' books and records, and discussions with the Debtors' representatives and their legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Third Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
- 6. Capitalized terms not otherwise defined herein are as defined in the Bidding Procedures and/or the Second Report, as the case may be.
- 7. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
- 8. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

### **IV. BACKGROUND**

#### **Corporate Overview**

- 9. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin Foods Inc. ("**Oragin**").

10. The leases for each of Organic Garage’s stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the “**Junction Store**”);
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the “**Bathurst Store**”);
  - (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the “**Oakville Store**”); and
  - (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the “**Liberty Store**”).

### **Results of the SSP**

11. As detailed in the Second Report, the Proposal Trustee carried out the SSP in accordance with the SSP Order and the Bidding Procedures, a copy of which is attached hereto as **Appendix “C”**. Commencing on March 6, 2024, the Proposal Trustee contacted 118 potential interested parties, including 35 strategic parties, 72 financial parties, and 11 liquidators, with regards to the transaction opportunity. A total of 14 parties (the “**Potential Bidders**”) executed the non-disclosure agreement for the transaction opportunity.
12. The Potential Bidders were required to submit “Qualified Bids” (as defined in the Bidding Procedures) to the Proposal Trustee on or before 5pm EST on April 10, 2024 (the “**Bid Deadline**”). On April 5, 2024, the Stalking Horse Bidder notified the Proposal Trustee it was exercising its right to terminate the Stalking Horse APA, with the intention of placing a new bid by the Bid Deadline.
13. A total of four (4) Qualified Bids were received by the Proposal Trustee by the Bid Deadline, including a new Qualified Bid submitted by MAAB. The Proposal Trustee has prepared a summary of the material terms of the Qualified Bids (the “**Offer Summary**”), which has been filed separately with the Court as **Confidential Appendix “1”**.

14. As outlined in the Second Report, two of the Qualified Bids were each for separate single retail stores and the other two Qualified Bids received were in respect of multiple stores, which contained overlapping assets. On April 11, 2024, the Proposal Trustee contacted the Binding Offer Bidders (as defined in the Bidding Procedures) that submitted Qualified Bids covering multiple stores, including MAAB, and requested resubmissions of their bids to exclude the Liberty Store by 12pm EST on April 12, 2024. MAAB was the only Binding Offer Bidder that submitted a revised Qualified Bid to the Proposal Trustee.
15. After review of the Qualified Bids, on April 12, 2024, the Proposal Trustee declared each of 769 Ontario, Junction Nominee and MAAB as the “Successful Bidders” pursuant to the Bidding Procedures, subject to approval of the Court. Since this date, the Proposal Trustee and Aird & Berlis, in consultation with the Debtors, have worked with each of the respective purchasers and their counsel to finalize the asset purchase agreements, as described in greater detail below.
16. The Proposal Trustee has contacted the other Binding Offer Bidder that was not a Successful Bidder to coordinate the return of its deposit in accordance with terms of the Bidding Procedures.

## **V. ACTIVITIES OF THE PROPOSAL TRUSTEE**

17. The Proposal Trustee’s activities since the date of the Second Report have included, among other things:
  - (a) reviewing the Debtors’ materials filed in connection with the motion for the Second Extension;
  - (b) corresponding with Zeifman Partners Inc., in its capacity as the trustee of Oragin in response to letters dated April 17, 2024 and April 22, 2024 (the “**ZPI Letters**”);
  - (c) finalizing the Liberty APA and corresponding with counsel to 769 Ontario in connection with same;
  - (d) finalizing the Junction APA and corresponding with counsel to the Junction Nominee in connection with same;
  - (e) finalizing the OG APA and corresponding with counsel to MAAB in connection with same;
  - (f) reviewing the Debtors’ receipts and disbursements for the week ending April 21, 2024;



- (g) attending to administrative matters, including maintaining the Case Website; and
- (h) preparing this Third Report.

## VI. THE PROPOSED TRANSACTIONS

- 18. The Liberty APA, the Junction APA and the OG APA, and the transactions contemplated thereunder, represent the only viable alternative to a liquidation of the Debtors' assets through bankruptcy proceedings.
- 19. The key provisions and terms of each of the Transactions to be approved are described in greater detail in this section.

### Liberty Transaction

- 20. A summary of material terms of the Liberty APA<sup>1</sup>, a redacted copy of which is attached hereto as **Appendix "D"**, are as follows:
  - (a) Purchaser: 1000858769 Ontario Inc.;
  - (b) Purchased Assets: comprised of:
    - i. all of the Liberty Vendors' right, title and interest in and to the Specific Personal Property (as listed in Schedule D of the Liberty APA) located at the Liberty Store; and
    - ii. lease agreement dated as of October 18, 2017 between the Liberty LeaseCo, as tenant, and 8841896 Ontario Inc., as landlord, for the Liberty Store (collectively, the "**Liberty Purchased Assets**").
  - (c) Purchase Price: a fixed cash purchase price. The amount of the Purchase Price is provided in the summary included in Confidential Appendix 1;
  - (d) Deposit: 25% of the Purchase Price. The deposit was provided to the Proposal Trustee by 769 Ontario at the Bid Deadline.;

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<sup>1</sup> Capitalized terms used but not otherwise defined in this section have the meaning ascribed to them in the Liberty APA. The following summary of the Liberty APA is provided for illustrative purposes and convenience only – parties should review the Liberty APA attached as Appendix "D" for the terms of same.

- (e) Payment of Purchase Price: on the Closing Date, 769 Ontario shall pay to the Proposal Trustee the Purchase Price less the Deposit in immediately available funds;
- (f) Closing Date: ten (10) days after the date on which the Court issues the Liberty Approval and Vesting Order approving the transaction contemplated under the Liberty APA;
- (g) Employees: 769 Ontario is not assuming any of the existing Liberty Store employees, all of whom shall be terminated by Organic Garage at least 24 hours prior to the Closing Date;
- (h) Conditions Precedent: the Liberty APA is subject to certain closing conditions, including, but not limited to: (a) the Court shall have issued and entered the Liberty Approval and Vesting Order, (b) no Order and no Restraint restraining or prohibiting the completion of the Liberty Transaction and (c) the delivery of a certificate from the Proposal Trustee confirming the satisfaction of all conditions under the Liberty APA have either been satisfied or waived; and
- (i) Outside Date: May 15, 2024 (as confirmed by 769 Ontario’s counsel in writing on April 21, 2024).

### **Junction Transaction**

21. A summary of material terms of the Junction APA<sup>2</sup>, a redacted copy of which is attached hereto as **Appendix “E”**, are as follows:

- (a) Purchaser: Junction Road Nominee Inc.
- (b) Purchased Assets: comprised of:
  - i. all of the Junction Vendors’ right, title and interest in and to all equipment and assets of the Junction Vendors used in connection with the operation of the Business at the Junction Store; and
  - ii. the lease agreement dated as of June 9, 2014 between the Junction LeaseCo, as tenant, and 2216198 Ontario Inc., as landlord, for the Junction Store (collectively, the **“Junction Purchased Assets”**).

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<sup>2</sup> Capitalized terms used but not otherwise defined in this section have the meaning ascribed to them in the Junction APA. The following summary of the Junction APA is provided for illustrative purposes and convenience only – parties should review the Junction APA attached as Appendix “E” for the terms of same.

- (c) Purchase Price: a fixed cash purchase price. The amount of the Purchase Price is provided in the summary included in Confidential Appendix “1”;
- (d) Deposit: 25% of the Purchase Price. The deposit was provided to the Proposal Trustee by the Junction Nominee at the Bid Deadline ;
- (e) Payment of Purchase Price: on the Closing Date, the Junction Nominee shall pay to the Proposal Trustee the Purchase Price less the Deposit in immediately available funds;
- (f) Closing Date: ten (10) days after the date on which the Court issues the Junction Approval and Vesting Order approving the transaction contemplated under the Junction APA;
- (g) Employees: Junction Nominee is not assuming any of the existing Junction Store employees;
- (h) Conditions Precedent: the Junction Store APA is subject to certain closing conditions, including, but not limited to: (a) the Court shall have issued and entered the Junction Approval and Vesting Order, (b) no Order and no Restraint restraining or prohibiting the completion of the Junction Transaction and (c) the delivery of a certificate from the Proposal Trustee confirming the satisfaction of all conditions under the Junction APA have either been satisfied or waived; and
- (i) Outside Date: May 15, 2024.

## **OG Transaction**

22. A summary of material terms of the OG APA<sup>3</sup>, a redacted copy of which is attached hereto as **Appendix “F”**, are as follows:

- (a) Purchaser: MAAB Global Ltd.;
- (b) Purchased Assets: comprised of:
  - i. all of the OG Vendors’ right, title and interest in and to all equipment and assets of the OG Vendors used in connection with the operation of the Bathurst Store and Oakville Store;

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<sup>3</sup> Capitalized terms used but not otherwise defined in this section have the meaning ascribed to them in the OG APA. The following summary of the OG APA is provided for illustrative purposes and convenience only – parties should review the OG APA attached as Appendix “F” for the terms of same.

- ii. all intellectual property owned by the OG Vendors and primarily used in connection with the business;
  - iii. all of the OG Vendors' right, title and interest in and to all inventory of the OG Vendors at the Bathurst Store and Oakville Store; and
  - iv. the Assigned Contracts (collectively, the "**OG Purchased Assets**").
- (c) Assigned Contracts: comprised of:
- i. the lease agreement dated as of March 14, 2013 between the Bathurst LeaseCo, as tenant, and 8000 Bathurst Realty Inc., as landlord, for the Bathurst Store;
  - ii. the lease agreement dated as of April 1, 2016 between the Oakville LeaseCo, as tenant, and Szeto Ping Hay and Others, as landlord, for the Oakville Store.
  - iii. license agreement between Pure Spirits Inc., as licensee, and Organic Garage, as licensor; and
  - iv. any contract for webhosting, data storage and management, email services and telecommunication services;
- (j) Purchase Price: a fixed cash purchase price. The amount of the Purchase Price is provided in the summary included in Confidential Appendix "1";
- (d) Deposit: in the amount of approximately \$100,000 (the "**Deposit**"). The Deposit was previously paid by MAAB as part of the subsequently terminated Stalking Horse Bid;
- (e) Payment of Purchase Price: on the Closing Date, the Purchaser shall pay to the Proposal Trustee the Purchase Price less the Deposit, in immediately available funds;
- (f) Closing Date: ten (10) days after the date on which the Court issues the OG Approval and Vesting Order approving the transactions contemplated under the OG APA;
- (g) Employees: Organic Garage shall terminate the employment of all employees at the Bathurst Store and the Oakville immediately prior to Closing. MAAB shall offer employment to all or substantially all of the employees currently engaged in operations of the Business at the Bathurst Store and the Oakville Store;

- (h) Transfer Taxes: Organic Garage and the Purchaser shall jointly execute an election under Section 167 of the *Excise Tax Act* (Canada) to cause the sale of the OG Purchased Assets to take place on an HST-free basis under Part IX of the *Excise Tax Act* (Canada);
- (i) Conditions Precedent: the OG APA is subject to certain closing conditions, including, but not limited to: (a) the Court shall have issued and entered the OG Approval and Vesting Order, (b) no Order and no Restraint restraining or prohibiting the completion of the OG Transaction and (c) the delivery of a certificate from the Proposal Trustee confirming the satisfaction of all conditions under the OG APA have either been satisfied or waived; and
- (j) Outside Date: May 15, 2024 (as confirmed by MAAB’s counsel in writing on April 19, 2024).

### **Proposal Trustee’s Observations**

- 23. As noted in the First Report, the Proposal Trustee engaged a liquidator, Danbury Global Ltd. (“**Danbury**”), to provide a forced liquidation value (“**FLV**”) appraisal of the Debtors’ equipment and fixed assets located at each of its stores. On March 21, 2024, the Proposal Trustee received the appraisal report (the “**Danbury Report**”) which indicated an FLV of less than consideration offered under the Stalking Horse Bid. A copy of the Danbury Report has been filed separately with the Court as **Confidential Appendix “2”**.
- 24. The Proposal Trustee is of the view that the consideration payable under the Transactions is fair and reasonable in the circumstances, represents the highest and best value for the Debtors’ assets and business, and achieves significantly better value for the Debtors’ assets than what would be achieved in a liquidation. Further, the aggregate proceeds to be generated from the Transactions is materially higher than the consideration offered under the Stalking Horse Bid and will provide some recovery for the unsecured creditors of Organic Garage.
- 25. Accordingly, the Proposal Trustee believes that the approval of the Liberty APA, the Junction APA and the OG APA, and the Transactions contemplated thereunder, is in the best interests of the Debtors and its stakeholders, and satisfies the factors to be considered pursuant to section 65.13(4) of the BIA, including, but not limited to:
  - (a) the SSP Order, containing the roadmap for conducting the SSP, was approved by the Court;
  - (b) the SSP, which was designed to solicit interest in the Debtors’ business and assets from *bona fide* parties, was reasonable in the circumstances, transparent, and carried out in accordance with the SSP Order and the Bidding Procedures;

- (c) as mentioned above, the transaction opportunity was broadly marketed by the Proposal Trustee and as such, all likely bidders have already been provided with an opportunity to bid on the Debtors' assets and business;
  - (d) the SSP involved the participation of multiple interested parties and resulted in multiple Qualified Offers. Therefore, further marketing of the opportunity would, in the Proposal Trustee's view, not necessarily result in greater realizations and may put the Transactions at risk of impairing recoveries; and
  - (e) the Transactions provides certainty of outcome for key stakeholders, such as the landlords for the Debtors' leased premises, and certain of Organic Garage's current employees who will have the opportunity for continued employment.
26. In the event this Court approves the Liberty APA, the Junction APA and the OG APA, but the underlying Transactions do not close, the Proposal Trustee is of the view that efforts to remarket the Debtors' assets may be impaired if the Offer Summary, the Danbury Report, the unredacted Liberty APA, the unredacted Junction APA and the unredacted OG APA, which have each been filed separately with the Court as **Confidential Appendix "3"**, **Confidential Appendix "4"**, and **Confidential Appendix "5"**, respectively, are made public at this time. In the circumstances, the Proposal Trustee is of the view that it is appropriate for the Offer Summary, the Danbury Report, the unredacted Liberty APA, the unredacted Junction APA and the unredacted OG APA to all be sealed pending closing of the Transactions or further Order of the Court.

## **VII. REMAINING MATTERS TO COMPLETE IN THESE PROCEEDINGS**

27. If this Court grants the proposed Orders requested herein, the Debtors and the Proposal Trustee will have to complete the following remaining matters prior to the completion of these NOI proceedings (the "**Remaining Matters**"):
- (a) completing payments for post-filing goods and services provided to the Debtors, including remittances to government taxing authorities for sales taxes, payroll taxes and source deductions;
  - (b) terminating all of the employees of Organic Garage prior to the Closing of the Transactions;
  - (c) closing the Liberty Store and the Junction Store and removal of any remaining inventory on site;

- (d) closing each of the Transactions and filing certificates from the Proposal Trustee confirming the same;
  - (e) making payment of amounts owing, if any, pursuant to the Administration Charge and the Directors' Charge;
  - (f) making payment of the retention payments to the eligible employees pursuant to the KERP;
  - (g) investigating the matters raised in the ZPI Letters, including continued investigation into the Intercompany Accounts and
  - (h) attending to other administrative matters incidental to these proceedings.
28. Upon Closing of the Transactions, the Debtors will have no remaining assets or ongoing operations, and their employees will have been terminated. Consequently, after expiry of the Second Extension, if granted by the Court, each of the Debtors will be deemed to have made an assignment in bankruptcy pursuant to Section 50.4(8) of the BIA. As noted above, the Proposal Trustee is of the view that the proceeds generated from the Transactions will support a recovery for unsecured creditors and distributions to creditors will be addressed through the bankruptcy proceedings.

## VIII. REQUEST FOR APPROVAL OF FEES AND DISBURSEMENTS

29. As noted, the Proposal Trustee and its counsel, Aird & Berlis, have maintained detailed records of their professional time and disbursements prior to and since the Filing Date.
30. The total fees and disbursements of KPMG during the period from February 18, 2024, to April 19, 2024 (the "**KPMG Fee Period**"), amount to \$150,837.50, together with disbursements in the amount of \$19,375.62, both excluding sales taxes (collectively, the "**KPMG Accounts**"). These amounts represent professional fees and disbursements not yet approved by the Court. Attached hereto as **Appendix "G"** is the affidavit of Pritesh Patel in respect of the KPMG Accounts.
31. The total fees and disbursements of Aird & Berlis during the period from February 15, 2024, to April 19, 2024 (the "**Aird & Berlis Fee Period**"), amount to \$94,874.50, together with disbursements in the amount of \$17.50, both excluding sales taxes (collectively, the "**Aird & Berlis Accounts**"). These amounts represent professional fees and disbursements not yet approved by the Court. Attached hereto as **Appendix "H"** is the affidavit of Kyle Plunkett in respect of the Aird & Berlis Accounts.

32. The Proposal Trustee has reviewed the Aird & Berlis Accounts and confirms that the services reflected therein have been duly authorized and duly rendered and that, in the Proposal Trustee's opinion, the charges are reasonable.
33. On the assumption that there are no delays, disputes or unforeseen developments in connection with these NOI proceedings, including the within motion, and the performance of the Remaining Matters, the Proposal Trustee has estimated fees and disbursements in the amount of \$120,000, excluding applicable taxes (the "**Remaining Fees and Disbursements**"), for services that have been provided, or will be provided, for the period from April 20, 2024 to May 17, 2024.
34. The above estimates take into consideration the reasonable professional and legal fees required to attend the hearing for the Second Extension, prepare the Third Report, participate in the within motion, and complete the closing of the Transactions and the Remaining Matters.
35. The fees and disbursements of the Proposal Trustee and its counsel, including the Remaining Fees and Disbursements, have been reviewed by the Debtors. The Proposal Trustee has been advised that the Debtors do not oppose these fees and disbursements.

## **IX. CONCLUSIONS AND RECOMMENDATIONS**

36. For the reasons set out in the Third Report, the Proposal Trustee recommends that this Court make the Liberty Approval and Vesting Order, Junction Approval and Vesting Order, OG Approval and Vesting Order, and the Fees and Activities Approval Order, approving, among other things, the Transactions, the activities of the Proposal Trustee and the fees of the Proposal Trustee and its counsel.



All of which is respectfully submitted on this 23<sup>rd</sup> day of April 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



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**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President



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**Tahreem Fatima**  
**CPA**  
Manager

# **Appendix “A”**

**Court / Estate File Nos:** 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

**ORGANIC GARAGE (CANADA) LTD. ET AL.**

**FIRST REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

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## APPENDICES

**APPENDIX "A"** – CERTIFICATES OF FILING ISSUED BY THE SUPERINTENDENT OF BANKRUPTCY

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**APPENDIX "D"** – BIDDING PROCEDURES

**APPENDIX "E"** – CASH FLOW FORECAST FOR THE PERIOD MARCH 4, 2024 TO MAY 5, 2024

Court / Estate File Nos: 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**FIRST REPORT OF KPMG INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**March 11, 2024**

## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, , the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). Attached hereto as **Appendix “A”** are copies of each of the Certificates of Filing of a Notice of Intention to Make a Proposal issued by the Office of the Superintendent of Bankruptcy for each of the Debtors.
2. KPMG Inc. (“**KPMG**” or the “**Proposal Trustee**”) consented to act as proposal trustee in the NOI proceedings of each of the Debtors.
3. KPMG LLP, an affiliate of the Proposal Trustee, was previously retained by ECS Law Professional Corporation, on behalf of Oragin Foods Inc. (“**Oragin**”), the parent company of Organic Garage, pursuant to an engagement letter dated on August 18, 2023, to provide certain financial advisory services to Oragin in respect of its liquidity challenges.
4. The principal purpose of these NOI proceedings is to create a stabilized environment to provide the Debtors the opportunity to carry out a sale process for their business and assets, or to restructure their business, so that they can present a proposal to their creditors.
5. This report (the “**First Report**”) is being filed by the Proposal Trustee in connection with the Debtors’ motion returnable March 14, 2024 for certain relief, including approval of a formal sale solicitation process (the “**SSP**”).

## II. PURPOSE OF REPORT

6. The purpose of the First Report is to provide the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) with information pertaining to:
  - (a) additional background information in respect of the Debtors’ operations, creditors and causes of financial difficulties;

- (b) the Debtors' cash flow projections (the "**Cash Flow Forecast**") for the period from March 4, 2024 to and including May 5, 2024 (the "**Forecast Period**");
- (c) the sale transaction contemplated under the Stalking Horse Asset Purchase Agreement dated March 7, 2024 (the "**Stalking Horse APA**") entered into between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo and Liberty LeaseCo (collectively, the "**Vendors**"), as vendors, and MAAB Global Ltd. ("**MAAB**" or the "**Stalking Horse Bidder**"), as purchaser, and the salient terms thereof, for the sale of the Purchased Assets (as defined Stalking Horse APA) which, subject to the approval of this Court, is proposed to act as the stalking horse offer (the "**Stalking Horse Bid**") in the proposed SSP;
- (d) the Debtors' proposed post-filing strategy, including an outline of the SSP to be carried out by the Proposal Trustee and a description of the bidding procedures (the "**Bidding Procedures**") to be used in connection therewith;
- (e) the proposed key employee retention plan (the "**KERP**") to be extended by Organic Garage to certain senior management personnel;
- (f) the proposed priority of the Administration Charge and the Director's Charge (each as defined herein);
- (g) an extension of the time for the Debtors to file a proposal to April 30, 2024 (the "**Extension**"); and
- (h) the recommendation by the Proposal Trustee that this Court issue an order (the "**SSP Order**") approving, among other things:
  - i. the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
  - ii. the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors' and their advisors, to implement same;
  - iii. that the NOI proceedings for the Debtors (collectively, the "**NOI Proceedings**") be administratively consolidated and continued under one title of proceedings, bearing Court/Estate File No. 31-3051650;
  - iv. the KERP and sealing the unredacted copy of the KERP;

- v. each of the Administration Charge and the Director's Charge (each as defined herein), and the proposed priority ranking of such charges; and
- vi. the Debtors' request for the Extension.

### III. TERMS OF REFERENCE

7. In preparing this First Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors' books and records, and discussions with the Debtors' representatives and their legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the First Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Future orientated financial information contained in the Cash Flow Forecast is based on the Debtors' 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 Proposal Trustee expresses no assurance as to whether the Cash Flow Forecast will be achieved.
9. Capitalized terms not otherwise defined herein are as defined in the affidavit of Matt Lurie, the chief executive officer and director of each of the Debtors, sworn March 8, 2024 (the "**Lurie Affidavit**") and filed in support of the Debtors' motion returnable March 14, 2024. This First Report should be read in conjunction with the Lurie Affidavit, as certain information contained in the Lurie Affidavit has not been included herein in order to avoid unnecessary duplication.
10. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.



#### IV. BACKGROUND

12. Information with respect to the Debtors' business, operations and causes of insolvency are detailed extensively in the Lurie Affidavit. The information contained herein is not intended to be an exhaustive review of all matters relating to the business of the Debtors and accordingly, the Proposal Trustee recommends that readers review the materials filed by the Debtors in respect of its motion.

##### Corporate Overview

13. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage's focus is to provide its customers with organic products at affordable prices. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin. Organic Garage's registered head office is located in Toronto, Ontario.
14. The leases for each of Organic Garage's stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI Proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the "**Junction Store**");
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the "**Bathurst Store**");
  - (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the "**Oakville Store**"); and
  - (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the "**Liberty Store**").
15. Organic Garage's remaining two subsidiaries, 2368123 Ontario Inc. and 2557479 Ontario Inc., are either inactive or contain no material assets, and are not included in these NOI Proceedings.

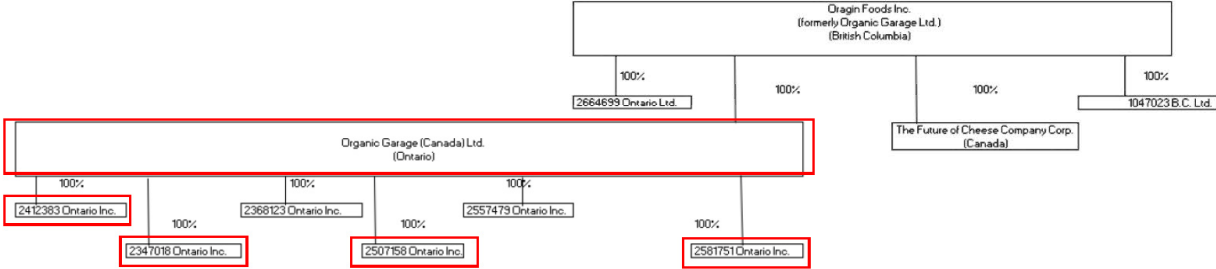
16. As at the date of this First Report, Organic Garage employed approximately 100 employees, comprised of approximately 20 full-time employees who are store managers, assistant managers or in head office functions. The remaining employees are part-time and employed at retail locations. Further, the Proposal Trustee understands that as of the Filing Date, Organic Garage’s workforce was not unionized<sup>1</sup> and Organic Garage does not maintain a pension plan for its employees.

**Oragin Foods Inc.**

17. Oragin acquired Organic Garage in 2016 through a plan of arrangement under the British Columbia *Business Corporations Act*. Oragin is a reporting issuer in the Provinces of British Columbia, Alberta, and Ontario, and is listed on the NEX (a subsidiary of the TSX-V), the OTC QX, and the Frankfurt stock exchange. Oragin is subject to a cease trade order and is currently suspended from trading on all three exchanges.

18. Oragin’s primary assets include its equity interests in its subsidiaries, including Organic Garage. Oragin also has a subsidiary with operations which was formed during an amalgamation agreement with the Future of Cheese Company Corp. (“**Future of Cheese**”) on February 17, 2021. Other inactive subsidiaries of Oragin include 2664669 Ontario Inc. and 1047023 B.C. Ltd, neither of which hold any material assets or liabilities.

19. An organizational chart for Oragin, with the Debtors in these NOI Proceedings outlined in red, is set forth below:



20. Due to the failure in completing certain required interim filings, on or about January 6, 2023, Oragin was issued a cease trade order (the “**CTO**”) which remains in effect as at the date of this report.

<sup>1</sup> The employees in respect of the Junction Store recently voted to unionize. As at the Filing Date, no collective bargaining agreement has been negotiated or finalized.

21. None of Oragin, the Future of Cheese, 2368123 Ontario Inc., 2557479 Ontario Inc., 2664669 Ontario Inc. and 1047023 B.C. Ltd are debtors in these NOI Proceedings.

### Historical Financial Results

22. The Debtors' unaudited and internal operating results for fiscal 2022 and 2023 are summarized in the table below:

<b>Organic Garage (Canada) Ltd. et al Historical Operating Results Summary - Unaudited (in \$000s CAD)</b>		
	Year ended <b>31-Jan-23</b>	Year ended <b>31-Jan-24</b>
Sales	22,358	22,094
Cost of sales	15,589	16,012
Gross profit	6,769	6,082
Total SG&A expenses (excl. interest and depreciation)	6,747	6,595
EBITDA	21	(513)

23. For the year ended January 31, 2023, the Debtors generated minimal earnings before interest, taxes, depreciation and amortization (“**EBITDA**”) of approximately \$21,000. In the year ended January 31, 2024, the Debtors incurred EBITDA losses of approximately \$513,000. The Proposal Trustee understands management implemented a number of cost-saving initiatives over the past 2 years in an effort to reduce the cash burn. Despite these efforts, the Debtors have not been able to return to profitability.
24. The Proposal Trustee understands that the market in which the Debtors operate in has been negatively impacted by the COVID-19 pandemic which has led to, among other things, significant supply chain pressures. In particular, wholesale vendors have significantly decreased the fill rates for grocery orders leading to reduced inventory at the Debtors' stores, which ultimately resulted in revenue losses for the Debtors. Primarily due to these reasons, the Debtors have experienced lower margins and deterioration of profitability over the past couple years.
25. Set out below is an unaudited summary of the Debtors' assets as at January 31, 2024:

Organic Garage (Canada) Ltd. et al Summary of Assets as at January 31, 2024 - Unaudited (in \$CAD)	
Current Assets	
Cash	133,296
Accounts receivable	42,213
Inventory	1,402,296
Lease receivable	150,520
Prepaid and other current assets	111,050
<b>Total current assets</b>	<b>1,839,374</b>
Fixed Assets	6,861,081
Right of Use Assets	5,703,739
<b>Total Assets</b>	<b>14,404,195</b>

26. As at January 31, 2024, the book value of the Debtors' current assets (which primarily consisted of inventory) and fixed assets (which is comprised of leasehold improvements, store fixtures and refrigeration equipment) was \$1.8 million and \$6.8 million, respectively. The Proposal Trustee notes that the book value is not necessarily representative of the realizable value of these assets, particularly the fixed assets, in a forced liquidation scenario.
27. As noted below, the Debtors estimate that they collectively had unsecured obligations totaling approximately \$2.7 million as at the Filing Date.

### Causes of Insolvency

28. As detailed above and in the Lurie Affidavit, the Debtors have incurred significant net losses over the past 12 months due to a number of factors, including the impact of unsustainable supply chain pressures.
29. On October 25, 2019, Oragin issued two unsecured convertible debentures (together, the "**Convertible Debentures**") for total net proceeds of \$2,925,000, and total face value of \$3,000,000, including an original issue discount of \$75,000. The Convertible Debentures matured on October 25, 2022 (the "**Maturity Date**"), upon which date the holders (the "**Holder**s") of the Convertible Debentures issued notices of default to Oragin for failure to repay the debt.
30. The Proposal Trustee understands the Debtors are not borrowers or guarantors of the Convertible Debentures. Accordingly, the Holders are not included on the Debtors' creditor listings.
31. Based on discussions with the management of the Debtors, the Proposal Trustee understands that prior to and following the Maturity Date, Oragin engaged in discussions with the Holders with the

objective of coming to mutually beneficial terms with regard to the repayment of the Convertible Debentures. However, despite these efforts, Oragin and the Holders were unable to conclude on terms that were mutually agreeable.

32. The Proposal Trustee further understands that Oragin made efforts to secure financing and/or a sale of Organic Garage to repay the Holders, in whole or in part, but these efforts did not ultimately result in a transaction. Moreover, Oragin was unable to raise equity capital due to the CTO.
33. As a result of financial losses, coupled with an inability to raise additional equity capital, the Debtors exhausted their liquidity and elected to each file an NOI to restructure the business.
34. In November 2023, one of the Holders filed an application (the “**Oragin Bankruptcy Application**”) for a bankruptcy order in respect of Oragin. The Proposal Trustee understands the Oragin Bankruptcy Application is scheduled to be heard on March 25 and 26, 2024.

#### **Creditors**

35. A copy of the creditor lists included in each of the Debtors’ NOI filings are attached hereto as **Appendix “B”**.
36. As reflected in Appendix “B”, the Debtors estimate that they collectively have unsecured obligations totaling approximately \$2.7 million as at the Filing Date.
37. As noted in the Lurie Affidavit, Organic Garage has a limited number of other creditors with registered security interests in the personal property registration system, certain of which appear to relate to leasing and/or financing of equipment. One of the registrations is from Royal Bank of Canada relating to an operating line of credit. The Proposal Trustee understands no amounts were outstanding on the line of credit as at the Filing Date. However, there is an outstanding balance under a credit card facility in the amount of approximately \$100,000.
38. The Debtors advised the Proposal Trustee that all employee related amounts are current, and all required remittances of employee withholdings and sales taxes (HST and PST) have been made when due.
39. The Proposal Trustee understands the Debtors intend to pay the accrued pre-filing vacation pay (approximately \$5,000 in total) to its employees during these NOI Proceedings. The Debtors have provided for this payment in the Cash Flow Forecast.

## V. OBJECTIVES OF THE NOI PROCEEDINGS

40. The Proposal Trustee understands that the primary objectives of these NOI proceedings are to:
- (a) ensure the Debtors have the necessary stability to maintain operations as a going concern;
  - (b) implement the SSP with a view to providing a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of these circumstances; and
  - (c) effect a going concern sale of the business of the Debtors, either to the Stalking Horse Bidder or another party/parties as a result of the SSP, with a view to maximizing value for the benefit its stakeholders, including, among others, employees, creditors, and partners.

## VI. THE STALKING HORSE APA

41. The Vendors, the Stalking Horse Bidder, and their respective counsel, in consultation with the Proposal Trustee, have negotiated the terms and provisions of the Stalking Horse APA pursuant to which the Stalking Horse Bidder is proposed to, on an ‘as is, where is’ basis, acquire the Purchased Assets, subject to higher or otherwise better offers, and approval of the Court.
42. The material terms of the Stalking Horse APA, a copy of which is attached hereto as **Appendix “C”**, are as follows:
- (a) Purchaser: MAAB Global Ltd.;
  - (b) Purchased Assets: comprised of:
    - i. all of the Vendors’ right, title and interest in and to all equipment of the Vendors used in connection with the operation of the business, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances;
    - ii. all intellectual property owned by the Vendors and primarily used in connection with the business; and
    - iii. the Assigned Contracts;

- (c) Assigned Contracts: consist primarily of real property leases for the Liberty Store, the Bathurst Store and the Oakville Store (collectively, the “**Leases**”), as same may be modified by the Stalking Horse Bidder prior to April 5, 2024. The Stalking Horse Bidder shall be responsible for payment of any cure costs relating to the Assigned Contracts;
- (d) Assignment of Leases: the Stalking Horse APA has a condition precedent in favour of the Stalking Horse Bidder relating to the successful negotiated assignment of the Leases, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024 (the “**Lease CP**”);
- (e) Purchase Price: the total purchase price is \$275,000 (the “**Purchase Price**”);
- (f) Deposit: a refundable deposit in the amount of \$101,000 (the “**Deposit**”). The Deposit may be used by the Debtors as a non-revolving loan (as discussed further below), if required. The Deposit was sent by the Stalking Horse Bidder on March 11, 2024 and is expected to be received by the Debtors’ counsel in short order. The Deposit will be held in trust by the Debtors’ counsel;
- (g) Closing Date: ten (10) days after the date on which the Court issues an order (the “**Approval and Vesting Order**”) approving the transactions contemplated under the Stalking Horse APA and not later than the Outside Date;
- (h) Expense Reimbursement: up to \$15,000 for repayment of professional fees and expenses incurred by the Stalking Horse Bidder relating to the transaction contemplated by the Stalking Horse APA;
- (i) Assignment Order: the Stalking Horse Bidder may request that, concurrently with the application for the Approval and Vesting Order, the Vendors seek an order (the “**Assignment Order**”) in respect of any Leases for which the consent of the necessary contract parties cannot be obtained. The issuance of the Assignment Order is not a condition precedent to the obligation of the Purchaser to complete the transaction contemplated by the Stalking Horse APA;
- (j) Outside Date: April 30, 2024;
- (k) Termination: the Stalking Horse APA may be terminated prior to the Closing Date upon the occurrence of, but not limited to, one of the following:

- i. by mutual agreement of the Vendors and the Stalking Horse Bidder;
  - ii. by the Vendors or the Stalking Horse Bidder if the closing of the transaction has not occurred by the Outside Date, provided that the failure to close by such deadline is not caused by a breach of Stalking Horse APA by the party proposing to terminate the Stalking Horse APA; or
  - iii. by the Vendors or the Stalking Horse Bidder if there has been a material breach of the Stalking Horse APA by the other party where such breach has not been cured within five (5) business days.
- (l) Financing: the Stalking Horse APA does not contain any financing conditions and the Proposal Trustee understands that the Stalking Horse Bidder has made satisfactory arrangements in respect of necessary financing to complete the transaction should it be selected as the Successful Bidder.
43. As noted above, the Stalking Horse APA contains the Lease CP, which provides the Stalking Horse Bidder with the right to terminate the Stalking Horse APA on or before April 5, 2024 if it cannot negotiate the assignment of the Leases on terms acceptable to the Stalking Horse Bidder. The Proposal Trustee notes that the Lease CP is reasonable in the circumstances as the Stalking Horse Bidder has not had an opportunity to discuss the Leases with the applicable landlords as at the date of the Stalking Horse APA, but the Proposal Trustee understands the Stalking Horse Bidder intends to engage with the relevant parties as soon as practical hereafter. In the event the Lease CP is not satisfied or waived the Stalking Horse Bidder by April 5, 2024, the Proposal Trustee will deliver notice forthwith to update the service list for the NOI Proceedings and any Potential Bidder (as defined below) in SSP.
44. As further noted above, the Deposit has been made available to the Debtors by the Stalking Horse Bidder to contribute towards the Debtors' ongoing working capital requirements during NOI proceedings, pursuant to a proposed senior secured, super-priority facility (the "**Deposit Facility**"). The Stalking Horse Bidder informed the Debtors that its willingness to provide such financing was predicated on entering into the Stalking Horse APA.
45. Prior to any Advance being funded under the Deposit Facility, the Vendors shall seek to obtain a Court order granting a priority charge (the "**Deposit Charge**") in favour of the Stalking Horse Bidder against the assets, properties and undertaking of the Vendors. The Deposit Charge shall secure all of



the obligations of the Vendors under the Deposit Facility and shall rank in priority to all other Encumbrances on the assets of the Vendors, subject only to the Administration Charge and the Director's Charge. The Proposal Trustee notes that based on the Cash Flow Forecast, the Debtors are not projected to require interim financing during the Forecast Period. Accordingly, the Debtors are not seeking approval of the Deposit Facility or the Deposit Charge on the within motion.

46. The Stalking Horse APA provides for payment of the Expense Reimbursement to the Stalking Horse Bidder in the event MAAB is not the Successful Bidder pursuant to the SSP. The Proposal Trustee notes that the Stalking Horse APA does not contemplate a break fee and that the Expense Reimbursement represents approximately 5.5% of the Purchase Price.
47. The Proposal Trustee has reviewed recent comparable stalking horse agreements wherein bid protections have been approved in transactions of this nature, and notes that the proposed Expense Reimbursement is within the range of market parameters (as a percentage of purchase price), which typically range between 1.0% to 7.0% of the purchase price with an average of 3.7%. The Proposal Trustee is of the view that the proposed Expense Reimbursement is fair and reasonable in the circumstances given the time and expense incurred by the Stalking Horse Bidder to date, and will not unduly "chill" bidding on the Purchased Assets as part of the proposed SSP (as described in further detail below).
48. Based on preliminary discussions with an appraisal firm specializing in liquidations, the Proposal Trustee understands the Purchase Price is near the higher end of the forced liquidation value for the Purchased Assets, as noted in the Lurie Affidavit. The Proposal Trustee has engaged a liquidator to provide an appraisal report in respect of the equipment located at the Debtors' stores, which report should be delivered to the Proposal Trustee prior to the Binding Offer Deadline.
49. The Stalking Horse APA sets a "floor price" for the Purchased Assets and based on the foregoing is near the high end of realizations that would be achieved in a liquidation of same. The SSP, as discussed below, will provide for a fair and transparent marketing process that should allow the Debtors to maximize realizations by seeking higher or otherwise better offers for the Purchased Assets.

## **VII. THE SALE SOLICITATION PROCESS**

50. As set out in the Lurie Affidavit, the Debtors, with the assistance of their advisors and in consultation with the Proposal Trustee, have concluded that a restructuring focusing on completing a sale of the

assets and business of the Debtors pursuant to the proposed SSP, will maximize value for all stakeholders.

**Bidding Procedures<sup>2</sup>**

- 51. Given the Debtors’ limited liquidity, the Debtors, in consultation with the Proposal Trustee, developed the SSP to promote a competitive, fair, and expedient sale process that seeks to maximize the value of the Debtors’ business and/or assets.
- 52. The purpose of the SSP is to identify one or more purchasers for the Debtors’ business and/or assets, which may include one or more of a liquidation proposal for the Debtors’ fixed assets (a “**Liquidation Proposal**”), or a sale of all of the Debtors’ assets (including the Purchased Assets) or a portion thereof as a going concern or otherwise (a “**Sale Proposal**”). In order to provide interested parties with an opportunity to bid on the Debtors’ business and/or assets, the Proposal Trustee proposes to aggressively market the Debtors’ business and assets to prospective purchasers for a period of approximately 35 days. As noted below, the proposed timelines are reasonable in the circumstances and reflective of the Debtors’ limited liquidity and the Cash Flow Forecast.
- 53. The following table summarizes the key dates and timelines pursuant to the SSP:

Date	Event
On or about March 6, 2024	Proposal Trustee to distribute a Teaser Letter to Known Potential Bidders, and upon execution of the NDA, access to the VDR
April 10, 2024 at 5:00 p.m. (EST)	Binding Offer Deadline (unless terminated early in accordance with the terms of the Sales process)
Auction, if needed	Date and time to be designated by the Proposal Trustee
By no later than April 12, 2024	Selection of Successful Bidder
By April 23, 2024 or the earliest date available thereafter	Sale Approval Motion to approve and authorize the sale transaction(s) to the Successful Bidder(s)

<sup>2</sup> Terms used but not otherwise defined in this section have the meaning ascribed to them in the Bidding Procedures.

As soon possible but no later than April 30, 2024	Closing of Successful Bid
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54. The key features of the Bidding Procedures, a copy of which is attached hereto as **Appendix “D”**, are outlined below:
- (a) Notice: in advance of the date of the within motion, commencing on March 6, 2024, the Proposal Trustee distributed: (i) an offering summary describing the transaction opportunity and outlining the proposed Binding Offer Deadline to a list of interested parties (the “**Known Potential Bidders**”), which list has been developed by the Proposal Trustee and Organic Garage. Any Known Potential Bidder interested in exploring the opportunity further will be provided with a form of non-disclosure agreement (the “**NDA**”) by the Proposal Trustee. Within five (5) business days after the granting of the SSP Order, the Proposal Trustee will provide Known Potential Bidders that execute an NDA with a copy of the Bidding Procedures. The Proposal Trustee will cause the Teaser Letter and NDA to be sent to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Proposal Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.
  - (b) Diligence: Any party that wishes to participate in the SSP (a “**Potential Bidder**”) will be required to provide the Proposal Trustee: with (i) an executed NDA and (ii) a letter detailing the identity of the Potential Bidder, its direct and indirect principals, and contact information for such Potential Bidder. Potential Bidders that wish to commence due diligence on the Purchased Assets will be provided, by the Proposal Trustee, with a copy of the Stalking Horse APA and any material amendment thereto, as well as access to a virtual data room (the “**VDR**”) that contains confidential financial and other information relating to the Debtors and its operations.
  - (c) Qualified Bidder: A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "Qualified Bidder" if the Proposal Trustee, in its reasonable judgment, and in consultation with the Debtors, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or liquidation transaction pursuant to the SSP. The Stalking Horse Bidder is considered a “Qualified Bidder” pursuant to the Bidding Procedures.

- (d) Binding Offers: Any Qualified Bidder (in such capacity, a “**Binding Offer Bidder**”), other than the Stalking Horse Bidder, that wishes to make a formal bid must submit a binding offer (a “**Binding Offer**”), in the case of a Sale Proposal or a Partial Sale Proposal, in the form of a markup to the Stalking Horse APA to show any amendments and modifications thereto, or in the case of a Liquidation Proposal, in a form of liquidation agreement in form and substance satisfactory to the Proposal Trustee, in consultation with the Debtors. In addition to the foregoing, a Binding Offer must comply with, among other things:
- i. form of consideration for the proposed sale must be in cash;
  - ii. includes evidence, satisfactory to the Proposal Trustee, in consultation with the Debtors, of the ability to close the transaction within the timeframes contemplated by the SSP;
  - iii. includes a written statement that such offer be binding and irrevocable unless and until the earlier of: (i) two (2) business days after the date of closing of the Successful Bid; and (ii) the Outside Date;
  - iv. provides for net cash proceeds on closing that exceeds the Purchase Price by at least \$40,000, which represents the sum of: (i) the Expense Reimbursement; and (ii) a minimum overbid amount of \$25,000;
  - v. be accompanied by a deposit of not less than 25% of the cash purchase price payable on closing;
  - vi. in the case of a Sale Proposal, (i) identifies any executory contracts and leases of the Debtors that the Qualified Bidder will assume and (ii) contains the Qualified Bidder’s proposed treatment of employees of the Debtors;
  - vii. in the case of a Liquidation Proposal, includes the scope of the Debtors’ assets to be included in the liquidation, including goods, lease designation rights, and receivables and any related exclusions;
  - viii. does not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections; and

- ix. be received by the Proposal Trustee on or prior to 5:00 p.m. (prevailing Eastern Time) on April 10, 2024 (the “**Binding Offer Deadline**”).
- (e) Early Termination: If the Proposal Trustee concludes, in its sole discretion, that there are no active participants in the SSP or no prospect that a Binding Offer that is superior to the Stalking Horse Bid will be submitted by the Binding Offer Deadline, the Proposal Trustee may terminate the SSP before the Binding Offer Deadline, *so long as* such termination occurs no more than 10 days prior to the Binding Offer Deadline.
- (f) Auction: If the Proposal Trustee determines that more than one Binding Offer (other than the Stalking Horse Bid) should be considered, the Proposal Trustee may, without being obligated to do so, conduct an auction (the “**Auction**”) to select the highest and/or best Binding Offer. Significant aspects of the Auction include the following:
- i. the Auction will commence at a date and time to be designed by the Proposal Trustee;
  - ii. only the Proposal Trustee, the Debtors, the Stalking Horse Bidder, and any other Binding Offer Bidders, along with their respective representatives and advisors, will be entitled to attend the Auction;
  - iii. prior to the Auction, the Proposal Trustee will identify which of the Binding Offer(s) will constitute the opening bid (the “**Opening Bid**”) at the Auction;
  - iv. bidding at the Auction will begin with the Opening Bid and continue in bidding increments (each a “**Subsequent Bid**”) providing a net incremental value of at least an additional \$25,000 cash in excess of the Opening Bid;
  - v. each participating Binding Offer Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Binding Offer Bidder. At such time and upon the conclusion of the bidding, the Auction will be closed, and the Proposal Trustee shall declare the final remaining Binding Offer Bidder the successful bidder (the “**Successful Bidder**” and such bid, the “**Successful Bid**”). The Proposal Trustee, in consultation with the Debtors, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment; and

- vi. upon selection of a Successful Bidder, the Proposal Trustee will require the Successful Bidder to deliver, as soon as practicable, an amended and executed transaction document that reflects the Successful Bid.
55. In the event the Proposal Trustee does not receive a Binding Offer (other than the Stalking Horse Bid), the Stalking Horse Bid will be deemed the Successful Bid, the Debtors will promptly seek Court approval of the Stalking Horse APA and the transactions contemplated therein.
56. The Bidding Procedures provide that the Proposal Trustee, in consultation with the Debtors, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Binding Offer Bidders or the Successful Bidder provided that the Proposal Trustee determines that such modification, amendment, variation or supplement is expressly limited to changes that do not materially alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and that are necessary or useful in order to give effect to the substance of the SSP and the Bidding Procedures. The Proposal Trustee will post on the Case Website, as soon as reasonably practicable, any such modification, amendment, variation or supplement to the Bidding Procedures and inform the bidders impacted by such modifications.
57. Among other things, the Bidding Procedures provide for an orderly and appropriately competitive process through which potential acquirers may submit bids for the Debtors' business and/or assets. Additionally, the Bidding Procedures will allow the Proposal Trustee, in consultation with the Debtors, to conduct the Auction, if required, in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely transaction.
58. In the Proposal Trustee's view, the SSP and the Bidding Procedures are consistent with market practice, provide a reasonable opportunity for potential purchasers to submit higher or otherwise better offers to the Stalking Horse APA, and are reasonable and appropriate in the circumstances.

## **VIII. CASH FLOW FORECAST**

59. The Debtors, in consultation with the Proposal Trustee, have prepared the Cash Flow Forecast for the purpose of projecting their estimated liquidity needs during the Forecast Period. A copy of the Cash

Flow Forecast, notes and a report containing prescribed representations of the Debtors regarding the preparation of the Cash Flow Forecast are attached hereto as **Appendix “E”**.

60. The Cash Flow Forecast assumes that the Debtors’ key suppliers continue to support and fulfill product orders after the Filing Date, and that foot traffic at the stores is not materially impacted by the commencement of the NOI Proceedings.
61. The Cash Flow Forecast has been prepared by the Debtors on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. Due to the integrated nature of the Debtors’ operations, the Cash Flow Forecast is presented on a consolidated basis and includes the receipts and disbursements of the Debtors. The Cash Flow Forecast reflects the Debtors estimates of receipts and disbursements on a weekly basis over the Forecast Period.
62. The Proposal Trustee’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Debtors. Since the hypothetical assumptions need not be supported, the Proposal Trustee’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management of the Debtors for the probable and hypothetical assumptions, and the preparation and presentation of the Cash Flow Forecast.
63. Based on the Proposal Trustee’s review, nothing has come to its attention that causes it 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 First Report, the probable assumptions developed by the Debtors are not suitably supported and consistent with the restructuring plan of the Debtors 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.
64. As at March 4, 2024, the Debtors had \$434,104 of available cash on hand. The Cash Flow Forecast projects that the Debtors will generate cash receipts of approximately \$2.2 million and cash disbursements of approximately \$2.7 million, for a net operating cash outflow of \$409,612 over the Forecast Period. As such, the Debtors are projected to have a cash balance of approximately \$25,000 at the end of the Forecast Period, excluding any proceeds generated from the closing of a transaction through the SSP.

65. The Proposal Trustee notes that the Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. PROCEDURAL CONSOLIDATION**

66. In order to create efficiency, the Debtors are seeking an order procedurally consolidating the NOI Proceedings of each of the five Debtors (the “**Procedural Consolidation**”).
67. As previously discussed, Organic Garage has four active subsidiaries which hold the premises lease for each of the Organic Garage stores. In a going concern sale of the Debtors’ business, a purchaser(s) would also acquire the lease agreements held by the subsidiaries of Organic Garage. Since the business and assets of all Debtors are subject to the same SSP, the Proposal Trustee believes Procedural Consolidation would be reasonable to promote efficiency of the SSP for the benefit of all stakeholders.
68. Furthermore, the day-to-day business activities of the Debtors, such as payroll functions, payments, and inventory stocking are conducted jointly and therefore, a Procedural Consolidation would allow the Proposal Trustee and the Debtors to avoid any duplicative efforts and reduce costs.

## **X. KEY EMPLOYEE RETENTION PLAN**

69. In order to ensure the continued participation of key employees who are critical for the execution of the SSP (the “**Key Employees**”), the Debtors are seeking approval of the KERP whereby the Key Employees will receive retention payments upon the occurrence of certain milestones.
70. The Proposal Trustee understands that beneficiaries of the KERP are either critical to the implementation of the SSP and/or for the continuation of operations during the NOI Proceedings. The Key Employees would be, among other things, processing payroll, updating cashflow forecast, managing store operations and managing supplier inquiries. Additionally, the Proposal Trustee understands the Key Employees will be required to take on additional responsibility related to the management and supervision of store operations during the SSP.
71. The aggregate amount payable under the KERP is \$40,000, to be allocated to the participating Key Employees in accordance with the KERP terms. The Proposal Trustee is of the view that KERP amounts are reasonable to ensure the continued operations of the Debtors’ business during the NOI Proceedings and the successful completion of the SSP.



72. The Debtors are also seeking the sealing of Confidential Exhibit “1” of the Lurie Affidavit, which contains the letters detailing the KERP. The Proposal Trustee supports the sealing of Exhibit Confidential Exhibit “1” of the Lurie Affidavit to avoid any negative effects to the Debtors’ operations should this information be publicly available, and to protect the privacy of the Key Employees who are the beneficiaries of the KERP. A redacted copy of the KERP is attached as Exhibit “D” of the Lurie Affidavit.

## **XI. PROPOSED PRIORITY CHARGES**

73. The Debtors are seeking approval for two priority charges (collectively the “**Charges**”) on the current and future assets, undertakings and properties of the Debtors wherever located, including all proceeds thereof, that rank in the following order:
- (a) First, the Administration Charge (to the maximum amount of \$150,000); and
  - (b) Second, the Director’s Charge (to the maximum amount of \$140,000).

### **Administration Charge**

74. The Debtors are seeking a priority charge up to a maximum of \$150,000 (the “**Administration Charge**”) in favour of the Debtors’ counsel, the Proposal Trustee and its counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the NOI Proceedings. The approval of the Administration Charge is typical in proceedings of this nature.
75. The Debtors’ counsel, the Proposal Trustee and its counsel received retainers in the aggregate amount of \$125,000.
76. The amount of the Administration Charge sought by the Debtors was determined in consultation with the Proposal Trustee.
77. Given the foregoing, the Proposal Trustee is of the view that the proposed Administration Charge is reasonable in the circumstances.

### **Director’s Charge**

78. The Debtors are seeking a priority charge to indemnify its sole director and officer (the “**Director and Officer**”), against obligations and liabilities that he may incur as the director or officer of the Debtors after the commencement of these NOI Proceedings (the “**Director’s Charge**”).

79. The amount of the Director's Charge has been calculated by the Debtors taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment related liabilities that attract potential liability for the Director and Officer.
80. As noted in the Lurie Affidavit, the Debtors currently do not have director and officer insurance, and as such, due to the potential for personal liability, the Director and Officer is unwilling to continue his services and involvement in the NOI Proceedings without the protection of the Director's Charge. As the Debtors will require the participation and experience of the Director and Officer to facilitate the successful completion of the NOI Proceedings, including participating in the SSP, the Proposal Trustee believes that the Director's Charge is required and reasonable in the circumstances.

## **XII. DEBTORS' REQUEST FOR EXTENSION**

81. The Debtors are seeking an extension of the time to file a proposal to April 30, 2024 to permit the Proposal Trustee time to undertake the SSP described above.
82. The Proposal Trustee supports the Debtors' request for the Extension for the following reasons:
- (a) the Debtors are acting in good faith and with due diligence in taking steps to facilitate a sale of its operations;
  - (b) it is the Proposal Trustee's view that an extension will not prejudice or adversely affect any group of creditors;
  - (c) the Cash Flow Forecast indicates that the Debtors are forecast to have sufficient liquidity to continue to fund operations through the period ending April 30, 2024;
  - (d) at least 25 days will be required to establish whether there is any serious interest from Known Potential Bidders in acquiring the Debtors' business and/or assets in connection with the SSP; and
  - (e) given their limited resources, this would permit the Debtors to avoid the costs incurred in re-attending before this Court prior to April 4, 2024 solely for the purpose of seeking a short extension of the stay until after the Binding Offer Deadline.
83. While it is too early to say whether a viable proposal will be presented by the Debtors to their creditors, in the Proposal Trustee's view, the Debtors' request for the Extension is appropriate in the

circumstances, as the current extension request properly reflects the timeframe by which the Proposal Trustee will be able to provide this Court with a meaningful update on the progress of the SSP.

### **XIII. CONCLUSIONS AND RECOMMENDATIONS**

84. For the reasons set out in the First Report, the Proposal Trustee is of the view that the relief requested by the Debtors is both appropriate and reasonable in the circumstances and the Proposal Trustee recommends that this Court make an order, among other things:

- (a) approving the Stalking Horse APA solely for the purpose of acting as the Stalking Horse Bid in the SSP;
- (b) approving the SSP and the Bidding Procedures, and authorizing and directing the Proposal Trustee, in consultation with the Debtors, to implement the same;
- (c) approving the Procedural Consolidation in respect of the NOI Proceedings commenced by each of the Debtors;
- (d) approving the KERP for certain critical employees of the Debtors, and sealing the unredacted copy of the KERP at Confidential Exhibit “1” to the Lurie Affidavit;
- (e) granting the Administration Charge and the Director’s Charge, and proposed priority ranking of the Charges; and
- (f) approving the Debtors’ request for the Extension.

All of which is respectfully submitted on this 11<sup>th</sup> day of March 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



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**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President

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**Tahreem Fatima**  
**CPA**  
Manager

# **Appendix “B”**

**Court / Estate File Nos: 31-3051650**

**ORGANIC GARAGE (CANADA) LTD. ET AL**

**SECOND REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 19, 2024**

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### APPENDICES

**APPENDIX "A" – SSP ORDER DATED MARCH 14, 2024**

**APPENDIX "B" – PROPOSAL TRUSTEE'S FIRST REPORT (WITHOUT APPENDICES)**

**APPENDIX "C" – NOTICE TO SERVICE LIST DATED APRIL 5, 2024**

**APPENDIX "D" – JANUARY 31, 2024 INTERNAL BALANCE SHEET FOR ORGANIC GARAGE**

**APPENDIX "E" – CASH FLOW FORECAST FOR THE PERIOD FROM APRIL 15, 2024 TO MAY 17, 2024**

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**SECOND REPORT OF KPMG INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE**

**April 19, 2024**



## I. INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc. (“**Junction LeaseCo**”), 2347018 Ontario Inc. (“**Bathurst LeaseCo**”), 2507158 Ontario Inc. (“**Oakville LeaseCo**”) and 2581751 Ontario Inc. (“**Liberty LeaseCo**” and together with Organic Garage, Junction LeaseCo, Bathurst LeaseCo and Oakville LeaseCo, the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). KPMG Inc. (“**KPMG**”) was appointed as proposal trustee (in such capacity, the “**Proposal Trustee**”) in each of the Debtors’ NOI proceedings.
2. On March 14, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SSP Order**”) approving, among other things:
  - (a) an Asset Purchase Agreement dated March 7, 2024 (the “**Stalking Horse APA**”) between each of Organic Garage, Bathurst LeaseCo, Oakville LeaseCo, and Liberty LeaseCo (collectively, the “**Vendors**”), as vendors, and MAAB Global Ltd. (“**MAAB**” or the “**Stalking Horse Bidder**”) to act as the stalking horse sale agreement (the “**Stalking Horse Bid**”) in the proposed SSP (as defined herein);
  - (b) the proposed sale solicitation process (the “**SSP**”) the Debtors intended to have the Proposal Trustee carry out, including the bidding procedures (the “**Bidding Procedures**”) to be used in connection therewith;
  - (c) procedural consolidation of the proposal proceedings in respect of each of the Debtors to continue under Estate No. 31-3051650; and
  - (d) an extension of the stay of proceedings provided for under section 69 of the BIA, including extending the stay to the Subsidiaries (as defined herein), and an extension of the time for the Debtors to file a proposal pursuant to section 62(1) of the BIA to April 30, 2024 (the “**Stay Period**”).
3. A copy of the SSP Order is attached hereto as **Appendix “A”**.
4. To date, the Proposal Trustee has filed one report in respect of the Debtors’ NOI proceedings dated March 11, 2024 (the “**First Report**”). A copy of the First Report (without appendices), which among

other things, provided background information on the Debtors, the Stalking Horse APA, and the SSP, is attached hereto as **Appendix “B”**.

## **II. PURPOSE OF REPORT**

5. The purpose of the report (the **“Second Report”**) is to provide the Court with information pertaining to:
  - (a) an overview of the activities of the Proposal Trustee since the Filing Date;
  - (b) the Debtors’ actual receipts and disbursements for the period from March 4, 2024 to April 14, 2024, including a comparison of actual to forecast results as compared to the Debtors’ cash flow filed on March 15, 2024;
  - (c) the results of the SSP;
  - (d) the Debtors’ cash flow projection (the **“Revised Cash Flow Forecast”**) for the period from April 15, 2024 to May 17, 2024 (the **“Forecast Period”**) and
  - (e) the Debtors’ request for an extension of the time to file a proposal to May 17, 2024 (the **“Second Extension”**) and the Proposal Trustee’s recommendation that this Court issue an order (the **“Stay Extension Order”**) approving same.

## **III. TERMS OF REFERENCE**

6. In preparing this Second Report, KPMG has relied on information and documents provided by the Debtors and their advisors, including unaudited financial information, the Debtors’ books and records, and discussions with the Debtors’ representatives and their legal counsel (collectively, the **“Information”**). In accordance with industry practice, except as otherwise described in the Second Report, KPMG has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, KPMG has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (**“GAAS”**) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, KPMG 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 Debtors' 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 Proposal Trustee expresses no assurance as to whether the Revised Cash Flow Forecast will be achieved.
8. Capitalized terms not otherwise defined herein are as defined in the affidavit of Matt Lurie, the chief executive officer and director of each of the Debtors, sworn April 19, 2024 (the "**Second Lurie Affidavit**") and filed in support of the Debtors' motion returnable April 26, 2024. This Second Report should be read in conjunction with the Second Lurie Affidavit, as certain information contained in the Second Lurie Affidavit has not been included herein to avoid unnecessary duplication.
9. Materials filed in these NOI proceedings will be made available by KPMG on its website for this case at: [kpmg.com/ca/organicgarage](http://kpmg.com/ca/organicgarage) (the "**Case Website**").
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

#### **IV. BACKGROUND**

##### **Corporate Overview**

11. Organic Garage is an independent, Ontario-based natural and organic grocery chain with four (4) retail stores operating in the Greater Toronto Area. Organic Garage was formed under the laws of the Province of Ontario and is a wholly owned subsidiary of Oragin Foods Inc. ("**Oragin**").
12. The leases for each of Organic Garage's stores are held by its wholly owned subsidiaries, four (4) of which are included in these NOI proceedings as follows:
  - (a) Junction LeaseCo – formed under the laws of the Province of Ontario. Junction LeaseCo is the tenant under the lease for the grocery store located at 43 Junction Road, Toronto, Ontario (the "**Junction Store**");
  - (b) Bathurst LeaseCo – formed under the laws of the Province of Ontario. Bathurst LeaseCo is the tenant under the lease for the grocery store located at 8020 Bathurst Street, Vaughan, Ontario (the "**Bathurst Store**");

- (c) Oakville LeaseCo – formed under the laws of the Province of Ontario. Oakville LeaseCo is the tenant under the lease for the grocery store located at 579 Kerr St, Oakville, Ontario (the “**Oakville Store**”); and
- (d) Liberty LeaseCo – formed under the laws of the Province of Ontario. Liberty LeaseCo is the tenant under the lease for the grocery store located at 42 Hanna Avenue, Toronto, Ontario (the “**Liberty Store**”).

### **Oragin Foods Inc.**

- 13. Oragin acquired Organic Garage in 2016 through a plan of arrangement under the British Columbia *Business Corporations Act*. Oragin is a reporting issuer in the Provinces of British Columbia, Alberta, and Ontario, and is listed on the NEX (a subsidiary of the TSX-V), the OTC QX, and the Frankfurt stock exchange. Oragin is subject to a cease trade order and is currently suspended from trading on all three exchanges.
- 14. Oragin’s primary assets include its equity interests in its subsidiaries, including Organic Garage. Oragin also has a subsidiary with operations which was formed during an amalgamation agreement with the Future of Cheese Company Corp. (“**Future of Cheese**”) on February 17, 2021. Other inactive subsidiaries of Oragin include 2664669 Ontario Inc. and 1047023 B.C. Ltd, neither of which hold any material assets or liabilities.
- 15. On application by a creditor of Oragin, the Court issued a Bankruptcy Order against Oragin on March 25, 2024. Zeifman Partners Inc. was appointed trustee of the estate of Oragin (the “**Oragin Trustee**”).
- 16. The Proposal Trustee notes that the Debtors’ internal balance sheet as at January 31, 2024 showed current and long-term loans totaling approximately \$6.7 million owing to “Organic Garage Ltd.”, the predecessor name of both Organic Garage and Oragin (the “**Intercompany Accounts**”). Attached here to as **Appendix “D”** is a copy of the January 31, 2024 balance for Organic Garage. The CEO of the Debtors was not aware of what these entries relate to, as the accounting records were maintained by the former CFO of Oragin (the “**Former CFO**”), who resigned from Oragin in November 2022. As such, the Intercompany Accounts were not included on the Debtors’ creditors listing filed with the NOI.
- 17. On April 17, 2024, the Proposal Trustee received a letter from the Oragin Trustee noting the Former CFO was examined under oath on April 15, 2024 under s.163(1) of the BIA and the Former CFO confirmed that the indebtedness owed by Organic Garage to Oragin was approximately \$6.9 million.

18. To date, the Proposal Trustee has not received any documentation to support this intercompany debt aside from the balance sheet entries, but the Proposal Trustee continues to investigate the Intercompany Accounts to understand the nature of unsecured amounts owing, if any, by the Debtors to Oragin.

### **Stalking Horse Bid**

19. As described in greater detail in the First Report, the Vendors and MAAB entered into the Stalking Horse APA dated March 7, 2024, pursuant to which MAAB agreed to purchase the Purchased Assets (as defined in the Stalking Horse APA), subject to higher or otherwise better offers in the SSP, and approval of the Court.
20. On March 11, 2024, MAAB funded a refundable deposit in the amount of approximately \$101,000 (the “**Deposit**”) to Debtors’ counsel to hold in trust. Upon issuance of the SSP Order, the Deposit was remitted to the Proposal Trustee.
21. One of the primary objectives of these NOI proceedings was to implement the SSP with a view to providing a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of the circumstances.
22. The Stalking Horse APA contained a condition precedent in favour of the Stalking Horse Bidder relating to the successful negotiation of an assignment of the leases contemplated in the Stalking Horse Bid, on terms satisfactory to the Purchaser, acting reasonably, on or before April 5, 2024 (the “**Lease Condition Date**”). This provided the Stalking Horse Bidder the right to terminate the Stalking Horse APA on or before the Lease Condition Date.
23. On the Lease Condition Date, the Stalking Horse Bidder notified the Proposal Trustee in writing that it was exercising its right to terminate the Stalking Horse APA, with the intention of placing a new bid by the Bid Deadline (as defined herein). The Proposal Trustee delivered notice of same to the service list for the NOI proceedings and all the Potential Bidders (as defined herein), a copy of which is attached hereto as **Appendix ”C”**.

## V. ACTIVITIES OF THE PROPOSAL TRUSTEE

24. To date, the Proposal Trustee is of the view that Debtors have provided the Proposal Trustee with its full co-operation and unrestricted access to its books and records. The Proposal Trustee's activities since the Filing Date have included, among other things:
- (a) assisting the Debtors with the preparation of the consolidated cash flow forecast for the period from March 4, 2024 to May 5, 2024 (the "**Filing Cash Flow**") and the Revised Cash Flow Forecast, including the review of the underlying assumptions;
  - (b) implementing procedures for the monitoring of the Debtors' receipts and disbursements and for the ongoing reporting of variances to the Filing Cash Flow;
  - (c) issuing the prescribed notice to Debtors' creditors advising of the filing of the Debtors' NOI, as required under the BIA;
  - (d) preparing the First Report and attending before this Court for the SSP Order;
  - (e) responding to calls and inquiries from the Debtors' creditors regarding the NOI proceedings;
  - (f) drafting of the teaser, non-disclosure agreement and other materials related to the SSP, including populating and maintaining the virtual data room (the "**VDR**");
  - (g) advertising the SSP in the Globe & Mail (National Edition) on March 19, 2024;
  - (h) engaging Danbury Global Limited to prepare a forced liquidation value appraisal of the Debtors' equipment and fixtures located at Liberty Store, the Bathurst Store, the Junction Store and the Oakville Store;
  - (i) contacting prospective interested parties in connection with the SSP, including facilitating due diligence efforts and responding to questions from interested parties and organizing site visits and calls with the Debtors' management, as requested;
  - (j) providing regular updates to the Debtors and their counsel in connection with the SSP;
  - (k) corresponding and communicating with the Royal Bank of Canada ("**RBC**") and its legal counsel in regard to pre-filing amounts owing to RBC under a credit card facility provided to Organic Garage (the "**Credit Card Facility**");

- (l) responding to information requests from counsel to Organic Garage arising from the examination of Mr. Lurie conducted by counsel to Tobias Ihde, a creditor of Oragin;
- (m) responding to questions and information requests from the Oragin Trustee in regard to, among other things, details on KPMG's historical involvement with Oragin or any of its subsidiaries, the status of the NOI proceedings, details on the status of the SSP, including the selection of the Stalking Horse APA, the Debtors' actual to forecast cash flows, and the Debtors' historical financials, including the treatment of Intercompany Accounts;
- (n) attending to administrative matters, including maintaining the Case Website; and
- (o) preparing the Second Report.

## VI. RECEIPTS AND DISBURSEMENTS FOR MARCH 4, 2024, TO APRIL 14, 2024

25. As noted, the Proposal Trustee has implemented procedures for monitoring the Debtors' consolidated receipts and disbursements on a weekly basis, including a review of forecast to actual variance analyses as compared to the Filing Cash Flow.
26. Set out below is a summary of Debtors' actual to forecast results for the 6-week period from March 4, 2024 to April 14, 2024 (the "Reporting Period"):

<b>Organic Garage (Canada) Ltd. et al (the "Debtors")</b>			
<b>Variance Analysis - 6 weeks ending April 14, 2024</b>			
<b>(in \$CAD)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance Fav/(Unfav.)</b>
<b>Receipts</b>			
Collections from store sales	2,089,464	1,958,043	131,420
HST and other deposits	158,784	-	158,784
<b>Total Receipts</b>	<b>2,248,248</b>	<b>1,958,043</b>	<b>290,205</b>
<b>Disbursements</b>			
Cost of sales	1,374,038	1,231,216	(142,822)
Payroll and benefits	319,148	327,443	8,295
Rent	257,660	257,235	(425)
Utilities	15,627	44,646	29,019
Merchant fees and bank charges	45,229	42,950	(2,279)
General and administrative	20,970	50,117	29,146
RBC withdrawals	88,698	-	(88,698)
Professional fees	295,976	113,000	(182,976)
<b>Total Disbursements</b>	<b>2,417,346</b>	<b>2,066,605</b>	<b>(350,741)</b>
<b>Net Cash Flow</b>	<b>(169,098)</b>	<b>(108,562)</b>	<b>(60,536)</b>

<b>Bank Balance</b>			
Opening	261,558	434,104	(172,546)
Net Cash Flow	(169,098)	(108,562)	(60,536)
<b>Closing Bank Balance</b>	<b>92,460</b>	<b>325,542</b>	<b>(233,082)</b>
Collections in transit	157,360	-	157,360
<b>Book value of cash</b>	<b>249,820</b>	<b>325,542</b>	<b>(75,722)</b>

27. As shown in the above table, the Debtors reported a net cash outflow of approximately \$169,000 (excluding collections in transit) over the Reporting Period. This resulted in a \$60,000 unfavourable net cash flow variance as compared to forecast.
28. Key variances between actual and forecasted results over the Reporting Period include:
- (a) *Opening balance* – the opening bank balance had an unfavourable variance of approximately \$172,000. The Proposal Trustee understands that there is a delay in the clearing of credit card transactions by at least one business day, causing sales collections from Friday, Saturday, and Sunday to be deposited into the Organic Garage bank accounts the following week. Furthermore, cash at three stores is picked up on a weekly basis and deposited into the Organic Garage bank accounts the following week. Therefore, the unfavourable variance in the opening balance was a result of timing differences in respect of cash in transit and the clearing of credit card transactions.
  - (b) *Collections for store sales* – collections from store sales had a favourable variance of approximately \$131,000. There was approximately an additional \$157,000 of sales in transit to be deposited into the Organic Garage bank account for week ended April 14, 2024. As a result, there was a total favourable variance in collections of approximately \$289,000. This was offset by an increase in cost of sales by approximately \$143,000.
  - (c) *Professional fees* – professional fees were higher than expected by approximately \$183,000, primarily due to the un-forecast opposition to the SSP Order, the subsequent cross examination of Mr. Lurie, and responding to substantial information and document requests from the Oragin Trustee and counsel to Mr. Tobias Idhe, none of which was considered in the preparation of the Filing Cash Flow;
  - (d) *HST refund* – the Debtors received an un-forecast HST refund of approximately \$159,000 relating to pre-filing periods; and



(e) *RBC withdrawals* - On April 3, 2024 and April 4, 2024, RBC debited the Organic Garage bank accounts for approximately \$87,400 and \$1,298, respectively, for a total of \$88,698, representing the pre-filing amount owing under the Credit Card Facility plus legal fees and costs incurred by RBC post-filing. Counsel to RBC advised the Proposal Trustee that RBC was entitled to exercise its right to set-off the amounts owed to RBC against the Debtors' cash balances on deposit with RBC. The Proposal Trustee has received a copy of RBC's security documents but, as at the date of this Second Report, has not requested a legal opinion on the validity and enforceability of the security granted by Organic Garage in favour of RBC. The Proposal Trustee is discussing with its counsel what further actions, if any, the Proposal Trustee should take in this regard.

29. As a result of foregoing, the ending bank balance is lower than forecast by approximately \$233,000, in part due to timing of collections. After considering the collections in transit of \$157,000, the book value of cash is lower than forecast by approximately \$76,000.

## VII. RESULTS OF THE SALE SOLICITATION PROCESS

30. As described in greater detail in the First Report, the Stalking Horse Bid established a benchmark for the Debtors' business and/or assets and the SSP provided a forum for prospective purchasers to present a bid superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of the circumstances. Among other things, the SSP included Bidding Procedures that incorporated the Stalking Horse Bid and the ability of the Proposal Trustee, in consultation with the Debtors, to conduct an auction if qualified and competitive bids were received.

31. A summary of the key aspects of the SSP and its results are summarized below:

(a) commencing on March 6, 2024, the Proposal Trustee contacted 118 potential interested parties (collectively, the "**Interested Parties**"), including 35 strategic parties, 72 financial parties, and 11 liquidators, with regards to the transaction opportunity and the SSP. Each of the Interested Parties received an email containing background information on the NOI proceedings, a copy of a process summary and overview of the Debtors and the key dates pursuant to the Bidding Procedures, and information on next steps to explore the opportunity. Any Interested Parties interested in pursuing the opportunity further were then provided with the non-disclosure agreement ("**NDA**");

- (b) Interested Parties looking to obtain additional information regarding the Debtors' opportunity were required to execute the NDA to obtain access to the VDR maintained by the Proposal Trustee. A total of 14 parties executed the NDA (collectively, the "**Potential Bidders**");
- (c) the VDR contained financial, operational, and other pertinent information related to the Debtors, as well as copies of the SSP Order, the Bidding Procedures and an electronic copy of the Stalking Horse APA to be used by Potential Bidders to submit an offer in the SSP;
- (d) over the course of the SSP, the Proposal Trustee followed up with the Interested Parties to confirm their receipt of the email communication with respect to the SSP, and to gauge their potential interest in pursuing the transaction opportunity. The Proposal Trustee also offered to arrange calls with any Potential Bidder to discuss the Bidding Procedures or inquire about any other aspects of the SSP;
- (e) throughout the course of the SSP, the Proposal Trustee kept the Debtors apprised on the status of the SSP and any diligence requests received from Potential Bidders;
- (f) as noted above, the Stalking Horse Bidder terminated the Stalking Horse APA on April 5, 2024 and accordingly, the Proposal Trustee notified all Potential Bidders that there was no longer a minimum bid requirement pursuant to the SSP;
- (g) Potential Bidders were required to submit "Qualified Bids" (as defined in the Bidding Procedures) to the Proposal Trustee on or before 5pm EST on April 10, 2024 (the "**Bid Deadline**");
- (h) four offers (the "**Qualified Bids**") were received by the Proposal Trustee by the Bid Deadline in respect of the Debtors' assets, one of which was a new offer submitted by the Stalking Horse Bidder, summarized as follows:
  - i. two of the Qualified Bids were Partial Sale Proposals (as defined in the Bidding Procedures), each in respect of a single separate store (the "**Separate Store Bids**" and each offeror, a "**Separate Store Bidder**"). For clarity, the Separate Store Bids did not relate to the same store; and
  - ii. two of the Qualified Bids were Sale Proposals in respect of multiple stores (the "**Multiple Store Bids**" and each offeror, a "**Multiple Store Bidder**"), which contained overlapping assets;

- (i) the Proposal Trustee reviewed all Qualified Bids and concluded that the Separate Store Bids were higher in value, on an individual store basis, as compared to the Multiple Store Bids in respect of the same stores;
  - (j) accordingly, on April 11, 2024, the Proposal Trustee contacted the Multiple Store Bidders and requested resubmissions in respect of the Multiple Store Bids, to exclude the Liberty Store. The Proposal Trustee advised the Multiple Store Bidders to resubmit their bid as best and final to the Proposal Trustee by no later than 12pm EST on April 12, 2024 (the “**Bid Resubmission Deadline**”), after which the Proposal Trustee would make its determination based on the Qualified Bids in hand.
32. At the Bid Resubmission Deadline, the Proposal Trustee received only one revised bid from the Multiple Store Bidders (in such capacity, the “**Highest Multiple Store Bidder**”). Accordingly, on April 12, 2024 the Proposal Trustee advised the Separate Store Bidders and the Highest Multiple Store Bidder that their respective bids were declared the “Successful Bids” pursuant to the Bidding Procedures, subject to approval by the Court.
33. The Proposal Trustee intends to bring a motion on May 2, 2024 to seek approval of the Successful Bids and the transactions contemplated thereunder, and will report further to the Court on the details of each of the Successful Bids.

## **VIII. REVISED CASH FLOW FORECAST**

34. The Debtors, in consultation with the Proposal Trustee, have prepared the Revised Cash Flow Forecast for the purpose of projecting their estimated liquidity needs during the Forecast Period. A copy of the Revised Cash Flow Forecast with accompanying notes is attached hereto as **Appendix “E”**.
35. The Revised Cash Flow Forecast assumes that the Liberty Store will close on April 30, 2024 and the Oakville Store, Junction Store and Bathurst Store will each close on May 12, 2024.
36. The Revised Cash Flow Forecast also assumes that no rent will be paid during the Forecast Period and the landlords will draw against the existing rent deposits on hand for each location.
37. The Revised Cash Flow Forecast has been prepared by the Debtors on a conservative basis using probable and hypothetical assumptions set out in the notes to the Revised Cash Flow Forecast. Due to the integrated nature of the Debtors’ operations, the Revised Cash Flow Forecast is presented on a

consolidated basis and includes the receipts and disbursements of the Debtors. The Revised Cash Flow Forecast reflects the Debtors' estimates of receipts and disbursements on a weekly basis over the Forecast Period.

38. The Proposal Trustee's review of the Revised Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Debtors. Since the hypothetical assumptions need not be supported, the Proposal Trustee's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Revised Cash Flow Forecast. The Proposal Trustee also reviewed the support provided by management of the Debtors for the probable and hypothetical assumptions, and the preparation and presentation of the Revised Cash Flow Forecast.
39. Based on the Proposal Trustee's review, nothing has come to its attention that causes it to believe that, in all material respects:
  - (a) the hypothetical assumptions are not consistent with the purpose of the Revised Cash Flow Forecast;
  - (b) as at the date of this Second Report, the probable assumptions developed by the Debtors are not suitably supported and consistent with the restructuring plan of the Debtors or do not provide a reasonable basis for the Revised Cash Flow Forecast, given the hypothetical assumptions; or
  - (c) the Revised Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
40. As at April 14, 2024, the Debtors had \$92,460 of available cash on hand (excluding cash in transit). The Revised Cash Flow Forecast projects that the Debtors will generate cash receipts of approximately \$1.0 million and cash disbursements of approximately \$0.8 million over the Forecast Period. As such, the Debtors are projected to have a cash balance of approximately \$0.2 million at the end of the Forecast Period, excluding any proceeds generated from the closing of any transaction(s) through the SSP.
41. The Proposal Trustee notes that the Revised Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. DEBTORS' REQUEST FOR EXTENSION**

42. The current Stay Period expires on April 30, 2024.
43. The Debtors are seeking an extension of the Stay Period to May 17, 2024 to permit the Proposal Trustee time to seek approval from the Court in respect of the Successful Bids and close the transactions thereunder.
44. The Proposal Trustee supports the Debtors' request for the Second Extension for the following reasons:
  - (a) the Debtors are acting in good faith and with due diligence in taking steps to facilitate a sale of their operations;
  - (b) it is the Proposal Trustee's view that an extension will not prejudice or adversely affect any group of creditors;
  - (c) the Revised Cash Flow Forecast indicates that the Debtors are forecast to have sufficient liquidity to continue to fund operations through the period ending May 17, 2024; and
  - (d) the approval motion in respect of the Successful Bids is scheduled to be heard by the Court on May 2, 2024 (the "**Sale Approval Motion**").
45. After the expiry of the Second Extension, if granted by the Court, each of the Debtors will be deemed to have made an assignment into bankruptcy as a consequence of not filing a proposal within the time period granted by the Court. As such, the assessment of claims and distribution of proceeds to creditors will be addressed through the bankruptcy.

## **X. CONCLUSIONS AND RECOMMENDATIONS**

46. For the reasons set out in the Second Report, the Proposal Trustee is of the view that the relief requested by the Debtors is both appropriate and reasonable in the circumstances and the Proposal Trustee recommends that this Court make the Stay Extension Order, among other things, approving the Debtors' request for the Second Extension.

All of which is respectfully submitted on this 19<sup>th</sup> day of April 2024.

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc.**  
**and 2581751 Ontario Inc.**  
**and not in its personal capacity**

Per



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**Pritesh Patel**  
**CIRP, LIT**  
Senior Vice President



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**Tahreem Fatima**  
**CPA**  
Manager

# Appendix “C”

## Schedule A

### Bidding Procedures for the Sale Process

#### INTRODUCTION

1. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (collectively, the “**Debtors**” or the “**Organic Group**”) each filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”, and the proceedings, the “**NOI Proceedings**”).
2. KPMG Inc., a licensed insolvency trustee, was appointed as the Trustee acting *in re* the proposal of the Debtors (the “**Trustee**”) under the NOI Proceedings.
3. It is anticipated that on March 14, 2024, the Organic Group will apply to the Ontario Superior Court of Justice, Commercial List (the “**Court**”), for an order (the “**Sale Process Order**”), among other things, (i) administratively consolidating the NOI Proceedings of the Debtors, and (ii) authorizing the Trustee, with the assistance of the Organic Group’s management team, to undertake a sale process (“**Sale Process**”) for the sale of the Organic Group’s (A) property, assets and undertaking or shares in the capital of one or more of the Debtors (collectively, the “**Property**”), including liquidation offers for the Debtors’ inventory and equipment, and/or (B) business operations (the “**Business**”). The Sale Process will be conducted by the Trustee in the manner set forth herein and in accordance with the Sale Process Order.
4. Among other things, the Sale Process Order will also: (a) approve the procedures set out in this Schedule (the “**Bidding Procedures**”) for the solicitation of offers or liquidation proposals (each, a “**Bid**”) for the acquisition of the Property and the Business or some portion thereof; and (b) approve the form of stalking horse agreement (as same may be amended from time to time pursuant to its terms and the Sale Process Order, the “**Stalking Horse Agreement**”) to be entered into between Organic Garage (Canada) Ltd., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. Organic Group, as vendors, and Maab Global Ltd. (the “**Stalking Horse Bidder**”), as purchaser, for the purposes of serving as the stalking horse bid in the Sale Process (the “**Stalking Horse Bid**”). For the avoidance of doubt, the implementation of the transactions contemplated by the Stalking Horse Agreement is conditional upon the Stalking Horse Bid being selected as a Successful Bid (as defined below) in accordance with the Bidding Procedures and Court approval of the Stalking Horse Agreement and the transactions contemplated therein on a subsequent motion to be brought by the Debtors following the completion of the Sale Process.

#### Bidding Procedures

##### *Opportunity*

5. The Sale Process is intended to solicit interest in and opportunities for a sale of all or part of the Organic Group's Property and Business (the “**Opportunity**”). The Opportunity may include one or more of a liquidation proposal for the Debtors’ equipment, or a sale of all,



substantially all or one or more components of the Organic Group's Property and Business as a going concern or otherwise.

6. Any sale of any of the Property in the Business will be on an "*as is, where is*" basis and without surviving representations or warranties of any kind, nature, or description by the Trustee, the Organic Group or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Organic Group in and to the Property to be acquired will be sold free and clear of, *inter alia*, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, except as otherwise provided in such Court orders and definitive documents.
7. The Stalking Horse Agreement constitutes a Binding Offer (as defined below) by the Stalking Horse Bidder (which constitutes a Binding Offer Bidder (as defined below)) for all purposes and at all times under this Sale Process and will serve as the Stalking Horse Bid for purposes of this Sale Process and the Bidding Procedures and have the right to participate in the Auction (as defined below), if any. Notwithstanding the Stalking Horse Agreement and proposed transactions therein, all interested parties are encouraged to submit bids based on any form of Opportunity that they may elect to advance pursuant to the Sale Process, including as a Sale Proposal (as defined below), a Partial Sale Proposal (as defined below), or a Liquidation Proposal (as defined below). A copy of the Stalking Horse Agreement will be made available to all Qualified Bidders (as defined below) and a form of such purchase agreement, to be uploaded to the VDR (as defined below), may be used as the basis for any Binding Offer made in the Sale Process.
8. The Bidding Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Organic Group, the Property and the Business, the manner in which bidders may participate in the Sale Process, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder (as defined below) and the requisite approvals to be sought from the Court in connection therewith.
9. The Trustee, in consultation with the Organic Group, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Binding Offer Bidders or the Successful Bidder(s) (as each are defined below) provided that such modification, amendment, variation or supplement is expressly limited to changes that do not alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and are necessary or useful in order to give effect to the substance of the Sale Process, the Bidding Procedures or the Sale Process Order. Notwithstanding the foregoing, the dates or time limits indicated in the table contained below may be extended by the Trustee, as the Trustee deems necessary or appropriate, or by order of the Court.
10. The Trustee will post on the Trustee's website and serve on the service list maintained in the NOI Proceedings, as soon as practicable, any such modification, amendment, variation or supplement to these Bidding Procedures and inform the bidders impacted by such modifications.

11. The Sale Process will be conducted by the Trustee in the manner set forth herein and in accordance with the Sale Process Order. In the event of a dispute as to the interpretation or application of the Sale Process Order or these Bidding Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute. For the avoidance of doubt, all bidders shall be deemed to have consented to the jurisdiction of the Court in connection with any disputes relating to the Sale Process, including the qualification of bids, the construction and enforcement of the Sale Process, and closing of a Successful Bid, as applicable.
12. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, the Auction and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
13. A summary of the key dates pursuant to the Sale Process is as follows:

<b>Milestone</b>	<b>Date</b>
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA (each as defined below) and access to VDR	By no later than March 6, 2024
Binding Offer Deadline (as defined below)	By no later than 5:00 p.m. (Eastern Time) on April 10, 2024, unless terminated early in accordance with the terms of this Sales Process
Auction, if needed	Date and time to be designated by Trustee, if Needed
Selection of Successful Bid	By no later than April 12, 2024
Approval Motion (as defined below)	By no later than April 23, 2024 or the earliest date available thereafter
Closing of Successful Bid	As soon as possible but no later than April 30, 2024

## Solicitation of Interest: Notice of the Sale Process

14. As soon as reasonably practicable after the Filing Date,
  - a. the Trustee, in consultation with the Organic Group, will prepare a list of potential bidders, including (i) parties that have approached the Debtors or the Trustee indicating an interest in the Opportunity, (ii) strategic and financial parties who the Trustee, in consultation with the Organic Group, believe may be interested in purchasing all or part of the Business or the Property, and (iii) parties that showed an interest in the Organic Group and/or their Property prior to the date of the Sale Process Order including by way of the previous, out-of-court strategic review process, in each case whether or not such party has submitted a letter of intent or similar document (collectively, the “**Known Potential Bidders**”); and
  - b. the Trustee, with the assistance of the Organic Group, will prepare (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the contemplated process under the Sale Process and inviting recipients of the Teaser Letter to express their interest; and (ii) a non-disclosure agreement in form and substance satisfactory to the Trustee and Organic Group and their respective counsel, which shall enure to the benefit of any purchaser of the Business or Property or any part thereof (an “**NDA**”).
15. As soon as reasonably practicable, but, in any event, by no later than five (5) business days after the granting of the Sale Process Order:
  - c. a notice of the Sale Process (and such other relevant information which the Trustee, in consultation with the Organic Group, considers appropriate) (the “**Notice**”) will be published by the Trustee in one or more trade industry and/or insolvency-related publications as may be considered appropriate by the Trustee;
  - d. the Trustee, with the assistance of the Organic Group, will provide the Known Potential Bidders with a copy of the Bidding Procedures approved by the Court.
16. The Trustee will cause the Teaser Letter and NDA to be sent to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

### ***Virtual Data Room***

17. A confidential virtual data room or rooms (collectively the “**VDR**”) in relation to the Opportunity will be made available by the Trustee to Potential Bidders (as defined below) that have executed the NDA. The VDR will be made available as soon as practicable. The Trustee, in consultation with the Organic Group, may establish separate VDRs (including “**clean rooms**”), if the Organic Group reasonably determines that doing so would further the Organic Group’s and any Potential Bidder’s compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information. The Trustee may also, in consultation with the Organic Group, limit the access of any Potential Bidder to any confidential information in the VDR where the Trustee, in consultation with the

Organic Group, reasonably determines that such access could negatively impact the Sale Process, the ability to maintain the confidentiality of the information, the Business, the Property or their value.

### ***Qualified Bidders***

18. Any party who wishes to participate in the Sale Process (a "**Potential Bidder**") must provide to the Trustee and counsel to the Organic Group, at the addresses specified in **Appendix "B"** hereto (including by email transmission), an NDA executed by it, acceptable to the Trustee, in consultation with the Organic Group, and written confirmation of the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
19. A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "**Qualified Bidder**" if the Trustee, in its reasonable judgment, and in consultation with the Organic Group, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or liquidation transaction pursuant to the Sale Process. All Qualified Bidders will be granted access to the VDR. For the avoidance of doubt, the Stalking Horse Bidder is, and will be deemed to be, a Qualified Bidder. The Trustee will provide to each Qualified Bidder a copy of the Stalking Horse Agreement and any material amendment thereto.
20. The Organic Group, the Trustee and their respective advisors make no representation or warranty as to the information contained in the VDR, Teaser Letter or otherwise made available pursuant to the Sale Process.
21. At any time during the Sale Process, the Trustee may, in its reasonable judgment, and in consultation with the Organic Group, eliminate a Qualified Bidder from the Sale Process, in which case such bidder will be eliminated from the Sale Process and will no longer be a "Qualified Bidder" for the purposes of the Sale Process.
22. Potential Bidders must rely solely on their own independent review, diligence, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the Sale Process and any transaction they enter into with one or more of the entities comprising the Organic Group.

### ***Due Diligence***

23. The Trustee and the Organic Group, shall, subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials and information relating to the Property and Business as the Trustee, in consultation with the Organic Group, may deem appropriate. Due diligence access may include management presentations, access to the VDR, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Trustee, in its reasonable judgment, and in consultation with the Organic Group, may agree. Any access or interactions with the Organic Group's management and personnel shall be coordinated through, and involve a representative of, the Trustee.

24. The Trustee will designate one or more representatives of the Trustee to be solely responsible for coordinating and responding to all requests for information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither the Trustee, nor the Organic Group through the Trustee, will be obligated to furnish any information relating to the Property or Business to any person other than to Qualified Bidders. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Trustee, in consultation with the Organic Group, determines such information to represent proprietary or sensitive competitive information.

### **Formal Binding Offers**

25. Any Qualified Bidder (other than the Stalking Horse Bidder) that wishes to make a formal offer to (A) acquire all or substantially all of the Property or Business, whether through an asset purchase, a share purchase or a combination thereof (either one, a “**Sale Proposal**”) or a portion of the Property or the Business (a “**Partial Sale Proposal**”) or (B) to liquidate all or substantially all of the equipment of the Debtors (a “**Liquidation Proposal**”) must submit a binding offer (a “**Binding Offer**”): (i) in the case of a Sale Proposal or a Partial Sale Proposal, a marked version compared to the Stalking Horse Agreement, a copy of which will be posted in the VDR; or (ii) in the case of a Liquidation Proposal, in the form of a liquidation agreement in form and substance satisfactory to the Trustee, in consultation with the Organic Group (the “**Binding Offer Bidder**”), in each case, to the Trustee, no later 5 p.m. EST on April 10, 2024 (the “**Binding Offer Deadline**”).

26. A Binding Offer will be considered if it:

- (a) provides for net cash proceeds on closing no less than the aggregate of: (A) the amount of cash payable under the Stalking Horse Agreement, plus (B) the amount of cash payable to cover the Expense Reimbursement as defined in the Stalking Horse Agreement (\$15,000), plus (C) a minimum overbid amount of \$25,000 (the amounts set forth in this paragraph 26(a), the “**Minimum Purchase Price**”); provided, however, that the Trustee may, in its reasonable judgment, and in consultation with the Organic Group, deem this criterion satisfied if the Sale Proposal, a Partial Sale Proposal or a Liquidation Proposal, together with one or more other non-overlapping Sale Proposal, a Partial Sale Proposal or a Liquidation Proposal, in the aggregate, meet or exceed the Minimum Purchase Price and such Minimum Purchase Price is payable in full in cash on closing (such bids, “**Aggregated Bids**”, and each an “**Aggregated Bid**”) (the amount of the Minimum Purchase Price will be confirmed by the Trustee with Potential Bidders);
- (b) is submitted on or before the Binding Offer Deadline by a Qualified Bidder;
- (c) is made by way of binding, definitive transaction document(s) that is/are executed by the Binding Offer Bidder;
- (d) in the case of a Sale Proposal or Partial Sale Proposal, identifies any executory contracts and leases of the Organic Group that the Binding Offer Bidder will

assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;

- (e) is not subject to any financing condition, diligence condition or internal or board approval;
- (f) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the Binding Offer;
- (g) contains or identifies the key terms and provisions to be included in any Approval Order;
- (h) in the case of a Sale Proposal or Partial Sale Proposal, contains the Binding Offer Bidder's proposed treatment of employees of the applicable Organic Group entities (for example, anticipated employment offers and treatment of post-employment benefits);
- (i) includes acknowledgments and representations of the Binding Offer Bidder that it:
  - (i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer; (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property and/or the Business in making its Binding Offer; (iii) did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity or the completeness of any information provided in connection therewith, other than as expressly set forth in the Binding Offer or other transaction document submitted with the Binding Offer; and (iv) promptly will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities;
- (j) includes evidence satisfactory to the Trustee of funds available to pay the Minimum Purchase Price on closing;
- (k) provides for any anticipated corporate, licensing, securityholder, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (l) does not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections;
- (m) in the case of a Sale Proposal or Partial Sale Proposal, includes:
  - (i) the specific purchase price in Canadian dollars and a description of any non-cash consideration;

- (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
  - (iii) a specific indication of the sources of capital for the Binding Offer Bidder and the structure and financing of the transaction; and
  - (iv) a description of those liabilities and obligations (including operating liabilities) which the Binding Offer Bidder intends to assume and which such liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;
- (n) in the case of a Liquidation Proposal, includes the scope of the Property to be included in the liquidation, including goods, lease designation rights, and receivables, if application, and any related exclusions;
  - (o) includes payment of a deposit in the amount of not less than 25% of the cash purchase price payable on closing (the “**Deposit**”) by wire transfer to the Proposal Trustee;
  - (p) is accompanied by an acknowledgement that if the Binding Offer Bidder is selected as a Successful Bidder, that the Deposit will be non-refundable subject to approval of such Successful Bid by the Court and the terms described in paragraph 38 below;
  - (q) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on the date that is ten (10) days from the date of the issuance of the Approval Order approving such bid, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing and in any event no later than April 30, 2024 (the “**Outside Date**”); and
  - (r) includes such other information as reasonably requested or identified as being necessary or required by the Trustee, in consultation with the Organic Group.

27. By submitting an offer for consideration at a Binding Offer, it is deemed that such Binding Offer: (i) may be accepted by the Organic Group by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two (2) business days after the date of closing of the applicable Successful Bid; and (B) the Outside Date (as defined below).

28. The Trustee, in its reasonable judgment, and in consultation with the Organic Group, may waive compliance with any one or more of the requirements specified above and consider such non-compliant Binding Offer. For the avoidance of doubt, the completion of any Binding Offer shall be subject to the approval of the Court.

29. In the circumstance that a Binding Offer, including one or more Binding Offers comprising an Aggregated Bid, does not provide for net cash proceeds on closing that are at least equal to the Minimum Purchase Price, the Trustee may elect that such Binding Offer nevertheless be considered as a potential Successful Bid and be entitled to participate in the Auction.

30. If the Trustee concludes, in its sole discretion, that there are no active participants in the Sale Process or no prospect that a Binding Offer that is superior to the Stalking Horse Bid will be submitted by the Binding Offer Deadline, the Trustee may terminate the Sale Process before the Binding Offer Deadline, *so long as* such termination occurs no more than 10 days prior to the Binding Offer Deadline. The Trustee will communicate a decision to terminate the Sale Process by issuing a notice to the service list maintained in the NOI Proceedings. The Stalking Horse Bid will be deemed the Successful Bid and the Organic Group will proceed to seek Court approval of the Stalking Horse Agreement as the Successful Bid.

### **Selection of Successful Bid**

31. The Trustee, in consultation with the Organic Group, may, following the receipt of any Binding Offer, including one or more Binding Offers comprising an Aggregated Bid, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered.

32. The Trustee may negotiate with Binding Offer Bidders, including Binding Offers comprising an Aggregated Bid, in any manner it considers appropriate in its business judgment with a view to maximizing the value of the Property, including at the Auction (as defined below).

33. The Trustee and the Organic Group, will (i) review and evaluate each relevant Binding Offer; and (ii) identify the highest and otherwise best Binding Offer (the “**Successful Bid**”, and the Binding Offer Bidder making such Successful Bid, the “**Successful Bidder**”). The Trustee, in consultation with the Organic Group, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment. In the event that no Binding Offer (other than the Stalking Horse Bid) is selected as the Successful Bid, the Organic Group will promptly seek Court approval of the Stalking Horse Agreement and the transactions contemplated therein.

34. If the Trustee determines that more than one Binding Offer (other than the Stalking Horse Bid) should be considered, the Trustee may, without being obligated to do so, conduct an auction (the “**Auction**”) to select the highest and/or best Binding Offer in accordance with the procedure set out below.

(a) The Auction will commence at a time to be designated by the Trustee and may, in the discretion of the Trustee, be held virtually via videoconference, teleconference or such other reasonable means as the Trustee deems appropriate. The Trustee will consult with the parties permitted to attend the Auction to arrange for the Auction to be so held. Subject to the terms hereof, the Trustee, in consultation with the Organic Group, may postpone the Auction.

(b) The identity of each Binding Offer Bidder participating in the Auction will be disclosed, on a confidential basis, to other Binding Offer Bidders participating in the Auction.

(c) Except as otherwise permitted in the Trustee’s discretion, only the Organic Group, the Trustee and the Binding Offer Bidders, and, in each case, their respective



professionals and representatives, will be permitted to attend the Auction. Only Binding Offer Bidders (including, for greater certainty, the Stalking Horse Bidder) are eligible to participate in the Auction.

- (d) Binding Offer Bidders will participate in the Auction through a duly authorized representative.
- (e) Except as otherwise set forth herein, the Trustee may waive and/or employ and announce at the Auction additional rules, including rules to facilitate the participation of parties participating in an Aggregated Bid, that are reasonable under the circumstances for conducting the Auction, provided that such rules are:
  - (i) not inconsistent with the Initial Order, the Sale Process, the Bidding Procedures, the BIA, or any order of the Court issued in connection with the NOI Proceedings;
  - (ii) disclosed to each Binding Offer Bidder; and
  - (iii) designed, by the Trustee, in its reasonable judgment, and in consultation with the Organic Group, to result in the highest and otherwise best offer.
- (f) The Trustee may arrange for the actual bidding at the Auction to be transcribed or recorded. Each Binding Offer Bidder participating in the Auction will designate a single individual to be its spokesperson during the Auction.
- (g) Each Binding Offer Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with the Organic Group or any other person, without the consent of the Trustee, regarding the Sale Process, that has not been disclosed to all other Binding Offer Bidders. For greater certainty, communications between the Stalking Horse Bidder and either the Organic Group or the Trustee with respect to and in preparation of the Stalking Horse Agreement, the Sale Process and the Bidding Procedures, prior to the issuance of the Sale Process Order and the commencement of the Sale Process will not represent collusion nor communications prohibited by this paragraph.
- (h) Prior to the Auction, the Trustee will identify the highest and best of the Binding Offers received and such Binding Offers will constitute the opening bid for the purposes of the Auction (the “**Opening Bid**”). Subsequent bidding will continue in minimum increments valued at not less than \$25,000.00 cash in excess of the Opening Bid. Each Binding Offer Bidder will provide evidence of its financial wherewithal and ability to consummate the transaction at the increased purchase price. Further, in the event that an Aggregated Bid qualifies to participate in the Auction, modifications to the bidding requirements may be made by the Trustee, in consultation with the Organic Group, to facilitate bidding by the participants in the Aggregated Bid.
- (i) All Binding Offer Bidders will have the right, at any time, to request that the Trustee announce, subject to any potential new bids, the then-current highest and best bid and, to the extent requested by any Binding Offer Bidder, use reasonable efforts to

clarify any and all questions such Binding Offer Bidder may have regarding the Trustee's announcement of the then-current highest and best bid.

- (j) Each participating Binding Offer Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Binding Offer Bidder. The Trustee and the Organic Group shall determine which Binding Offer Bidders have submitted the highest and otherwise best Binding Offer of the Auction, which shall be a Successful Bid. The Trustee, in consultation with the Organic Group, may consider any commercial factor in evaluating Binding Offers, including speed, certainty, value and preservation of employment. At such time and upon the conclusion of the bidding, the Auction will be closed, and the Binding Offer Bidder with the highest and otherwise best Binding Offer of the Auction will be a Successful Bidder.
- (k) Upon selection of a Successful Bidder(s), if any, the Successful Bidder(s), if any, shall deliver to the Trustee and the Organic Group, an amended and executed transaction document that reflects their final bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the motion material for the hearing to consider the Approval Motion.
- (l) Any bids submitted after the conclusion of the Auction will not be considered.
- (m) The Trustee, in consultation with the Organic Group, shall be at liberty to modify or to set additional procedural rules for the Auction as it sees fit, including to conduct the Auction by way of written submissions.

35. A Successful Bid, if any, will be selected by no later than 5:00 p.m. (Eastern Time) on April 12, 2024 (or such later date immediately thereafter if the Auction is conducted and not completed in one day). If the applicable Successful Bid is terminated for any reason prior to the Outside Date, the Organic Group and the Trustee may elect to, or by further order of the Court, seek to complete the transactions contemplated by the Stalking Horse Bid and will promptly seek to close the transaction contemplated by such Stalking Horse Bid, which will be deemed to be a Successful Bid. The Organic Group will be deemed to have accepted such Stalking Horse Bid only when the Organic Group and the Trustee have made such election.

### ***Approval of Successful Bid***

36. The Organic Group will apply to the Court (the "**Approval Motion**") for one or more orders: (i) approving the Successful Bid(s) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby; and (ii) granting a vesting order(s) to the extent that such relief is contemplated by the Successful Bid(s) so as to vest title to any purchased assets and/or shares in the name of the applicable Successful Bidder(s) (collectively, the "**Approval Order(s)**"). The Approval Motion will be held on a date to be scheduled by the Organic Group and confirmed by the Court upon application by the Organic Group. With the consent of the Trustee, the Approval Motion may be adjourned or rescheduled by the Organic Group without further notice, by an announcement of the

adjourned date at the Approval Motion or in a notice to the service list maintained in the NOI Proceedings prior to the Approval Motion. The Organic Group will consult with the Trustee and the applicable Successful Bidder regarding the motion material to be filed by the Organic Group for the Approval Motion.

37. All Binding Offers (other than the Successful Bid(s)) will be deemed rejected on and as of the date of the closing of the applicable Successful Bid(s)), with no further or continuing obligation of the Organic Group or the Trustee to any unsuccessful Binding Offer Bidders, including the Stalking Horse Bidder.

### ***Deposits***

38. The Deposit(s):

- (a) will, upon receipt from the Binding Offer Bidder(s), be retained by the Trustee and deposited in a non-interest-bearing trust account;
- (b) received from the Successful Bidder(s) will:
  - (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of the Approval Order(s), upon closing of the approved transaction; and
  - (ii) otherwise be held and refunded in accordance with the terms of the definitive documentation in respect of the applicable Successful Bid, provided that all such documentation will provide that the Deposit will be retained by the Organic Group and forfeited by the Successful Bidder, if its Successful Bid fails to close by the Outside Date and such failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of its Successful Bid; and
- (c) received from the Binding Offer Bidder(s) that are not a Successful Bidder will be fully refunded to the Binding Offer Bidder(s) that paid the Deposit(s), as applicable, as soon as practical following the closing of the applicable Successful Bid.

### ***“As is, Where is”***

39. Any sale (or sales), including in the case of liquidation, of the Property or the Business or portions thereof will be on an “**as is, where is**” basis except for representations and warranties that are customarily provided in purchase agreements for a company subject to NOI Proceedings. Any such representations and warranties provided for in the definitive documents will not survive closing.

### **Confidentiality**

40. For greater certainty, other than as required in connection with any Auction or Approval Motion, neither the Organic Group nor the Trustee will disclose: (i) the identity of any Potential Bidder or Qualified Bidder (other than the Stalking Horse Bidder); or (ii) the terms

of any bid, Sale Proposal, Partial Sale Proposal, Liquidation Proposal, or Binding Offer (other than the Stalking Horse Agreement), to any other bidder or any of its affiliates, except to the extent the Trustee, with the consent of such applicable parties is seeking to combine separate bids into Aggregated Bids. Potential Bidders, Qualified Bidders (including the Stalking Horse Bidder), Known Potential Bidders, Binding Offer Bidders and each of their respective affiliates shall not communicate with, or contact, directly or indirectly, any other Potential Bidder, Qualified Bidder (including the Stalking Horse Bidder), Known Potential Bidder, Binding Offer Bidder, or their respective affiliates, without the express written consent of the Trustee, and such communications or discussions are to take place under the supervision of the Trustee.

### **Further Orders**

41. At any time during the Sale Process, the Organic Group or the Trustee may apply to the Court for advice and directions with respect to any aspect of this Sale Process including, but not limited to, the continuation of or termination of the Sale Process or with respect to the discharge of its powers and duties hereunder.

### **Additional Terms**

42. In addition to any other requirement of the Sale Process:

- (a) Any consent, approval or confirmation to be provided by the Stalking Horse Bidder, the Organic Group and/or the Trustee is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the BIA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email will be deemed to have been provided in writing for the purposes of this paragraph.
- (b) Prior to seeking Court approval for any transaction or bid contemplated by this Sale Process, the Trustee will provide a report to the Court on the Sale Process, parts of which may be filed under seal, including in respect of any and all bids received.

43. This Sale Process does not, and will not be interpreted to create any contractual or legal relationship between the Organic Group and any other party, other than as specifically set forth in the NDA or any other definitive agreement executed.

44. Notwithstanding anything to the contrary herein, the Trustee shall have no liability whatsoever to any person or entity, including without limitation any Potential Bidder, Qualified Bidder (including the Stalking Horse Bidder), Binding Offer Bidder, Known Potential Bidder, Successful Bidder, or any other creditor or stakeholder, or any Applicant, as a result of implementation or otherwise in connection with this Sale Process, except to the extent that any such liabilities result from the gross negligence or wilful misconduct of the Trustee, as determined by the Court, and all such persons or entities shall have no claim against the Trustee in respect of the Sale Process for any reason whatsoever.

## APPENDIX "B"

### **The Trustee:**

#### **KPMG INC.**

333 Bay Street, Suite 4600  
Toronto, ON M5H 2S5

Attention: Pritesh Patel

Email: [pritchpatel@kpmg.ca](mailto:pritchpatel@kpmg.ca)

with copies to:

#### **Aird & Berlis LLP**

Brookfield Place, 181 Bay St. #1800  
Toronto, ON M5J 2T9

Attention: Kyle Plunkett and Adrienne Ho

Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com) / [aho@airdberlis.com](mailto:aho@airdberlis.com)

### **The Debtors**

#### **Organic Group**

##### **c/o Miller Thomson LLP**

Scotia Plaza, 40 King Street West  
Suite 5800  
Toronto, ON M5H 3S1

Attention: Asim Iqbal and Sam Massie

Email: [aiqbal@millerthomson.com](mailto:aiqbal@millerthomson.com) / [smassie@millerthomson.com](mailto:smassie@millerthomson.com)

# **Appendix “D”**

## ASSET PURCHASE AGREEMENT

This Agreement is made as of the 16<sup>th</sup> day of April, 2024 (the “**Effective Date**”)

### AMONG:

**ORGANIC GARAGE (CANADA) LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Company**”)

- and -

**2581751 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Liberty LeaseCo**” and together with the Company, collectively, the “**Vendors**”)

- and -

**1000858769 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Purchaser**”)

### RECITALS:

A. On March 5, 2024, the Vendors, together with 2347018 Ontario Inc., 2507158 Ontario Inc., and 2412383 Ontario Inc. (collectively, the “**OG Group**”), initiated proceedings (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3 (the “**BIA**”) by filing Notices of Intention to Make a Proposal under section 50.4(6) of the BIA. KPMG Inc. was appointed as the proposal trustee in the NOI Proceedings (in such capacity, the “**Proposal Trustee**”).

B. In connection with the NOI Proceedings, the OG Group intend to seek the approval of the Court to implement a sale process (the “**Sale Process**”), and as part of that Sale Process the Purchaser submits this Agreement as a Partial Sale Proposal (as defined in the Sale Process) to acquire the Purchased Assets (as defined herein).

C. In the event that this Agreement is selected as the Successful Bid (as defined herein) in the Sale Process, the Purchaser will acquire the Purchased Assets subject to, and in accordance with, the terms and conditions set forth in this Agreement and obtaining Court approval of the Transaction (as defined herein).

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties hereby acknowledge and agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act*, R.S.O. 1990, c.B-16.

“**Agreement**” means this asset purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Proposal Trustee, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

**“Applicable Law”** means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

**“Approval and Vesting Order”** means an order by the Court, in form and substance satisfactory to the Purchaser, acting reasonably, among other things, approving and authorizing this Agreement and the Transaction.

**“Assigned Contracts”** means the Contracts listed in **Schedule “B”** (and including as such Assigned Contracts may be amended, restated, supplemented or otherwise modified from time to time).

**“Assignment and Assumption Agreements”** means the assignment and assumption agreements for the Assigned Contracts, in a form reasonably satisfactory to the Vendors and the Purchaser.

**“Assignment Order”** means an order of the Court assigning to the Purchaser the rights and obligations of the Vendors under the Assigned Contracts for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained, and which will include, if necessary, a mechanism for the resolution of any disputed Cure Costs.

**“Assumed Liabilities”** means: (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in **Schedule “C”**; and (b) all Liabilities which relate to the Business under any Assigned Contracts, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

**“Authorization”** means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

**“BIA”** has the meaning set out in the recitals hereto.

**“Bid Deadline”** has the meaning set out in the Sale Process.

**“Business”** means the business conducted by the Company, being an organic and all natural grocery store.

**“Business Day”** means a day on which banks are open for business in Toronto, Ontario, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

**“Cash Purchase Price”** has the meaning set out in Section 4.3(b).

**“Claims”** means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person.



“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is ten (10) days after the date upon which the conditions set forth in Article 8 have been satisfied or waived, other than any conditions set forth in Article 8 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendors and the Purchaser in writing).

“**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Contracts**” means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which Liberty LeaseCo is a party, or by which such entity is bound or in which such entity has, or will at Closing have, any rights or by which any of its property or assets are or may be affected.

“**Company**” means Organic Garage (Canada) Ltd., a corporation incorporated pursuant to the laws of the Province of Ontario.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Cure Costs**” means, in respect of the Assigned Contracts, all amounts, costs, fees and expenses: (i) required to be paid to remedy all of the Vendors’ monetary defaults in relation to the Assigned Contracts, other than those arising by reason only of the Vendors’ bankruptcy, insolvency or failure to perform a non-monetary obligation; (ii) necessary to secure a counterparty’s or any other necessary Person’s consent to the assignment of the Assigned Contracts; or (iii) as may be required pursuant to the Approval and Vesting Order or the Assignment Order, as applicable, and which for greater certainty, may be an amount agreed to by the Purchaser and the counterparty to an Assigned Contract.

“**Deposit**” has the meaning set out in Section 4.3(a).

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any individual who is employed by a Vendor at the Premises immediately prior to the Closing Date.

“**Encumbrance**” means any security interest, lien, Claim, charge, right of retention, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party (including any contractual rights such as purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C. 1985, c. E-15.

“**Excluded Assets**” means (i) Excluded Contracts; (ii) Intellectual Property owned by the OG Group; (iii) books and records of the OG Group; (iv) any Inventory located at the Premises; (v) any leased or rented equipment; (vi) any rent or security deposits posted by the OG Group in connection with the Lease; and (vi) any other assets of the OG Group not located at the Premises as of the Effective Date.

“**Excluded Contracts**” means all Contracts that are not Assigned Contracts.

“**General Conveyance**” means a general conveyance evidencing the conveyance to the Purchaser of the Company’s interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

“**GST**” means all goods and services tax imposed under Part IX of the *Excise Tax Act*.

“**Income Tax Act**” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

“**Intellectual Property**” means any or all of the following items, wherever located: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, recipes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored.

“**Inventory**” means goods that are held by the Vendors for sale or lease or that have been leased or that are to be furnished or have been furnished under a contract of service, or that are raw materials, work in process or materials used or consumed in the Vendors’ business.

“**Interim Period**” means the period from the Effective Date to the Closing Time.

“**Lease**” means the lease agreement dated as of October 18, 2017, between Liberty LeaseCo. as tenant, 8841896 Canada Inc., as landlord, and the Company, as indemnifier, relating to the premises located at 42 Hanna Ave, Toronto, Ontario.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**NOI Proceedings**” has the meaning set out in the recitals hereto.

“**OG Group**” has the meaning set out in the recitals hereto.

“**Outside Date**” means 11:59 pm (Toronto time) on April 30, 2024, or such later date and time as the Vendors and the Purchaser may agree to in writing.

“**Parties**” means the Vendors and the Purchaser, and “**Party**” means any one of them.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“**Premises**” means the premises leased by the Vendors pursuant to the Lease.

“**Proposal Trustee**” has the meaning set out in the recitals hereto.

“**Proposal Trustee’s Certificate**” has the meaning set out in Section 8.1(e).

“**Purchased Assets**” has the meaning set out in Section 2.1.

“**Purchase Price**” has the meaning set out in Section 4.1.

“**Purchaser**” means 1000858769 Ontario Inc., a corporation incorporated pursuant to the laws of Ontario.

“**Sale Process**” has the meaning set out in the recitals hereto.

“**Sale Process Order**” means an issued order of the Court in the NOI Proceedings approving a Sale Process in respect of the Vendors’ assets, property and undertaking, including the Purchased Assets.

“**Specific Personal Property**” means those items specified in Schedule “D”, which are owned by the Vendors, together with any other fixtures, equipment, chattels and personal property owned by the Vendors, located and used exclusively in connection with the operation of the Business at the Premises.

“**Successful Bid**” has the meaning set out in the Sale Process.

“**Successful Bidder**” has the meaning set out in the Sale Process.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

“**Transaction**” the transaction contemplated by this Agreement whereby the Purchaser will acquire the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in

connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 General Construction**

The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

## **1.4 Extended Meanings**

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings and the term "third party" means any other Person other than the Vendors or the Purchaser, or any Affiliates thereof.

## **1.5 Currency**

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

## **1.6 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

## **1.7 Schedules & Amendments to Schedules**

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

### **SCHEDULES**

Schedule A	-	Purchased Assets
Schedule B	-	Assigned Contracts
Schedule C	-	Specific Assumed Liabilities
Schedule D	-	Specific Personal Property

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

## ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

### 2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendors shall sell, assign, transfer and convey to the Purchaser pursuant to the Approval and Vesting Order and the Assignment Order, if applicable, and the Purchaser shall purchase and assume from the Vendors, all of the Vendors' right, title and interest in, to and under the tangible and intangible assets, properties and rights listed in Schedule "A", attached hereto (collectively, the "**Purchased Assets**"). For greater clarity, the Purchased Assets shall exclude the Excluded Assets.

### 2.2 Transfer of Purchased Assets and Assumption of Liabilities

Subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendors to the Purchaser on the Closing Date, and the Purchaser agrees to assume, discharge, perform and fulfill all of the Assumed Liabilities from and after the Closing Date. For certainty, the Purchaser is not assuming any Liabilities of the Vendors other than the Assumed Liabilities and shall have no liability to any Person therefor.

### 2.3 Assigned Contracts

- (a) Intentionally Deleted.
- (b) Each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assigned Contracts, all consents and approvals required to assign the Assigned Contracts to the Purchaser.
- (c) To the extent that any Assigned Contract is not assignable without the consent or approval of the counterparty or any other Person, and such consent or approval has not been obtained prior to the Closing Date: (i) the applicable Vendor's interest in, to and under such Assigned Contract may be conveyed to the Purchaser pursuant to the Assignment Order; (ii) the Vendors will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date; and (iii) if an Assignment Order is obtained in respect of such Assigned Contract, the Purchaser shall accept the assignment of such Assigned Contract on such terms.
- (d) To the extent that any Cure Costs are payable with respect to any Assigned Contract, the Purchaser shall be responsible for and shall pay all such Cure Costs, which shall be paid either directly to the applicable counterparty or to the Proposal Trustee, as may be agreed to by the parties, which Cure Costs shall be in addition to the Purchase Price. Unless the Parties otherwise agree, to the extent that any Cure Cost is payable with respect to any Assigned Contract, where such Assigned Contract is assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in accordance with the Assignment Order, and where such Assigned Contract is not assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchaser and such counterparty.
- (e) The Vendors shall be entitled to disclaim or seek to disclaim any Excluded Contracts.
- (f) It shall be the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all financial assurances, deposits or security, including without limitation any Cure Costs that may be required by Governmental Authorities or any third parties to

permit the transfer of the Purchased Assets, including the Assigned Contracts, to the Purchaser.

**2.4 Intentionally Deleted.**

**2.5 Excluded Liabilities**

Save and except for the Assumed Liabilities explicitly set out herein, if any, the Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the OG Group (collectively, the "Excluded Liabilities"), which Excluded Liabilities include, but are not limited to, the following:

- (a) all Liabilities and Claims arising or accruing from the use of the Purchased Assets prior to the Closing;
- (b) all Liabilities and Claims arising or accruing from all tangible and intangible assets, properties or rights of the Vendors which do not form part of the Purchased Assets, or which are otherwise excluded from the Purchased Assets pursuant to the terms of this Agreement; and
- (c) all Liabilities that arise out of or result from the employment or engagement by the Vendors of any of the Employees (unless otherwise imposed by Applicable Laws) and/or the termination or severance of such engagement or employment.

**ARTICLE 3  
EMPLOYEE MATTERS**

**3.1 Employment Terminations**

The Vendors shall terminate, in writing, the employment of all Employees at least 24 hours prior to the Closing Date and shall provide proof of such written termination to the Purchaser as a deliverable at Closing.

**ARTICLE 4  
PURCHASE PRICE**

**4.1 Purchase Price**

The purchase price payable by the Purchaser for the Purchased Assets shall be [REDACTED] (the "Purchase Price") plus the Assumed Liabilities. The Purchase Price shall be satisfied in accordance with Section 4.3.

**4.2 Allocation of Purchase Price**

The Purchaser and the Vendors agree that the Purchase Price and the Assumed Liabilities shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as agreed between the Vendors and the Purchaser on Closing, acting reasonably.

**4.3 Satisfaction of Purchase Price**

The Purchaser shall pay and satisfy the Purchase Price in accordance with the following:

- (a) Deposit. The Purchaser shall initiate a wire transfer to the Proposal Trustee for a deposit in the amount of [REDACTED] along with proof of the wire transfer, upon execution of this Agreement, and such funds must be received by the Proposal Trustee no later than five (5) business days following the Effective Date and credited against the Purchase Price at Closing (the "**Deposit**").
- (b) Cash Purchase Price. At the Closing Time, the Purchaser shall pay to the Proposal Trustee the balance of the Purchase Price by wire transfer of immediately available funds (the "**Cash Purchase Price**").
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, which the Purchaser shall assume on the Closing Date, shall be satisfied by the Purchaser performing the Assumed Liabilities as and when they become due.

#### **4.4 Intentionally Deleted.**

#### **4.5 Transfer Taxes**

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets.
- (b) Where the Vendors are required under Applicable Law to collect or pay Transfer Taxes, the Purchaser will pay the amount of such Transfer Taxes to the Vendors at Closing. The Vendors shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due.
- (c) Except where the Vendors are required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendors will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner. If the Vendors are required under Applicable Law to pay any such Transfer Taxes which are not paid by the Purchaser at Closing, the Purchaser shall promptly reimburse the Vendors the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes.
- (d) The Purchaser shall indemnify the Vendors for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendors may pay or for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

### **ARTICLE 5 SALE PROCESS, DEPOSIT REPAYMENT**

#### **5.1 Sale Process and Deposit Repayment**

- (a) The Vendors shall conduct the Sale Process in accordance with the terms of the issued Sale Process Order. The Vendors have brought a motion for the Sale Process Order which was heard on March 14, 2024. The Purchaser acknowledges and agrees that the Sale Process is

in contemplation of determining whether a superior bid can be obtained for the Purchased Assets, and that the within Bid (as that term is defined in the Sale Process) of the Purchaser may or may not be a Successful Bid for the Purchased Assets. In the event that the Purchaser's Bid is not a Successful Bid, the Purchaser shall be entitled to repayment in full of the Deposit, and all of the foregoing entitlements shall be paid to the Purchaser in priority to any and all Claims and interests that any other Person now has or may hereafter have against the property of the OG Group (the "**Deposit Repayment**").

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and Warranties of the Vendors**

The Vendors hereby represent and warrant as of the date hereof and as of the Closing Time as follows, and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendors are corporations incorporated and existing under the *Business Corporations Act* (Ontario), are in good standing under such act and have the power and authority to enter into, deliver and perform their obligations under this Agreement and to own or lease and to operate and use the Purchased Assets and to carry on the Business as now conducted by the Vendors.
- (b) Corporate Authorization. The execution, delivery and, subject to obtaining the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendors of this Agreement has been authorized by all necessary corporate action on the part of the Vendors.
- (c) Residency. The Vendors are not non-residents of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.

### **6.2 Representations and Warranties of the Purchaser**

The Purchaser hereby represents and warrants to and in favour of the Vendors as of the date hereof and as of the Closing Time, and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the Ontario, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the organizational documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser.



enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.

- (e) Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (f) Residency. The Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act*.

### 6.3 As is, Where is

- (a) The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances and permitted Encumbrances), the Assumed Liabilities and all related operations of the Vendors, and, based solely thereon, has determined to proceed with the Transaction contemplated by this Agreement. The representations and warranties of the Vendors shall merge on Closing and shall thereafter be of no further force and effect. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an "as is, where is" basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever.
- (b) The Purchaser has received a copy of any Assigned Contracts and is familiar with the terms, agreements, covenants, obligations and conditions therein. The Purchaser shall be solely responsible for negotiating with and attempting to obtain the agreement of any landlord to amend any Lease contemplated to be an Assigned Contract as may be required by the Purchaser to allow the Purchaser to use the respective Premises for any purpose. For greater certainty, such amendments are not a Closing delivery or a condition of Closing.
- (c) The Purchaser acknowledges that the applicable Assigned Contract (that is, a lease) may be subject to permitted Encumbrances and the applicable Vendor shall not be responsible for rectifying any permitted Encumbrances prior to the Closing Date, other than as contemplated by this Agreement.
- (d) The remedies expressly set forth in this Agreement are the Purchaser's sole and exclusive remedies relating to this Agreement, the Transaction contemplated hereby, the Purchased Assets, the Assumed Liabilities and all related operations of the Vendors or any of them.
- (e) The Purchaser acknowledges and agrees that the enforceability of this Agreement against the Vendors is subject to entry of the Approval and Vesting Order.

## ARTICLE 7 CLOSING ARRANGEMENTS

### 7.1 Closing

Closing shall take place on the Closing Date effective as of the Closing Time electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### 7.2 Vendors' Closing Deliveries

At or before the Closing Time, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (b) a true copy of the Assignment Order, if applicable, as issued and entered by the Court (if requested by the Purchaser);
- (c) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the applicable Vendor;
- (d) the General Conveyance, duly executed by the Vendors;
- (e) proof of the written termination by the Vendors of the employment of all of their Employees prior to the Closing Date;
- (f) a certificate of an officer of each Vendor dated as of the Closing Date confirming that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time; and
- (g) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

### 7.3 Purchaser's Closing Deliveries

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Proposal Trustee, as applicable), the following:

- (a) payment of the Cash Purchase Price in immediately available funds;
- (b) payment of all Transfer Taxes payable on Closing to the Vendors or the Proposal Trustee, as applicable (or evidence of payment by the Purchaser thereof to the relevant Governmental Authorities) in accordance with Section 4.5;
- (c) the payment of all Cure Costs to be paid by the Purchaser pursuant to Section 2.3 to the Vendors or the Proposal Trustee, or evidence that such Cure Costs have been or will be paid directly to the applicable counterparty;
- (d) the General Conveyance, duly executed by the Purchaser;

- (e) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the Purchaser;
- (f) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (g) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## ARTICLE 8 CONDITIONS OF CLOSING

### 8.1 Conditions Precedent in favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, and Assignment Order, if applicable, which Approval and Vesting Order, and Assignment Order, if applicable, shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (b) No Order. No Applicable Law and no judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction; and
- (c) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (d) Proposal Trustee's Certificate. The Proposal Trustee shall have provided an executed certificate of the Proposal Trustee substantially in the form attached to the Approval and Vesting Order (the "**Proposal Trustee's Certificate**") confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendors.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in Section 8.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

### 8.2 Conditions Precedent in favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Successful Bid. This Agreement shall have been designated as the Successful Bid in accordance with the terms of the Sale Process.

- (b) Vendors' Deliverables. The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.
- (c) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 6.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (d) No Breach of Covenants. The Vendors shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 8.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set forth in this Section 8.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendors, with a copy to the Proposal Trustee, to terminate this Agreement.

### **8.3 Conditions Precedent in favour of the Vendors**

The obligation of the Vendors to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 7.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 6.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date, or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 8.3 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in this Section 8.3 is not satisfied or performed on or prior to the Outside Date, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

### **8.4 Proposal Trustee's Certificate**

The Parties acknowledge and agree that the Proposal Trustee shall be entitled to deliver to the Purchaser, and file with the Court, the executed Proposal Trustee's Certificate without independent investigation, upon receiving written confirmation from the Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Proposal Trustee shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or

waived, the Proposal Trustee may deliver the executed Proposal Trustee's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Proposal Trustee's written confirmation that all such funds have been received, the Proposal Trustee's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

## **ARTICLE 9 TERMINATION**

### **9.1 Grounds for Termination**

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors (with the consent of the Proposal Trustee) and the Purchaser;
- (b) by the Purchaser upon written notice to the Vendors if there has been a material breach by the Vendors of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Purchaser notified the Vendors of such breach;
- (c) by the Vendors (with the consent of the Proposal Trustee) upon written notice to the Purchaser if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Vendors notified the Purchaser of such breach;
- (d) by the Vendors (with the consent of the Proposal Trustee) or the Purchaser upon written notice to the other Parties if the Closing has not occurred on or prior to the Outside Date; provided that the failure to close by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement.

### **9.2 Effect of Termination.**

If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of: (a) this Section 9.2; and (b) Section 5.1 with respect to the Purchaser's entitlement to the Deposit Repayment. Notwithstanding the foregoing, if the Transaction is terminated solely as a result of the Vendors' failure to perform any of their obligations under this Agreement, then the Deposit shall be repaid to the Purchaser in full, without deduction or setoff. If the Transaction is terminated solely as a result of the Purchaser's failure to perform any of its obligations under this Agreement, the Deposit and any other payments made by the Purchaser will be forfeited to the Vendors on account of its liquidated damages, and the Purchased Assets may be resold by the Vendors.

## **ARTICLE 10 MISCELLANEOUS PROVISIONS**

### **10.1 Notice**

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

1000858769 ONTARIO INC.  
c/o WeirFoulds LLP  
4100 – 66 Wellington Street West.  
Toronto, Ontario M5K 1B7

Attention: Richard Arezes  
Email: rarezes@weirfoulds.com

- (b) in the case of the Vendors, as follows:

c/o Organic Garage (Canada) Ltd.  
579 Kerr Street  
Oakville, Ontario L6K 3E1

Attention: Matt Lurie  
Email: mlurie@organicgarage.com

with a copy to:

Miller Thomson LLP  
40 King Street West, Suite 5800  
Toronto, Ontario M5H 3S1

Attention: Asim Iqbal  
Email: aiqbal@millerthomson.com

- (c) in each case, with a further copy to the Proposal Trustee as follows:

KPMG Inc.  
333 Bay Street, #4600  
Toronto, Ontario M5H 2S5

Attention: Pritesh Patel  
Email: pritpatel@kpmg.ca

with a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

Attention: Kyle Plunkett  
Email: kplunkett@airdberlis.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

#### **10.2 Time**

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

#### **10.3 Survival**

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

#### **10.4 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

#### **10.5 Entire Agreement**

This Agreement and the Exhibits and Schedules attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendors and the Purchaser.

#### **10.6 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

#### **10.7 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

#### **10.8 Assignment**

- (a) This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendors or the Proposal Trustee, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendors and the Proposal Trustee; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.
- (b) This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

**10.9 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

**10.10 Counterparts**

This Agreement may be executed electronically in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

**10.11 Severability**

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

**10.12 Proposal Trustee's Capacity**

In addition to all of the protections granted to the Proposal Trustee under the BIA or any order of the Court in this NOI Proceeding, the Vendors and the Purchaser acknowledge and agree that the Proposal Trustee, acting in its capacity as Proposal Trustee of the OG Group and not in its personal capacity, is not a signatory to this Agreement and will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Proposal Trustee.

*[Signature Page Follows]*



**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

DocuSigned by:

By:                     Matt Lurie                      
Name: <sup>822F1F52C9A408</sup> Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2581751 ONTARIO INC.**

DocuSigned by:

By:                     Matt Lurie                      
Name: <sup>822F1F52C9A408</sup> Matt Lurie  
Title: Director

I have authority to bind the Corporation.

For the Purchaser:

**1000858769 ONTARIO INC.**

By:                                           
Name: Richard Arezes  
Title: Director

I have authority to bind the Corporation.

**SCHEDULE "A"**  
**PURCHASED ASSETS**

1. All of the Vendors' right, title and interest in and to the Specific Personal Property; and
2. The Assigned Contracts.

**SCHEDULE "B"**  
**ASSIGNED CONTRACTS**

1. The Lease

**SCHEDULE "C"**  
**SPECIFIC ASSUMED LIABILITIES**

*Nil - no specific assumed liabilities identified*

**SCHEDULE "D"**  
**SPECIFIC PERSONAL PROPERTY**

#	PERSONAL PROPERTY
1	(38) Wire mesh shopping carts & approx. (50) plastic shopping baskets
2	2018 <b>Husmann</b> Protocol HE model HAV06QP high-efficiency rack refrigeration system, s/n 1040222201866015 c/w <b>Husmann</b> HSHZ1300MQPXXA remote header, s/n 1040223201866029
3	2018 <b>Husmann</b> model IM-04-14-R isla refrigerated multi-deck self-service merchandiser, s/n 1030226201834143
4	(3) 2018 <b>Husmann</b> model IM-04-18-R isla refrigerated multi-deck self-service merchandiser, s/n 1030226201834146, 1030226201834144, 1030226201834145
5	(4) 2018 <b>Husmann</b> 6', 8' & 12'L isla refrigerated multi-deck self-service merchandisers, s/n N/A
6	(2) 2018 <b>Husmann</b> ID5NL12 Insight 5-Deck narrow open-air refrigerated merchandisers (1) unit c/w misting lines, s/n MY18C017560, & 17568
7	(2) 2018 <b>Husmann</b> ID5NL4 Insight 5-Deck narrow open-air refrigerated merchandisers, s/n MY18C017570, & 17571
8	2018 <b>Husmann</b> model IDD5NL12 & IDD5NL8 Insight 5-deck narrow refrigerated merchandiser c/w (10) EcoVision glass doors, s/n MY18C017561, & 17567

9	2018 <b>Husmann</b> model IDD5NL12 & IDD5NL8 Insight 5-deck narrow refrigerated merchandiser c/w (20) EcoVision glass doors. s/n MY18C017560, 17559, 17566, & 17565
10	2018 <b>Husmann</b> model IDD5NL12 Insight 5-deck narrow refrigerated merchandiser c/w (6) EcoVision glass doors. s/n MY18C017558
11	(2) 2018 <b>Husmann</b> model IDD5NL8 Insight 5-deck narrow refrigerated merchandiser c/w (4) EcoVision glass doors. s/n MY18C017564, 17563
12	2018 <b>Husmann</b> model IDD5NL4 Insight 5-deck narrow refrigerated merchandiser c/w (2) EcoVision glass doors, s/n MY18C017562
13	(2) 2018 <b>Husmann</b> model RLN-5 narrow reach-in freezer merchandiser c/w (5) Innovator glass doors. s/n MY18C017703, 17702
14	2018 <b>Husmann</b> model RLN-3 narrow reach-in freezer merchandiser c/w (9) Innovator glass doors, s/n MY18C017688, 17692, & 17689
15	2018 <b>Husmann</b> model RLN-3 narrow reach-in freezer merchandiser c/w (6) Innovator glass doors, s/n MY18C017691, & 17690
16	2018 <b>Husmann</b> model RLN-4 & RLN-3 narrow reach-in freezer merchandiser c/w (7) Innovator glass doors, s/n MY18C017697, & 17687
17	2018 <b>Husmann</b> model RLN-5 narrow reach-in freezer merchandiser c/w (15) Innovator glass doors, s/n MY18C017699, 17701, & 17700
18	(3) 2018 <b>Husmann</b> model IM-04-18-R isla refrigerated multi-deck self-service merchandiser, s/n 1030226201834146, 1030226201834144, 1030226201834145

19	2018 <b>Husmann</b> models IM-05-C6-R & IM-05-EN5-R set of 4 Isla refrigerated multi-deck self-service open-air merchandisers, s/n 11030228201834107 1030528202055213, 1030226201834106, 1030528202055212
20	(3) 2018 <b>Husmann</b> 4-sided refrigerated produce self-service open-air merchandisers
21	Custom built 12-station keg tap system w/ beverage pumps
22	2018 <b>Husmann</b> model VRM1B glass door self contained upright cooler, s/n MY18C017649
23	2018 <b>Husmann</b> model VRL1B glass door self contained merchandiser freezer, s/n TJ21L00277B
24	2018 <b>Husmann</b> model Q2-SPN-4-PT-RSS-R 2-door refrigerated cold storage & forward facing self-service multi-deck merchandiser sushi table w/ cutting block, sneeze guard, & night curtain, s/n 1030226201834160
25	<b>Beverage-Air</b> model UCF27AHC single door under counter stainless steel refrigerator w/ casters, s/n 12506281
26	(3) <b>Ishida</b> model UNI-3 L2 price computing scale w/ printer, s/n 100541192, 100336360, 100336369
27	(2) <b>Husmann</b> SHM4-A 48" self-contained horizontal open air cooler, s/n 07A00123-788, & 06D03090-788
28	(2) <b>Kilo Tech</b> model KHS-1022-1 hanging dial scales
29	(2) <b>Kilo Tech</b> model KAM512SPL dial scales

30	Complete bulk dry goods retail display c/w (55) bins, & (48) gravity flow pull-handle dispensers
31	(3) <b>Olde Tyme</b> PN2 nut grinder nut butter machines
32	<b>Grindmaster</b> retail fresh coffee grinder
33	(2) 2012/11 <b>Fricon</b> THG4SG 2' x 2' glass door reach-in ice cream freezers, s/n 19123, 17879
34	(50) Sections <b>Etalex</b> assorted configuration 7'H double sided gondola shelving c/w (32) end caps
35	(21) Sections <b>Etalex</b> assorted configuration 4' & 7'H single sided gondola shelving
36	Assorted custom built wood & steel built-in retail displays
37	Assorted décor, shelving, & retail displays c/o: plastic baskets, wood crates, waste cans displays, rolling displays, etc
38	(3) <b>Laicor</b> grocery store checkout lanes c/w: bar fridge, conveyor belt, POS scanner scale, & POS system w/ cash drawer, & receipt printer
39	(5) Approx. 3.5' x 3.5' custom built retail displays w/ casters
40	(7) Sections assorted galvanized industrial pallet racking w/ mesh decking & steel shelf supports
41	(14) Sections assorted industrial pallet racking w/ steel shelf supports
42	(5) Assorted stainless steel tables
43	3-Compartment stainless steel sink w/ rinse head



44	<b>TurboVac</b> model S40 530 x 590 x 460 mm table top vacuum former, s/n 20180614
45	(12) 2-Tier aluminum 4-wheel flat deck carts
46	2-Compartment stainless steel sink w/ rinse head
47	(2) Assorted wire mesh carts w/ security cage
48	(8) Assorted multi-level wire mesh racks
49	(6) Assorted warehouse carts & bake tray racks
50	Hydraulic pallet jack
51	<b>Norbec</b> combination walk-in cooler & freezer approx. 11' x 54' x 7.5'H
52	<b>Heat Seal</b> model 625A table top shrink wrap & sealer, s/n GG17120128
53	2017 <b>Manitowoc</b> model RFS0300A air cooled ice machine . s/n M0873629201 c/w <b>Manitowoc</b> K420 22" ice bin
54	<b>Norbec</b> approx. 30'L walk-in cooler
55	Assorted support equipment c/o: ladders, tools, kitchen utensils, cutting boards, mop and buckets, vacuums, waste cans, etc.
56	Complete contents of offices c/o: chairs, filing & supply cabinets, desks, monitors, Cashguard safe, employee lockers, Employee time clock, Netgear networking equipment, and complete surveillance system w/ DVRs
57	Cardboard Compactor
58	Commercial Garbage Bins

59	All track lighting in the premises
60	Security system in the premises
61	Accessibility lift located in premises

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# **Appendix “E”**

## ASSET PURCHASE AGREEMENT

This Agreement is made as of the 19th day of April, 2024 (the “**Effective Date**”)

### AMONG:

**ORGANIC GARAGE (CANADA) LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Company**”)

- and -

**2412383 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Junction LeaseCo**” and together with the Company, the “**Vendors**”)

- and -

**JUNCTION ROAD NOMINEE INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Purchaser**”)

### RECITALS:

A. On March 5, 2024, the Vendors, together with 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (collectively, the “**OG Group**”) initiated proceedings (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3 (the “**BIA**”) by filing Notices of Intention to Make a Proposal under section 50.4(6) of the BIA. KPMG Inc. was appointed as the proposal trustee in the NOI Proceedings (in such capacity, the “**Proposal Trustee**”).

B. Pursuant to an order made in the NOI Proceedings and dated March 14, 2024, the OG Group obtained the approval of the Court to implement a sale process (the “**Sale Process**”) with respect to the OG Group’s assets and/or business.

C. In the event that this Agreement is selected as the Successful Bid (as defined herein) in the Sale Process, the Purchaser will acquire the Purchased Assets (as defined herein) subject to, and in accordance with, the terms and conditions set forth in this Agreement and obtaining Court approval of the Transaction (as defined herein).

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties hereby acknowledge and agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act*, R.S.O. 1990, c.B-16.

“**Agreement**” means this asset purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Proposal Trustee, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order by the Court, in form and substance satisfactory to the Purchaser, acting reasonably, among other things, approving and authorizing this Agreement and the Transaction and vesting in and to the Purchaser the Purchased Assets free and clear of any and all Encumbrances.

“**BIA**” has the meaning set out in the recitals hereto.

“**Business Day**” means a day on which banks are open for business in Toronto, Ontario, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**Cash Purchase Price**” has the meaning set out in Section 3.3(b).

“**Claims**” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is ten (10) days after the date upon which the conditions set forth in Article 6 have been satisfied or waived, other than any conditions set forth in Article 6 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendors and the Purchaser in writing).

“**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Deposit**” has the meaning set out in Section 3.3(a).

“**Deposit Repayment**” has the meaning set out in Section 3.4.

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Encumbrance**” means any security interest, lien, Claim, charge, right of retention, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party (including any contractual rights such as purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C, 1985, c. E-15.

“**Excluded Assets**” means i) Intellectual Property owned by the OG Group; iii) books and records of the OG Group; iv) any Inventory located at the Premises; v) any leased or rented equipment; and vi) any other assets of the OG Group not located at the Premises as of the Effective Date.

“**General Conveyance**” means a general conveyance evidencing the conveyance to the Purchaser of the Vendors’ interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

“**GST**” means all goods and services tax imposed under Part IX of the *Excise Tax Act*.

“**Income Tax Act**” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

“**Intellectual Property**” means any or all of the following items, wherever located: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, recipes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored.

“**Inventory**” means goods that are held by the Vendors for sale or lease or that have been leased or that are to be furnished or have been furnished under a contract of service, or that are raw materials, work in process or materials used or consumed in the Vendors’ business.

“**Lease**” means the lease dated June 9, 2014 between Junction LeaseCo, as tenant, 2216198 Ontario Inc., as landlord (whose interest was subsequently assumed by the Purchaser), and the Company and Matt Lurie as indemnifiers, relating to the premises municipally known as 43 Junction Road, Toronto.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**NOI Proceedings**” has the meaning set out in the recitals hereto.

“**OG Group**” has the meaning set out in the recitals hereto.

“**Outside Date**” means 11:59 pm (Toronto time) on May 15, 2024, or such later date and time as the Vendors and the Purchaser may agree to in writing.

“**Parties**” means the Vendors and the Purchaser, and “**Party**” means any one of them.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“**Premises**” means the premises leased by Junction LeaseCo pursuant to the Lease and municipally known as 43 Junction Road.

“**Proposal Trustee**” has the meaning set out in the recitals hereto.

“**Proposal Trustee’s Certificate**” has the meaning set out in Section 6.1(d).

“**Purchased Assets**” means i) the Lease; and ii) all of the Vendor’s right, title and interest in and to all equipment of the Vendors used in connection with the operation of the Business at the Premises, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances. For greater clarity, Purchased Assets shall exclude any Excluded Assets.

“**Purchase Price**” has the meaning set out in Section 3.1.

“**Purchaser**” has the meaning set out in the recitals hereto.

“**Sale Process**” has the meaning set out in the recitals hereto.

“**Successful Bid**” has the meaning set out in the Sale Process.

“**Transaction**” the transaction contemplated by this Agreement whereby the Purchaser will acquire the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST.

“**Vendors**” has the meaning set out in the recitals hereto.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 General Construction**

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The expression “Section” or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this

Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

#### **1.4 Extended Meanings**

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendors or the Purchaser, or any Affiliates thereof.

#### **1.5 Currency**

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

#### **1.6 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

## **ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS**

### **2.1 Purchase and Sale of Purchased Assets**

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendors shall sell, assign, transfer and convey to the Purchaser pursuant to the Approval and Vesting Order, and the Purchaser shall purchase and assume from the Vendors, all of the Vendors’ right, title and interest in, to and under the Purchased Assets free and clear of any and all Encumbrances.

### **2.2 Transfer of Purchased Assets and Non-Assumption of Liabilities**

Subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendors to the Purchaser at the Closing Time. The Purchaser is not assuming any Liabilities of the Vendors, including any Liabilities or Claims arising or accruing from the use of the Purchased Assets prior to the Closing or any Liabilities or Claims arising out of or resulting from the employment or engagement by the Vendors of any employees and/or the termination or severance of such engagement or employment, and the Purchaser shall have no liability to any Person therefor.

## **ARTICLE 3 PURCHASE PRICE**

### **3.1 Purchase Price**

The purchase price payable by the Purchaser for the Purchased Assets shall be [REDACTED] (the “**Purchase Price**”). The Purchase Price shall be satisfied in accordance with Section 3.3.

### **3.2 Allocation of Purchase Price**

The Purchaser and the Vendors agree that the Purchase Price shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as agreed between the Vendors and the Purchaser on Closing, acting reasonably.

### **3.3 Satisfaction of Purchase Price**



The Purchaser shall pay and satisfy the Purchase Price in accordance with the following:

- (a) Deposit. The Purchaser shall initiate a wire transfer to the Proposal Trustee for a deposit in the amount of [REDACTED], along with proof of the wire transfer, upon execution of this Agreement, to be dealt with in accordance with this Agreement and credited against the Purchase Price at Closing (the “**Deposit**”).
- (b) Cash Purchase Price. At the Closing Time, the Purchaser shall pay to the Proposal Trustee the balance of the Purchase Price, being [REDACTED], in immediately available funds (the “**Cash Purchase Price**”).

### 3.4 Deposit Repayment

In the event that this Agreement is not the Successful Bid for the Purchased Assets, the Purchaser shall be entitled to repayment in full of the Deposit within five (5) Business Days of the selection of the Successful Bid for the Purchased Assets, in priority to any and all Claims and interests that any other Person now has or may hereafter have against the property of the OG Group (the “**Deposit Repayment**”).

### 3.5 Transfer Taxes

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser’s acquisition of the Purchased Assets.
- (b) Where the Vendors are required under Applicable Law to collect or pay Transfer Taxes, the Purchaser will pay the amount of such Transfer Taxes to the Vendors at Closing. The Vendors shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due.
- (c) Except where the Vendors are required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendors will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner. If the Vendors are required under Applicable Law to pay any such Transfer Taxes which are not paid by the Purchaser at Closing, the Purchaser shall promptly reimburse the Vendors the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes.
- (d) The Purchaser shall indemnify the Vendors for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendors may pay or for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

## ARTICLE 4 REPRESENTATIONS, WARRANTIES AND COVENANTS

### 4.1 Representations and Warranties of the Vendors

The Vendors hereby represent and warrant as of the date hereof and as of the Closing Time as follows, and acknowledges that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendors are each corporations incorporated and existing under the *Business Corporations Act* (Ontario), are in good standing under such act and have the power and authority to enter into, deliver and perform their obligations under this Agreement and to own or lease and to operate and use the Purchased Assets.
- (b) Corporate Authorization. The execution, delivery and, subject to obtaining the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendors of this Agreement has been authorized by all necessary corporate action on the part of the Vendors.
- (c) Residency. The Vendors are not a non-resident of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.

### 4.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendors as of the date hereof and as of the Closing Time, and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the *Business Corporations Act* (Ontario), is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the organizational documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Residency. The Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act*.

### 4.3 As is, Where is

- (a) The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Purchased Assets (including the state of

title thereto and/or the state of any Encumbrances) and, based solely thereon, has determined to proceed with the Transaction contemplated by this Agreement. The representations and warranties of the Vendors shall merge on Closing and shall thereafter be of no further force and effect. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an “*as is, where is*” basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever.

- (b) The remedies expressly set forth in this Agreement are the Purchaser’s sole and exclusive remedies relating to this Agreement, the Transaction contemplated hereby and the Purchased Assets.
- (c) The Purchaser acknowledges and agrees that the enforceability of this Agreement against the Vendors is subject to entry of the Approval and Vesting Order.

## **ARTICLE 5 CLOSING ARRANGEMENTS**

### **5.1 Closing**

Closing shall take place on the Closing Date effective as of the Closing Time electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### **5.2 Vendors’ Closing Deliveries**

At or before the Closing Time, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (b) the General Conveyance, duly executed by the Vendors;
- (c) a certificate of an officer of the Vendors dated as of the Closing Date confirming that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors has performed in all material respects the covenants to be performed by them prior to the Closing Time; and
- (d) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

### **5.3 Purchaser’s Closing Deliveries**

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Proposal Trustee, as applicable), the following:

- (a) payment of the Cash Purchase Price in immediately available funds;

- (b) payment of all Transfer Taxes payable on Closing to the Vendors or the Proposal Trustee, as applicable (or evidence of payment by the Purchaser thereof to the relevant Governmental Authorities) in accordance with Section 3.5;
- (c) the General Conveyance, duly executed by the Purchaser;
- (d) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (e) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## **ARTICLE 6 CONDITIONS OF CLOSING**

### **6.1 Conditions Precedent in favour of the Parties**

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (b) No Order. No Applicable Law and no judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction; and
- (c) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (d) Proposal Trustee's Certificate. The Proposal Trustee shall have provided an executed certificate of the Proposal Trustee substantially in the form attached to the Approval and Vesting Order (the "**Proposal Trustee's Certificate**") confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendors.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in Section 6.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

### **6.2 Conditions Precedent in favour of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Successful Bid. This Agreement shall have been designated as the Successful Bid in accordance with the terms of the Sale Process.

- (b) Vendors' Deliverables. The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 5.2.
- (c) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 4.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (d) No Breach of Covenants. The Vendors shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors on or before the Closing Date.
- (e) Proceedings: There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 6.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set forth in this Section 6.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendors, with a copy to the Proposal Trustee, to terminate this Agreement.

### **6.3 Conditions Precedent in favour of the Vendors**

The obligation of the Vendors to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 5.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date, or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 6.3 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in this Section 6.3 is not satisfied or performed on or prior to the Outside Date, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

#### **6.4 Proposal Trustee's Certificate**

The Parties acknowledge and agree that the Proposal Trustee shall be entitled to deliver to the Purchaser, and file with the Court, the executed Proposal Trustee's Certificate without independent investigation, upon receiving written confirmation from the Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Proposal Trustee shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Proposal Trustee may deliver the executed Proposal Trustee's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Proposal Trustee's written confirmation that all such funds have been received, the Proposal Trustee's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

### **ARTICLE 7 TERMINATION**

#### **7.1 Grounds for Termination**

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors (with the consent of the Proposal Trustee) and the Purchaser;
- (b) by the Purchaser upon written notice to the Vendors if there has been a material breach by the Vendors of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Purchaser notified the Vendors of such breach;
- (c) by the Vendors (with the consent of the Proposal Trustee) upon written notice to the Purchaser if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Vendors notified the Purchaser of such breach;
- (d) by the Vendors (with the consent of the Proposal Trustee) or the Purchaser upon written notice to the other Parties if the Closing has not occurred on or prior to the Outside Date; provided that the failure to close by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement.

## **7.2 Effect of Termination.**

If this Agreement is terminated pursuant to Section 7.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of: (a) this Section 7.2; and (b) Section 3.4 with respect to the Purchaser's entitlement to the Deposit Repayment. If this Agreement is terminated at any time other than as a result of a breach by the Purchaser, the Vendor shall promptly return the Deposit in full to the Purchaser. If the Transaction is terminated solely as a result of the Purchaser's failure to perform any of its obligations under this Agreement, the Deposit and any other payments made by the Purchaser will be forfeited to the Vendors on account of its liquidated damages, and the Purchased Assets may be resold by the Vendors.

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

### **8.1 Notice**

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

Junction Road Nominee Inc.  
22 St. Clair Avenue East, Suite 1010  
Toronto, Ontario M4T 2S3

Attention: David Goldstein  
Email: dgoldstein@diamondcorp.ca

- (b) in the case of the Vendors, as follows:

c/o Organic Garage (Canada) Ltd.  
579 Kerr Street  
Oakville, Ontario L6K 3E1

Attention: Matt Lurie  
Email: mlurie@organicgarage.com

with a copy to:

Miller Thomson LLP  
40 King Street West, Suite 5800  
Toronto, Ontario M5H 3S1

Attention: Asim Iqbal  
Email: aiqbal@millerthomson.com

- (c) in each case, with a further copy to the Proposal Trustee as follows:

KPMG Inc.  
333 Bay Street, #4600  
Toronto, Ontario M5H 2S5

Attention: Pritesh Patel  
Email: pritpatel@kpmg.ca

with a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

Attention: Kyle Plunkett  
Email: kplunkett@airdberlis.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

## **8.2 Time**

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

## **8.3 Survival**

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

## **8.4 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

## **8.5 Entire Agreement**

This Agreement and the Exhibits and Schedules attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendors and the Purchaser.



## **8.6 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

## **8.7 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

## **8.8 Assignment**

- (a) This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendors or the Proposal Trustee, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendors and the Proposal Trustee; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.
- (b) This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

## **8.9 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

## **8.10 Counterparts**

This Agreement may be executed electronically in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

## **8.11 Severability**

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

## **8.12 Proposal Trustee's Capacity**

In addition to all of the protections granted to the Proposal Trustee under the BIA or any order of the Court in this NOI Proceeding, the Vendors and the Purchaser acknowledge and agree that the Proposal Trustee, acting in its capacity as Proposal Trustee of the OG Group and not in its personal capacity, is not a signatory to this Agreement and will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Proposal Trustee.

*[Signature Page Follows]*

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

DocuSigned by:

By:                     Matt Lurie                      
Name: <sup>82274180C39A408</sup> Matt Lurie  
Title: President

I have authority to bind the Corporation.

**2412383 ONTARIO INC.**

DocuSigned by:

By:                     Matt Lurie                      
Name: <sup>82274180C39A408</sup> Matt Lurie  
Title: President

I have authority to bind the Corporation.

For the Purchaser:

**JUNCTION ROAD NOMINEE INC.**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

By: \_\_\_\_\_

Name: Matt Lurie

Title: President

I have authority to bind the Corporation.

**2412383 ONTARIO INC.**

By: \_\_\_\_\_

Name: Matt Lurie

Title: President

I have authority to bind the Corporation.

For the Purchaser:

**JUNCTION ROAD NOMINEE INC.**

By: David Goldstein

Name: David Goldstein

Title: Secretary & Treasurer

I have authority to bind the Corporation.

## **Appendix “F”**

## ASSET PURCHASE AGREEMENT

This Agreement is made as of the 14<sup>th</sup> day of April 2024 (the “**Effective Date**”)

### AMONG:

**ORGANIC GARAGE (CANADA) LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Company**”)

- and -

**2347018 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Bathurst LeaseCo**”)

- and -

**2507158 ONTARIO INC.**, a corporation incorporated pursuant to the laws of the Province of Ontario (“**Oakville LeaseCo**”); and collectively with the Company and Bathurst LeaseCo, the “**Vendors**”)

- and -

**MAAB GLOBAL LTD.**, a corporation incorporated pursuant to the laws of the Province of Ontario (the “**Purchaser**”)

### RECITALS:

A. On March 5, 2024 (the “**Filing Date**”), the Vendors, together with 2412383 Ontario Inc. (collectively, the “**OG Group**”), initiated proceedings (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3 (the “**BIA**”) by filing Notices of Intention to Make a Proposal under section 50.4(6) of the BIA. KPMG Inc. was appointed as the proposal trustee in the NOI Proceedings (in such capacity, the “**Proposal Trustee**”).

B. On March 14, 2024, the Vendors obtained an order (the “**Sale Process Order**”) of the Court which, *inter alia*, approved the implementation of a sale process for the assets and/or business of the OG Group (the “**Sale Process**”).

C. This Agreement is hereby submitted as a binding offer in the Sale Process to acquire the Purchased Assets (as defined herein).

D. In the event that this Agreement is selected as the Successful Bid (as defined herein) in the Sale Process, the Purchaser will acquire the Purchased Assets subject to, and in accordance with, the terms and conditions set forth in this Agreement and obtaining Court approval of the Transaction (as defined herein).

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties hereby acknowledge and agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Advances**” has the meaning set out in Section 3.4(a).

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act*, R.S.O. 1990, c.B-16.

“**Agreement**” means this asset purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Proposal Trustee, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order by the Court, in form and substance satisfactory to the Purchaser, acting reasonably, among other things, approving and authorizing this Agreement and the Transaction.

“**Assigned Contracts**” means the Contracts listed in **Schedule “B”**, as the same may be modified by the Purchaser prior to the Bid Deadline in accordance with the terms hereof (and including as such Assigned Contracts may be amended, restated, supplemented or otherwise modified from time to time).

“**Assignment and Assumption Agreements**” means the assignment and assumption agreements for the Assigned Contracts, in a form reasonably satisfactory to the Vendors and the Purchaser.

“**Assignment Order**” means an order of the Court assigning to the Purchaser the rights and obligations of the Vendors under the Assigned Contracts for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained, and which will include, if necessary, a mechanism for the resolution of any disputed Cure Costs.

“**Assumed Liabilities**” means: (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in **Schedule “C”**, as the same may be modified by the Purchaser prior to the Bid Deadline in accordance with the terms hereof; and (b) all Liabilities which relate to the Business under any Assigned Contracts, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

“**Authorization**” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

“**Bathurst Lease**” means the lease agreement dated as of March 14, 2013, between Bathurst LeaseCo, as tenant, and 8000 Bathurst Street Realty Inc., as landlord, relating to the premises located at 8020 Bathurst St. #1, Vaughan, Ontario.

“**BIA**” has the meaning set out in the recitals hereto.

“**Bid Deadline**” has the meaning set out in the Sale Process.

“**Business**” means the business conducted by the Company, being an organic and all natural grocery store.

“**Business Day**” means a day on which banks are open for business in Toronto, Ontario, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**Cash Purchase Price**” has the meaning set out in Section 3.3(b).

“**Claims**” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is ten (10) days after the date upon which the conditions set forth in Article 8 have been satisfied or waived, other than any conditions set forth in Article 8 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendors and the Purchaser in writing).

“**Closing Time**” means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Contracts**” means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which any Vendor is a party, or by which such entity is bound or in which such entity has, or will at Closing have, any rights or by which any of its property or assets are or may be affected.

“**Company**” means Organic Garage (Canada) Ltd., an incorporation incorporated pursuant to the laws of the Province of Ontario.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Cure Costs**” means, in respect of the Assigned Contracts, all amounts, costs, fees and expenses: (i) required to be paid to remedy all of the Vendors’ monetary defaults in relation to the Assigned Contracts, other than those arising by reason only of the Vendors’ bankruptcy, insolvency or failure to perform a non-monetary obligation; (ii) necessary to secure a counterparty’s or any other necessary Person’s consent to the assignment of the Assigned Contracts; or (iii) as may be required pursuant to the Approval and Vesting Order or the Assignment Order, as applicable, and which for greater certainty, may be an amount agreed to by the Purchaser and the counterparty to an Assigned Contract.

“**Deposit**” has the meaning set out in Section 3.3(a).

“**Deposit Charge**” has the meaning set out in Section 6.8(c).

“**Deposit Facility**” has the meaning set out in Section 3.4.

“**Discharge**” means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, the full, final, irrevocable, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

“**Excluded Contracts**” means all Contracts that are not Assigned Contracts.

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any and all employees who are employed by the Company in connection with the Business carried out at the Premises, including full-time, part-time and temporary employees and including employees who are on lay-off or other leaves of absence (including pregnancy leave, parental leave, disability leave, sickness leave, workers' compensation and other statutory leaves).

“**Encumbrance**” means any security interest, lien, Claim, charge, right of retention, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party (including any contractual rights such as purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C, 1985, c. E-15.

“**Filing Date**” has the meaning set out in the recitals hereto.

“**General Conveyance**” means a general conveyance evidencing the conveyance to the Purchaser of the Company’s interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

“**GST**” means all goods and services tax imposed under Part IX of the *Excise Tax Act*.

“**Income Tax Act**” means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

“**Intellectual Property**” means any or all of the following items, wherever located: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, recipes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the goodwill associated



with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored.

“**Interim Period**” means the period from the Effective Date to the Closing Time.

“**Leases**” means, together, the Bathurst Lease and the Oakville Lease.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**NOI Proceedings**” has the meaning set out in the recitals hereto.

“**Oakville Lease**” means the lease agreement dated as of April 1, 2016, between Oakville LeaseCo, as tenant, and Szeto Ping Hay and Others, as landlord, relating to the premises located at 579 Kerr St., Oakville, Ontario.

“**OG Group**” has the meaning set out in the recitals hereto.

“**Outside Date**” means 11:59 pm (Toronto time) on April 30, 2024, or such later date and time as the Vendors and the Purchaser may agree to in writing.

“**Parties**” means the Vendors and the Purchaser, and “**Party**” means any one of them.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“**Premises**” means the premises leased by the Vendors pursuant to the Leases.

“**Proposal Trustee**” has the meaning set out in the recitals hereto.

“**Proposal Trustee’s Certificate**” has the meaning set out in Section 8.1(e).

“**Purchased Assets**” has the meaning set out in Section 2.1.

“**Purchase Price**” has the meaning set out in Section 4.1.

“**Purchaser**” means MAAB Global Ltd, a corporation incorporated pursuant to the laws of Ontario.

“**Sale Process**” has the meaning set out in the recitals hereto.

“**Sale Process Order**” has the meaning set out in the recitals hereto.

“**Stalking Horse Bid**” has the meaning set out in Section 4.1(a).

“**Successful Bid**” has the meaning set out in the Sale Process.

“**Successful Bidder**” has the meaning set out in the Sale Process.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties.

“**Transaction**” the transaction contemplated by this Agreement whereby the Purchaser will acquire the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 General Construction**

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The expression “Section” or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

## **1.4 Extended Meanings**

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendors or the Purchaser, or any Affiliates thereof.

## **1.5 Currency**

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

## **1.6 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

## 1.7 Schedules & Amendments to Schedules

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

### **SCHEDULES**

Schedule A	-	Purchased Assets
Schedule B	-	Assigned Contracts
Schedule C	-	Specific Assumed Liabilities

The Parties acknowledge that as of the Effective Date, with the exception of Schedule “A”, the Schedules are not complete. The Purchaser shall be entitled to revise Schedules “B” and “C” from and after the Effective Date, provided that (i) in the case of Schedule B, such schedule must be completed and finalized by the Purchaser not less one day before service of the motion record in support of the application to Court for the Approval and Vesting Order and Assignment (the “**Service Deadline**”), and (ii) in the case of Schedule C, such schedule must be completed and finalized within one (1) Business Date of the Closing Date. Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

## **ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS**

### **2.1 Purchase and Sale of Purchased Assets**

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendors shall sell, assign, transfer and convey to the Purchaser pursuant to the Approval and Vesting Order and the Assignment Order, if applicable, and the Purchaser shall purchase and assume from the Vendors, all of the Vendors’ right, title and interest in, to and under the tangible and intangible assets, properties and rights listed in **Schedule “A”**, attached hereto (collectively, the “**Purchased Assets**”).

### **2.2 Transfer of Purchased Assets and Assumption of Liabilities**

Subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendors to the Purchaser on the Closing Date, and the Purchaser agrees to assume, discharge, perform and fulfill all of the Assumed Liabilities from and after the Closing Date. For certainty, the Purchaser is not assuming any Liabilities of the Vendors other than the Assumed Liabilities and shall have no liability to any Person therefor.

### **2.3 Assigned Contracts**

- (a) From and after the date hereof until the Service Deadline, the Purchaser shall be entitled to make additions, deletions and modifications to the Contracts classified as “Assigned Contracts”, in its sole discretion. For greater certainty: (i) any Assigned Contract subsequently designated by the Purchaser as an Excluded Contract after the date of this Agreement shall be deemed to no longer be an Assigned Contract and shall be an Excluded Contract; and (ii) any Contract subsequently designated by the Purchaser as an Assigned Contract after the date of this Agreement shall be deemed an Assigned Contract for the purposes of this Agreement.

- (b) Each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assigned Contracts, all consents and approvals required to assign the Assigned Contracts to the Purchaser.
- (c) To the extent that any Assigned Contract is not assignable without the consent or approval of the counterparty or any other Person, and such consent or approval has not been obtained prior to the Service Deadline, the Vendors will use commercially reasonable efforts to obtain an Assignment Order in respect of such Assigned Contract on or prior to the Closing Date; and if an Assignment Order is obtained in respect of such Assigned Contract, the Purchaser shall accept the assignment of such Assigned Contract on such terms.
- (d) To the extent that any Cure Costs are payable with respect to any Assigned Contract, the Purchaser shall be responsible for and shall pay all such Cure Costs, which shall be paid either directly to the applicable counterparty or to the Proposal Trustee, as may be agreed to by the parties, which Cure Costs shall be in addition to the Purchase Price. Unless the Parties otherwise agree, to the extent that any Cure Cost is payable with respect to any Assigned Contract, where such Assigned Contract is assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in accordance with the Assignment Order, and where such Assigned Contract is not assigned pursuant to an Assignment Order, the Purchaser shall pay such Cure Costs in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the Purchaser and such counterparty.
- (e) The Vendors shall be entitled to disclaim or seek to disclaim any Excluded Contracts.
- (f) It shall be the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all financial assurances, deposits or security, including without limitation any Cure Costs that may be required by Governmental Authorities or any third parties to permit the transfer of the Purchased Assets, including the Assigned Contracts, to the Purchaser.

## 2.4 Excluded Assets

Any assets not identified as Purchased Assets in Schedule "A" hereto shall be deemed to be excluded assets ("**Excluded Assets**") and shall not pass to the Purchaser.

Save and except as otherwise expressly set out herein, the Purchaser may, at its option, exclude any of the Purchased Assets from the Transaction at any time prior to Closing by delivering to the Vendors and the Proposal Trustee written notice of the same, whereupon such asset(s) shall become Excluded Assets and shall be deemed to no longer form part of the Purchased Assets, provided, however, that there shall be no reduction in the Purchase Price as a result of such exclusion.

## 2.5 Excluded Liabilities

Save and except for the Assumed Liabilities explicitly set out herein, if any, the Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Vendors (collectively, the "**Excluded Liabilities**"), which Excluded Liabilities include, but are not limited to, the following:

- (a) all Liabilities and Claims arising or accruing from the use of, or in any way related to, the Excluded Assets;
- (b) all Liabilities and Claims arising or accruing from the use of the Purchased Assets prior to the Closing; and

- (c) all Liabilities that arise out of or result from the employment or engagement by the Vendors of any of the Employees (unless otherwise imposed by Applicable Laws) and/or the termination or severance of such engagement or employment.

### **ARTICLE 3 EMPLOYEE MATTERS**

#### **3.1 Employment Offers**

The Purchaser intends to offer new employment to a majority of the Employees currently engaged in operates at the Premises, conditional upon Closing. The Purchaser shall offer employment to all or substantially all of the Employees who are identified to the Vendors in writing no later than two (2) Business Days after the date of the Approval and Vesting Order, such offers of employment to be on terms and conditions of employment which are substantially similar in the aggregate to those terms and conditions as applicable to such Employees as at the date that the Closing Date, provided that the Employees' service will only be recognized if and as required by applicable employment standards legislation.

#### **3.2 Employment Terminations**

Notwithstanding the foregoing, the Vendors shall terminate, in writing, the employment of all Employees at the Premises effective immediately prior to the Closing Time and shall provide proof of such written termination to the Purchaser as a deliverable at Closing.

### **ARTICLE 4 PURCHASE PRICE**

#### **4.1 Purchase Price**

The purchase price payable by the Purchaser for the Purchased Assets shall be [REDACTED] (the "**Purchase Price**") plus the Assumed Liabilities. The Purchase Price shall be satisfied in accordance with Section 4.3.

#### **4.2 Allocation of Purchase Price**

The Purchaser and the Vendors agree that the Purchase Price and the Assumed Liabilities shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as agreed between the Vendors and the Purchaser on Closing, acting reasonably.

#### **4.3 Satisfaction of Purchase Price**

The Purchaser shall pay and satisfy the Purchase Price in accordance with the following:

- (a) Deposit. Concurrently, with this Agreement, the Purchaser has deposited with the Proposal Trustee the amount of [REDACTED] to be dealt with as set out herein and credited against the Purchase Price at Closing (the "**Deposit**").
- (b) Cash Purchase Price. At the Closing Time, the Purchaser shall pay to the Proposal Trustee the balance of the Purchase Price, being [REDACTED] in immediately available funds (the "**Cash Purchase Price**").
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, which the Purchaser shall assume on the Closing Date, shall be satisfied by the Purchaser performing the Assumed Liabilities as and when they become due.

#### 4.4 Deposit Facility

The Purchaser hereby authorizes the Vendors to utilize the Deposit as a non-revolving loan (the “**Deposit Facility**”) to fund the general working capital requirements of the Vendors during the NOI Proceeding; provided that:

- (a) funds advanced from the Deposit Facility (“**Advances**”) shall be utilized in accordance with the cash flow projections filed with the Court in the NOI Proceeding;
- (b) any Advances shall be accounted for and reported to the Purchaser and the Proposal Trustee; and
- (c) prior to any Advance being funded under the Deposit Facility, the Vendors shall seek and obtain an order of the Court granting a priority charge (the “**Deposit Charge**”) in favour of the Purchaser against the assets, properties and undertaking of the Vendors. The Deposit Charge shall secure all of the obligations of the Vendors under the Deposit Facility and shall rank in priority to all other Encumbrances on the assets of the Vendors, subject only to an “administration charge” and “directors’ charge” granted by Court order in the NOI Proceedings.

#### 4.5 Transfer Taxes

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser’s acquisition of the Purchased Assets.
- (b) Except where the Vendors are required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendors will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner. If the Vendors are required under Applicable Law to pay any such Transfer Taxes which are not paid by the Purchaser at Closing, the Purchaser shall promptly reimburse the Vendors the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes.
- (c) At the Closing, the Company and the Purchaser shall, if applicable, jointly execute an election under Section 167 of the *Excise Tax Act* (Canada) to cause the sale of the Purchased Assets to take place on an HST-free basis under Part IX of the *Excise Tax Act* (Canada) and the Purchaser shall file such election with its HST return for the applicable reporting period in which the sale of the Purchased Assets takes place.
- (d) The Purchaser shall indemnify the Vendors for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendors may pay or for which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

### ARTICLE 5 SALE PROCESS, DEPOSIT REPAYMENT

#### 5.1 Sale Process and Deposit Repayment

- (a) The Vendors shall conduct the Sale Process in accordance with the terms of the Sale Process Order, including the minimum bid requirements that potential purchasers must meet, in the form of a binding offer by the Bid Deadline, in order to be considered a “Qualified Bid” in the Sale Process. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a superior bid can be obtained for the Purchased Assets, and that the offer represented by the Agreement may or may not be the Successful Bid for the Purchased Assets.
- (b) In the event that this Agreement is not the Successful Bid, this agreement shall be null and void and the Purchaser shall be entitled to repayment in full of the Deposit, including all Advances under the Deposit Facility, and all of the foregoing entitlements shall be paid to the Purchaser in priority to any and all Claims and interests that any other Person now has or may hereafter have against the property of the OG Group (the “**Deposit Repayment**”).

## ARTICLE 6 REPRESENTATIONS AND WARRANTIES

### 6.1 Representations and Warranties of the Vendors

The Vendors hereby represent and warrant as of the date hereof and as of the Closing Time as follows, and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendors are corporations incorporated and existing under the *Business Corporations Act* (Ontario), are in good standing under such act and have the power and authority to enter into, deliver and perform their obligations under this Agreement and to own or lease and to operate and use the Purchased Assets and to carry on the Business as now conducted by the Vendors.
- (b) Corporate Authorization. The execution, delivery and, subject to obtaining the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendors of this Agreement has been authorized by all necessary corporate action on the part of the Vendors.
- (c) Residency. The Vendors are not non-residents of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.

### 6.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendors as of the date hereof and as of the Closing Time, and acknowledges that the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the Ontario, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.

- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the organizational documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (f) Residency. The Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act*.

### 6.3 As is, Where is

- (a) The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances and permitted Encumbrances), the Assumed Liabilities and all related operations of the Vendors, and, based solely thereon, has determined to proceed with the Transaction contemplated by this Agreement. The representations and warranties of the Vendors shall merge on Closing and shall thereafter be of no further force and effect. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an “*as is, where is*” basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever.
- (b) The Purchaser has received a copy of any Assigned Contracts and is familiar with the terms, agreements, covenants, obligations and conditions therein. The Purchaser shall be solely responsible for negotiating with and attempting to obtain the agreement of any landlord to amend any Lease contemplated to be an Assigned Contract as may be required by the Purchaser to allow the Purchaser to use the respective Premises for any purpose. For greater certainty, such amendments are not a Closing delivery or a condition of Closing. For further certainty, the foregoing does not modify the condition to Closing that the Leases be assigned to the Purchaser.
- (c) The Purchaser acknowledges that the applicable Assigned Contract (that is, a lease) may be subject to permitted Encumbrances and the applicable Vendor shall not be responsible for rectifying any permitted Encumbrances prior to the Closing Date, other than as contemplated by this Agreement.
- (d) The remedies expressly set forth in this Agreement are the Purchaser’s sole and exclusive remedies relating to this Agreement, the Transaction contemplated hereby, the Purchased Assets, the Assumed Liabilities and all related operations of the Vendors or any of them.



- (e) The Purchaser acknowledges and agrees that the enforceability of this Agreement against the Vendors is subject to entry of the Approval and Vesting Order.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing**

Closing shall take place on the Closing Date effective as of the Closing Time electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### **7.2 Vendors' Closing Deliveries**

At or before the Closing Time, the Vendors shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (b) a true copy of the Assignment Order, if applicable, as issued and entered by the Court, or copies of all signed consents required in connection with the Assigned Contracts;
- (c) the tax elections contemplated by Section 4.5, as applicable;
- (d) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the applicable Vendor;
- (e) the General Conveyance, duly executed by the Vendors;
- (f) a specific assignment of any Intellectual Property, as the Purchaser may require;
- (g) proof of the written termination by the Vendors of the employment of all of their Employees located at the Premises prior to the Closing Time;
- (h) all usernames, passwords, passcodes and other login information related to any internet domain names, websites, telephone and facsimile numbers, email addresses and servers, and social media accounts used by the Company, along with copies of any contract, agreement or understanding related thereto
- (i) a certificate of an officer of each Vendor dated as of the Closing Date confirming that all of the representations and warranties of the Vendors contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendors have performed in all material respects the covenants to be performed by them prior to the Closing Time; and
- (j) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

### **7.3 Purchaser's Closing Deliveries**

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors (or to the Proposal Trustee, as applicable), the following:

- (a) payment of the Cash Purchase Price in immediately available funds;
- (b) the tax elections contemplated by Section 4.5, as applicable;
- (c) the tax indemnity contemplated by Section 4.5;
- (d) the payment of all Cure Costs to be paid by the Purchaser pursuant to Section 2.3 to the Vendors or the Proposal Trustee, or evidence that such Cure Costs have been or will be paid directly to the applicable counterparty;
- (e) the General Conveyance, duly executed by the Purchaser;
- (f) the Assignment and Assumption Agreements for the Assigned Contracts, duly executed by the Purchaser;
- (g) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (h) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## ARTICLE 8 CONDITIONS OF CLOSING

### 8.1 Conditions Precedent in favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (b) No Order. No Applicable Law and no judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction; and
- (c) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (d) Proposal Trustee's Certificate. The Proposal Trustee shall have provided an executed certificate of the Proposal Trustee substantially in the form attached to the Approval and Vesting Order (the "**Proposal Trustee's Certificate**") confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendors.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in Section 8.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

## **8.2 Conditions Precedent in favour of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Successful Bid. This Agreement shall have been designated as the Successful Bid in accordance with the terms of the Sale Process.
- (b) Assignment Order/Assignment of Leases. The Court shall have issued and entered the Assignment Order which Assignment Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably; or, the Purchaser shall be otherwise satisfied, in its sole discretion, with the assignment of the Leases and the status of any required consent.
- (c) Vendors' Deliverables. The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.2.
- (d) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 6.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (e) No Breach of Covenants. The Vendors shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 8.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set forth in this Section 8.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendors, with a copy to the Proposal Trustee, to terminate this Agreement.

## **8.3 Conditions Precedent in favour of the Vendors**

The obligation of the Vendors to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 7.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 6.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date, or (ii) if made as of a date specified therein, as of such date.

- (c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 8.3 may be waived by the Vendors in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in this Section 8.3 is not satisfied or performed on or prior to the Outside Date, the Vendors may elect on written notice to the Purchaser to terminate the Agreement.

#### **8.4 Proposal Trustee's Certificate**

The Parties acknowledge and agree that the Proposal Trustee shall be entitled to deliver to the Purchaser, and file with the Court, the executed Proposal Trustee's Certificate without independent investigation, upon receiving written confirmation from the Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Proposal Trustee shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Proposal Trustee may deliver the executed Proposal Trustee's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Proposal Trustee's written confirmation that all such funds have been received, the Proposal Trustee's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

### **ARTICLE 9 TERMINATION**

#### **9.1 Grounds for Termination**

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors (with the consent of the Proposal Trustee) and the Purchaser;
- (b) by the Purchaser upon written notice to the Vendors if there has been a material breach by the Vendors of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Purchaser notified the Vendors of such breach;
- (c) by the Vendors (with the consent of the Proposal Trustee) upon written notice to the Purchaser if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendors and, if the breach is curable, such breach has not been cured within five (5) Business Days following the date upon which the Vendors notified the Purchaser of such breach;
- (d) by the Vendors (with the consent of the Proposal Trustee) or the Purchaser upon written notice to the other Parties if the Closing has not occurred on or prior to the Outside Date; provided that the failure to close by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement.

#### **9.2 Effect of Termination.**

If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of: (a) this Section 9.2; and (b) Section 5.1 with respect to the Purchaser's entitlement to the Deposit Repayment. Notwithstanding the foregoing, if the Transaction is terminated solely as a result of the Vendors' failure to perform any of their obligations under this Agreement, then the Deposit shall be repaid to the Purchaser in full, without deduction or setoff. If the Transaction is terminated solely as a result of the Purchaser's failure to perform any of its obligations under this Agreement, the Deposit and any other payments made by the Purchaser will be forfeited to the Vendors on account of its liquidated damages, and the Purchased Assets may be resold by the Vendors; provided, however, that in no circumstance will any termination or failure to close the Transaction compromise any amount owing to the Purchaser under the Deposit Facility.

### **10.1 Notice**

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

MAAB Global Ltd.

Attention: Bruce Bent  
Email: brpbent32@gmail.com

with a copy to:

Loopstra Nixon LLP  
130 Adelaide Street West, Suite 2800  
Toronto, Ontario M5H 3P5

Attention: Graham Phoenix  
Email: gphoenix@ln.law

- (b) in the case of the Vendors, as follows:

c/o Organic Garage (Canada) Ltd.  
579 Kerr Street  
Oakville, Ontario L6K 3E1

Attention: Matt Lurie  
Email: mlurie@organicgarage.com

with a copy to:

Miller Thomson LLP  
40 King Street West, Suite 5800  
Toronto, Ontario M5H 3S1

Attention: Asim Iqbal  
Email: aiqbal@millerthomson.com

- (c) in each case, with a further copy to the Proposal Trustee as follows:

KPMG Inc.  
333 Bay Street, #4600

Toronto, Ontario M5H 2S5

Attention: Pritesh Patel  
Email: pritpatel@kpmg.ca

with a copy to:

Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

Attention: Kyle Plunkett  
Email: kplunkett@airdberlis.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

## **10.2 Time**

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

## **10.3 Survival**

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

## **10.4 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

## **10.5 Entire Agreement**

This Agreement and the Exhibits and Schedules attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendors and the Purchaser.

## **10.6 Paramountcy**

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

## **10.7 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

## **10.8 Assignment**

- (a) This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendors or the Proposal Trustee, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendors and the Proposal Trustee; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.
- (b) This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

## **10.9 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

## **10.10 Counterparts**

This Agreement may be executed electronically in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

## **10.11 Severability**

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

## **10.12 Proposal Trustee's Capacity**

In addition to all of the protections granted to the Proposal Trustee under the BIA or any order of the Court in this NOI Proceeding, the Vendors and the Purchaser acknowledge and agree that the Proposal Trustee, acting in its capacity as Proposal Trustee of the OG Group and not in its personal capacity, is not a signatory to this Agreement and will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Proposal Trustee.

*[Signature Page Follows]*

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

For the Vendors:

**ORGANIC GARAGE (CANADA) LTD.,**

DocuSigned by:

By: Matt Lurie  
822F1FB3C99A409...

Name: Matt Lurie

Title: President

I have authority to bind the Corporation.

**2347018 ONTARIO INC.**

DocuSigned by:

By: Matt Lurie  
822F1FB3C99A409...

Name: Matt Lurie

Title: President

I have authority to bind the Corporation.

**2507158 ONTARIO INC.**

DocuSigned by:

By: Matt Lurie  
822F1FB3C99A409...

Name: Matt Lurie

Title: President

I have authority to bind the Corporation.

For the Purchaser:

**MAAB GLOBAL LTD.**

DocuSigned by:

By: Bruce Bent  
40E26FDD40CC489...

Name: Bruce Bent

Title: Authorized Signing Authority

I have authority to bind the Corporation.



**SCHEDULE "A"**  
**PURCHASED ASSETS**

1. All of the Vendors' right, title and interest in and to all equipment of the Vendors used in connection with the operation of the Business at the Premises, including, without limitation, furniture, display equipment, refrigeration equipment, shelving and storage, deli cutters and slicers, commercial scales, prepared food department supplies and equipment and appliances.
2. All Intellectual Property owned by the Vendors and primarily used in connection with the Business, including but not limited to:
  1. any point of sale level data relating to the operation of the Business at the Premises; and
  2. all marketing and branding materials, in any form. All right, title and interest in and to all of Vendors' websites, domains, hosting services, email services, any social media accounts and all other active or inactive online profiles.
3. All of the Vendors' right, title and interest in and to all inventory of the Vendors at the Premises.
4. The Assigned Contracts

**SCHEDULE "B"**  
**ASSIGNED CONTRACTS**

1. The Leases.
2. The license agreement between Pure Spirits Inc., as licensee, and Organic Garage (Canada) Ltd., as licensor, effective November 10, 2023.
3. Any contract for webhosting, data storage and management, email services, and telecommunications services.

**SCHEDULE "C"**  
**SPECIFIC ASSUMED LIABILITIES**

*No liabilities other than as identified in the Agreement shall be assumed.*

56254057.8

# **Appendix “G”**

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD, 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**AFFIDAVIT OF PRITESH PATEL**  
(sworn April 23, 2024)

I, Pritesh Patel, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Senior Vice President of KPMG Inc. (“**KPMG**”), and, as such, I have knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and whereso stated I verily believe it to be true.
2. On March 5, 2024 (the “**Filing Date**”), Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Debtors**”) each filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the Bankruptcy and Insolvency Act (Canada) R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). KPMG Inc. (“**KPMG**”) was appointed as proposal trustee (in such capacity, the “**Proposal Trustee**”) in each of the Debtors’ NOI proceedings.
3. On March 14, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Order approving, among other things, the procedural consolidation of the proposal proceedings in respect of each of the Debtors to continue under Estate No. 31-3051650.
4. Before and after the Filing Date, the Proposal Trustee has provided services and incurred disbursements, in the amount of \$170,213.12 (excluding HST) in the period from February 18, 2024 to April 19, 2024 (the “**Period**”). Attached hereto and marked as Exhibit “**A**” to this my Affidavit is a summary of all invoices rendered by the Proposal Trustee during the Period (the “**Accounts**”).

5. True copies of the Accounts, which have been redacted for privilege where appropriate, are attached as Exhibit “**B**” to this my Affidavit. The Accounts include a fair and accurate description of the services provided along with hours and applicable rates claimed by the Proposal Trustee.
6. KPMG, in its capacity as Proposal Trustee, previously filed two reports with the Court (the “**Prior Reports**”). In addition, and contemporaneously with the filing of this Affidavit, the Proposal Trustee is filing its third report to the Court (the “**Second Report**” and together with the Prior Report, the “**Reports**”). Details of the activities undertaken and services provided by the Proposal Trustee in connection with the administration of the NOI proceedings are described in the Reports.
7. In the course of performing its duties, statutory or otherwise, the Proposal Trustee’s staff has expended a total of 264.4 hours during the Period. Attached as Exhibit “**C**” to this my Affidavit is a schedule setting out a summary of the individual staff involved in the administration of the NOI proceedings and the hours and applicable rates claimed by the Proposal for the Period. The average hourly rate billed by the Proposal Trustee during the Period is \$570.49.
8. The Proposal Trustee requests that the Court approve its Accounts for the Period, in the total amount of \$170,213.12 (excluding HST) for services rendered and recorded during the Period.
9. Aird & Berlis LLP (“**Aird & Berlis**”), as independent legal counsel to the Proposal Trustee, has also rendered services and incurred disbursements throughout these proceedings in a manner consistent with the instructions of the Proposal Trustee and have prepared an affidavit with respect to the services rendered for the period from February 15, 2024 to April 19, 2024. The Proposal Trustee has reviewed the invoices rendered by Aird & Berlis during this period and is satisfied that their activities were consistent with the instructions of the Proposal Trustee.
10. The Proposal Trustee’s fees and disbursements, and those of its counsel, for the period from April 20, 2024 to the date upon the completion of these NOI proceedings will be calculated and billed at the standard rates currently in effect. Barring any delays, disputes or unforeseen circumstances in connection with this matter, including the within motion, I estimate that those fees and disbursements will not exceed \$120,000 (excluding applicable taxes), including the fees and disbursements of Aird & Berlis (the “**Remaining Fees and Disbursements**”).
11. To the best of my knowledge, the rates charged by the Proposal Trustee and Aird & Berlis are comparable to the rates charged for the provision of similar services by other accounting and law firms in the Greater Toronto Area.

12. I verily believe that the fees and disbursements incurred by the Proposal Trustee and Aird & Berlis are fair and reasonable in the circumstances.
  
13. This Affidavit is sworn in connection with a motion for an Order of the Court to, among other things, approve the fees and disbursements of the Proposal Trustee and Aird & Berlis and for no other or improper purpose.

SWORN before me via videoconference with PRITESH PATEL located at the City of Toronto, in the province of Ontario before me at the City of Toronto in the Province of Ontario this 23rd day of April, 2024, in accordance with O. Reg. 431/20, Administering Oath of Declaration Remotely.



---

A Commissioner, etc.  
Adrienne Ho (LSO # 68439N)



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**PRITESH PATEL**

This is Exhibit "A" referred to in the Affidavit of Pritesh Patel  
sworn by Pritesh Patel located in the City of Toronto in the Province of Ontario  
before me at the City of Toronto, in the Province of Ontario  
this 23rd day of April, 2024 in accordance with O. Reg. 431/20  
*Administering Oath or Declaration Remotely*



---

A Commissioner, etc.  
Adrienne Ho (LSO # 68439N)



**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd. et al**  
**Statement of accounts**

**Exhibit A**

<b>Invoice #</b>	<b>Period</b>	<b>Fees</b>	<b>Disbursements</b>	<b>Sub total</b>	<b>HST</b>	<b>Total</b>	
8005308477	February 18 to March 8, 2024	\$ 61,031.25	\$ 3,051.56	\$ 64,082.81	\$ 8,330.77	\$ 72,413.58	
8005330372	March 9 to March 22, 2024	\$ 28,956.25	\$ 11,281.55	\$ 40,237.80	\$ 5,230.91	\$ 45,468.71	
8005357177	March 23 to April 5, 2024	\$ 28,687.50	\$ 1,434.38	\$ 30,121.88	\$ 3,915.84	\$ 34,037.72	
8005384547	April 6 to April 19, 2024	\$ 32,162.50	\$ 3,608.13	\$ 35,770.63	\$ 4,650.18	\$ 40,420.81	
		<b>Total</b>	<b>\$ 150,837.50</b>	<b>\$ 19,375.62</b>	<b>\$ 170,213.12</b>	<b>\$ 22,127.70</b>	<b>\$ 192,340.81</b>

This is Exhibit "B" referred to in the Affidavit of Pritesh Patel  
sworn by Pritesh Patel located in the City of Toronto in the Province of Ontario  
before me at the City of Toronto, in the Province of Ontario  
this 23rd day of April, 2024 in accordance with O. Reg. 431/20  
Administering Oath or Declaration Remotely



---

A Commissioner, etc.  
Adrienne Ho (LSO # 68439N)



**KPMG LLP**  
 Suite 4600 Bay Adelaide Centre  
 333 Bay Street  
 Toronto, ON M5H 2S5

**Payment Address:**  
 KPMG LLP, T4348  
 P.O. Box 4348, Station A  
 Toronto, ON M5W 7A6

March 14, 2024

Organic Garage (Canada) Ltd.  
 579 Kerr Street  
 Oakville, ON L6K 3E1  
 ATTN: Matt Lurie  
 President

Invoice : 8005308477  
 Reference : 2001915928  
 Client : 1005455619  
 Contact : Pritesh Patel  
 Telephone : (416) 468-7923  
 Email : pritpatel@kpmg.ca

mlurie@organicgarage.com

For professional service rendered from February 18 to March 8, 2024 in our capacity as Proposal Trustee as part of the Company's NOI Proceedings.

Our Fee	\$	61,031.25	CAD
Technology and Support Charge		3,051.56	
	\$	<b>64,082.81</b>	CAD
HST		8,330.77	
Amount Due	\$	<b>72,413.58</b>	CAD

Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

**CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6**  
**Please return remittance advice with cheque.**

**CAD Wire Payments:** Beneficiary: KPMG LLP  
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank # 004, Transit # 10252,  
 Account # 0938281, Swift Code TDOMCATTOR  
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

**Invoice No:** 8005308477    **Reference:** 2001915928    **Client:** 1005455619    **Amount:** \$ 72,413.58    CAD

**Organic Garage (Canada) Ltd.**  
**Professional Fees Summary**  
**For the period from February 18 to March 8, 2024**

<b>Name</b>	<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Fee (\$)</b>
Pritesh Patel	Partner	\$ 750	43.25	\$ 32,437.50
Tahreem Fatima	Manager	475	50.25	23,868.75
Broderick Lomax	Sr. Consultant	350	7.45	2,607.50
Annette Chopowick	Technician	275	5.75	1,581.25
Angelina Hung	Technician	275	1.95	536.25
<b>Total Professional Fees</b>			<b>108.65</b>	<b>\$ 61,031.25</b>
Technology and support charges				3,051.56
<b>Subtotal</b>				<b>\$ 64,082.81</b>
HST				8,330.77
<b>Total Amount Due</b>				<b>\$ 72,413.58</b>

**ORAGIN Foods Inc.**  
**Time Keeper Details**  
**For the period from February 18 to March 8, 2024**

Work Date	Name	Time Narrative	Hours	Rate	Fee (\$)
02/18/2024	Patel, Pritesh	Call with Miller Thomson, Aird & Berlis re filing strategy and next steps.	1.00	\$ 750	\$ 750.00
02/20/2024	Fatima, Tahreem	Discussion with P. Patel re file overview; review of company's public documents; preparation of information request list.	2.25	\$ 475	\$ 1,068.75
02/20/2024	Hung, Angelina	Attend to banking matter.	0.50	\$ 275	\$ 137.50
02/21/2024	Fatima, Tahreem	Finalized and e-mailed IRL; internal discussion re NOI filing docs; begin drafting the first report.	1.50	\$ 475	\$ 712.50
02/22/2024	Fatima, Tahreem	Review of cashflow provided by management and e-mail to P. Patel re CF notes; re-format of the CF to filing format.	1.75	\$ 475	\$ 831.25
02/22/2024	Patel, Pritesh	Update call with M.Lurie, A.Iqbal on status and next steps; call with M.Lurie on info requirements; email to OG on info request list; review of comments on CF from T.Fatima.	2.00	\$ 750	\$ 1,500.00
02/23/2024	Fatima, Tahreem	Update of CF for updated info sent by management.	0.50	\$ 475	\$ 237.50
02/23/2024	Patel, Pritesh	Update call with counsels re filing strategy; update call with M.Lurie.	0.75	\$ 750	\$ 562.50
02/25/2024	Fatima, Tahreem	Call with M. Lurie (OG) and P. Patel re CF and edits re same; update of cashflow forecast and e-mail to P. Patel.	3.50	\$ 475	\$ 1,662.50
02/25/2024	Patel, Pritesh	Call with T.Fatima, client to review draft cash flow and underlying assumptions; review of updated cash flow and comments to T.Fatima on same.	1.50	\$ 750	\$ 1,125.00
02/26/2024	Fatima, Tahreem	Various updates of cashflow for additional support provided by management and review comments; review of utilities bills to understand timing; e-mail to M. Lurie re: overview of cashflow; review of AIF for EIS info and entity info; call with B. Lomax re file and next steps; calls with P. Patel re cashflow; review of ECS dataroom and summary re same.	4.75	\$ 475	\$ 2,256.25
02/26/2024	Patel, Pritesh	Review of updated cash flows, info needed for NOI filings; call with A&B re timing for filing, SISP and next steps; calls with company counsel re filing, discussions with stalking horse bidder and next steps.	2.50	\$ 750	\$ 1,875.00
02/27/2024	Fatima, Tahreem	D&O charge analysis, review of the EIS forms and provide to A.Chopowick for filing; internal discussions re filing and next steps.	2.00	\$ 475	\$ 950.00
02/27/2024	Patel, Pritesh	Call with company counsel re timing for filing, service, cash flows; update call with A&B on same; discussion with T.Fatima on status; review of info from client re cash flow, NOI materials.	1.50	\$ 750	\$ 1,125.00
02/27/2024	Chopowick, Annette	Discuss upcoming e-filing requirements with T.Fatima; Set up five estates in Ascend in preparation for initial e-filings.	1.50	\$ 275	\$ 412.50
02/27/2024	Hung, Angelina	Attend to banking matter.	1.20	\$ 275	\$ 330.00
02/28/2024	Fatima, Tahreem	Clean-up and formatting of the creditor's listing in preparation of the filing; review AIF and MD&A for purposes of drafting the teaser; continue drafting the First Report.	2.25	\$ 475	\$ 1,068.75
02/28/2024	Patel, Pritesh	Review and comments on SISP, KERP; email to counsel on same.	1.50	\$ 750	\$ 1,125.00
02/28/2024	Chopowick, Annette	Update information for estates in Ascend.	0.25	\$ 275	\$ 68.75
02/29/2024	Fatima, Tahreem	Continued update of the creditors' list for completeness; questions to M.Lurie re same; continued drafting of the First Report; discussions with Annette and P. Patel re filing.	3.25	\$ 475	\$ 1,543.75
02/29/2024	Patel, Pritesh	Review of updated drafts of KERP, SISP; discussion with T.Fatima re status of materials; call with company counsel re SISP, timing for filing.	1.00	\$ 750	\$ 750.00
02/29/2024	Hung, Angelina	Attend to banking matter.	0.25	\$ 275	\$ 68.75
03/01/2024	Fatima, Tahreem	Drafting of the teaser; internal discussions re filing; review of NOI forms and communicated updates re same; e-mail of NOI forms to MT and M.Lurie.	3.50	\$ 475	\$ 1,662.50
03/01/2024	Patel, Pritesh	Review and comments on filing docs; update call with M.Lurie re SISP; calls with A&B, MT re SISP and next steps; review of materials from MT and comments on same.	2.00	\$ 750	\$ 1,500.00
03/01/2024	Chopowick, Annette	Format and upload creditor lists to Ascend for all five estates; prepare draft documents for each estate; various edits throughout the day to addresses and preparing revised draft documents for each estate.	1.25	\$ 275	\$ 343.75
03/01/2024	Lomax, Broderick	Set up of NOI creditorlinks website, email, toll-free number. Drafting letter to creditors, EIS, resolutions. Correspondence with IT team re set-up; internal discussions re: NOI process.	2.50	\$ 350	\$ 875.00
03/02/2024	Patel, Pritesh	Review and edits to teaser, email to T.Fatima on same.	1.00	\$ 750	\$ 750.00
03/03/2024	Patel, Pritesh	Review and edits to draft First Report.	4.00	\$ 750	\$ 3,000.00
03/04/2024	Fatima, Tahreem	Update of the CF forecast for updates by management; emails re questions on same; review of NDA template; various internal discussions re NOI filing and set up of VDR; update of the First Report; review of Affidavit to ensure consistency.	5.75	\$ 475	\$ 2,731.25
03/04/2024	Patel, Pritesh	Update call with MT and OG re status of NOI materials; review and comment on updated CF; review and comments re stalking horse agreement; update call with T.Fatima re First Report.	3.00	\$ 750	\$ 2,250.00
03/05/2024	Fatima, Tahreem	Continued updates to the First Report; update of cash-flow; update of D&O liability calc; review of form of NDA and e-mail to A&B for review; finalize NOI filing and internal coordination re same; discussion with P. Patel on NOI finalization and next steps on First Report and sales process.	5.50	\$ 475	\$ 2,612.50
03/05/2024	Patel, Pritesh	Coordinate filing of NOIs; various calls/emails with KPMG team on same; calls with company counsel re court date, status of stalking horse APA; edits to proposed employee, supplier communications; review and comments on APA; review and comments on proposed Order; continue review and edits to First Report; various emails/calls with A&B re filing materials, APA, SISP and next steps; review and comments re proposed D&O Charge.	8.00	\$ 750	\$ 6,000.00

03/05/2024	Chopowick, Annette	Revise and finalize e-filing documentation; e-file 5 estates; e-mail to OSB to request certificates as soon as possible; receipt of certificates.	2.00	\$	275	\$	550.00
03/05/2024	Lomax, Broderick	Set up of dataroom; website updates; review of contract from VDR provider and applicable correspondence.	1.20	\$	350	\$	420.00
03/06/2024	Fatima, Tahreem	Continued updates to the First Report; update of the cash-flow and discussion with P. Patel re: the cash-flow; e-mail to M. Lurie for review of cash-flow; preparation of e-mail template for email to interested buyers; co-ordination with B. Lomax with respect to mailing of interested buyers; review of notice cover letters; e-mails with teasers to potential interested parties.	5.50	\$	475	\$	2,612.50
03/06/2024	Patel, Pritesh	Compile potential buyer list for SSP; review and comments on updated drafts of SISP; continue review and edits to First Report; review of updated cash flow forecast; update call with M.Lurie.	6.00	\$	750	\$	4,500.00
03/06/2024	Lomax, Broderick	Drafting notice to creditors; preparing SSP ad; dataroom set up and correspondence re: same.	2.00	\$	350	\$	700.00
03/07/2024	Fatima, Tahreem	Review of dataroom index; update of First Report and email to AB team; coordination with interested parties re signed NDA; prepare letter to suppliers; internal discussions re NOI steps and SSP.	4.50	\$	475	\$	2,137.50
03/07/2024	Patel, Pritesh	Review and edits to First Report for circulation to counsel; update call with M.Lurie re vendor issues; correspondence with Company's counsel re status of court materials and next steps; discussions with T.Fatima re SSP.	3.50	\$	750	\$	2,625.00
03/07/2024	Lomax, Broderick	Updating dataroom; reviewing responses from interested party re SSP.	1.00	\$	350	\$	350.00
03/08/2024	Fatima, Tahreem	Update Notice to creditors and coordinate internally re same for mailout; call with an interested party; internal update call; review dataroom and email to M. Lurie re same; respond to a creditor inquiries; prepare overview of stores for dataroom; compile appendices for the first report including obtaining signature from M. Lurie on CF; finalize supplier post filing payments letter.	3.75	\$	475	\$	1,781.25
03/08/2024	Patel, Pritesh	Calls with KPMG team re creditor notices, mailings, VDR; call with potential interested party re SSP; calls with M.Lurie re vendor, landlord issues; call with Danbury re site visits, appraisal; emails with MT and A&B re filing materials; review and comments on Affidavit, APA; call with MT and A&B re timing for service of materials.	4.00	\$	750	\$	3,000.00
03/08/2024	Chopowick, Annette	Finalize Notice to Creditors packages for each estate and arrange for mailing to be sent.	0.75	\$	275	\$	206.25
03/08/2024	Lomax, Broderick	Updating VDR with documents; providing access to interested parties.	0.75	\$	350	\$	262.50
<b>Subtotal</b>			<b>108.65</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>61,031.25</b>



**KPMG LLP**  
 Suite 4600 Bay Adelaide Centre  
 333 Bay Street  
 Toronto, ON M5H 2S5

**Payment Address:**  
 KPMG LLP, T4348  
 P.O. Box 4348, Station A  
 Toronto, ON M5W 7A6

March 26, 2024

Organic Garage (Canada) Ltd.  
 579 Kerr Street  
 Oakville, ON L6K 3E1  
 ATTN: Matt Lurie  
 President

Invoice : 8005330372  
 Reference : 2001915928  
 Client : 1005455619  
 Contact : Pritesh Patel  
 Telephone : (416) 468-7923  
 Email : pritpatel@kpmg.ca

mlurie@organicgarage.com

For professional service rendered from March 9 to March 22, 2024 in our capacity as Proposal Trustee as part of the Company's NOI Proceedings.

Our Fee	\$	28,956.25	CAD	
Technology and Support Charge		1,447.81		
Disbursements		9,833.74		
		<b>\$ 40,237.80</b>		CAD
HST		5,230.91		
		<b>\$ 45,468.71</b>		CAD

Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

✂

**CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6**  
**Please return remittance advice with cheque.**

**CAD Wire Payments:** Beneficiary: KPMG LLP  
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank # 004, Transit # 10252,  
 Account # 0938281, Swift Code TDOMCATTOR  
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

**Invoice No:** 8005330372    **Reference:** 2001915928    **Client:** 1005455619    **Amount:** \$ 45,468.71    CAD

**Organic Garage (Canada) Ltd.**  
**Professional Fees Summary**  
**For the period from March 9 to March 22, 2024**

<b>Name</b>	<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Fee (\$)</b>
Pritesh Patel	Partner	\$ 750	20.25	\$ 15,187.50
Tahreem Fatima	Manager	475	23.00	10,925.00
Broderick Lomax	Sr. Consultant	350	4.00	1,400.00
Annette Chopowick	Technician	275	5.25	1,443.75
<b>Total Professional Fees</b>			<b>52.50</b>	<b>\$ 28,956.25</b>
Technology and support charges				1,447.81
Disbursements (Newspaper Ad, Appraisal Report)				9,833.74
<b>Subtotal</b>				<b>\$ 40,237.80</b>
HST				5,230.91
<b>Total Amount Due</b>				<b>\$ 45,468.71</b>



**ORAGIN Foods Inc.**  
**Time Keeper Details**  
**For the period from March 9 to March 22, 2024**

Work Date	Name	Time Narrative	Hours	Rate	Fee (\$)
03/09/2024	Patel, Pritesh	Review comments on report from A&B, updates on same; circulate updated report to A&B; drafting of reports to accompany cash flow.	1.50	\$ 750	\$ 1,125.00
03/10/2024	Patel, Pritesh	Further review and edits to First Report, circulate updated draft to counsels; review of comments on report from MT.	2.00	\$ 750	\$ 1,500.00
03/11/2024	Fatima, Tahreem	Reviewed newspaper ad and coordinated with Annette for quote and timing; compiled appendices to the First Report; updated and finalized the First Report; set up call with interested party; responded to creditor inquiry through OG mailbox.	3.00	\$ 475	\$ 1,425.00
03/11/2024	Patel, Pritesh	Update call with counsels; various emails with MT and A&B re deposit; emails with T.Fatima re finalizing report for service.	1.50	\$ 750	\$ 1,125.00
03/11/2024	Chopowick, Annette	Confirmation of mailing completed on March 8; emails with T Fatima regarding cash flow filings and consolidation order; email to Globe & Mail to request drafting of proof of ad, price quote and deadline for approval to run ad on Monday, March 18; forward proof of ad to T Fatima for review and approval (by March 14 in order to place ad on Mar 18); account for expected funds;	1.00	\$ 275	\$ 275.00
03/12/2024	Fatima, Tahreem	Call with an interested buyer re opportunity; prep for same; follow-ups on NDAs; format and upload of asset listing.	1.00	\$ 475	\$ 475.00
03/12/2024	Patel, Pritesh	Call with potential interested party; various emails with counsel re noteholder email and proposed response; update call with M.Lurie re post-filing orders, rent payment, etc.	1.75	\$ 750	\$ 1,312.50
03/12/2024	Lomax, Broderick	Website updates.	0.25	\$ 350	\$ 87.50
03/13/2024	Fatima, Tahreem	Review of newspaper ad and discussion with A.Chopowick re same; response to creditor inquiry.	0.50	\$ 475	\$ 237.50
03/13/2024	Patel, Pritesh	Various emails with counsel re emails from noteholder counsel.	0.50	\$ 750	\$ 375.00
03/13/2024	Chopowick, Annette	Discussion with T Fatima re proof of sale ad received from Globe & Mail; email to Globe & Mail to request edits to proof of ad.	0.25	\$ 275	\$ 68.75
03/13/2024	Lomax, Broderick	Website updates.	0.25	\$ 350	\$ 87.50
03/14/2024	Fatima, Tahreem	Call with interested party and preparation for same; court hearing for sales process (morning and afternoon session); debrief and discussion with A&B and Miller Thompson re morning session of court and in preparation of afternoon session; preparation of cash position summary for A&B; review and coordination of execution for two NDAs.	3.50	\$ 475	\$ 1,662.50
03/14/2024	Patel, Pritesh	Review of affidavit filed by F.Tayar; call with counsel in advance of hearing; multiple court attendances for SSP Order; calls with A&B and MT; call with interested party re SSP; review of markup on NDA, email with T.Fatima on same; emails with KPMG team re newspaper advertisement, cash flow filing, VDR updates, etc.	4.25	\$ 750	\$ 3,187.50
03/14/2024	Chopowick, Annette	Set up cash flow information for main estate in Ascend in preparation for e-filing cash flow and reports; e-file consolidation order under each estate.	1.00	\$ 275	\$ 275.00
03/14/2024	Lomax, Broderick	Dataroom updates for SSP.	0.25	\$ 350	\$ 87.50
03/15/2024	Fatima, Tahreem	Upload of store asset listing; email to MT re form of APA; upload template APA and bidding procedures to the data room; notified interested parties of same; additional adhoc emails re NDA, requests; responding to creditor inquiries.	1.50	\$ 475	\$ 712.50
03/15/2024	Patel, Pritesh	Various emails with KPMG team re filing of cash flows, SSP; email with interested party re SSP.	0.50	\$ 750	\$ 375.00
03/15/2024	Chopowick, Annette	Email to P Patel re style of cause for Forms 29 and 30; update Ascend estates to include cash flow details for Forms 29 and 30 to be filed today; e-file extension order for each estate; email to Globe & Mail to approve ad to appear in Tuesday's edition; call from creditor re NOI process; Revision to Forms 29 and 30 style of cause in preparation for e-filing; other file matters; e-filing cashflows and Forms 29 and 30 with OSB.	2.25	\$ 275	\$ 618.75
03/15/2024	Lomax, Broderick	Website updates.	0.25	\$ 350	\$ 87.50
03/17/2024	Patel, Pritesh	Review of markup on NDA from interested party, email to T.Fatima on same.	0.25	\$ 750	\$ 187.50
03/18/2024	Fatima, Tahreem	Prepare CF variance analysis for prior 2 week period; responses to various creditors; correspondence re: interested buyer requests.	2.50	\$ 475	\$ 1,187.50
03/18/2024	Patel, Pritesh	Review of comments on NDA; various emails with counsel re status of proceedings, next steps.	1.50	\$ 750	\$ 1,125.00
03/19/2024	Fatima, Tahreem	Discussion with P. Patel re file update; correspondence with various parties re NDA execution; follow-up emails to potential interested parties re transaction opportunity; responding to creditor inquiries.	3.25	\$ 475	\$ 1,543.75
03/19/2024	Patel, Pritesh	Call with MT re status of SISP; review of markups on NDA; update call with M.Lurie re cash flow results; call with MT and A&B re next steps; discussions with T.Fatima re status of SISP.	2.00	\$ 750	\$ 1,500.00
03/19/2024	Chopowick, Annette	Email to Globe & Mail to request copy of tear sheet for ad; forward copy to T Fatima.	0.25	\$ 275	\$ 68.75
03/19/2024	Lomax, Broderick	Correspondence with interested parties and applicable follow ups; dataroom updates.	2.25	\$ 350	\$ 787.50
03/20/2024	Fatima, Tahreem	Coordinate execution of NDA; creditor inquiries; review MT requests; discussion with P. Patel re same and other file matters; review rent payments and prepare calculation for post-filing, emails to OG re same; email to M. Lurie re interested party info requests; review of email responses re: sales process received in mailbox.	3.75	\$ 475	\$ 1,781.25

03/20/2024	Patel, Pritesh	Review and drafting response to email from MT re info requests of Trustee from Lurie cross examination; update meeting with T.Fatima re SISP, creditor inquiries, rent calculations, info requests; calls with M.Lurie re vendor issues, cash receipts, etc.; call with A&B [REDACTED]; emails with counsel to stalking horse bidder re lease agreements.	2.50	\$	750	\$	1,875.00
03/20/2024	Lomax, Broderick	Dataroom updates.	0.25	\$	350	\$	87.50
03/21/2024	Fatima, Tahreem	Follow-up e-mails to interested parties re SSP and management calls; response to numerous creditor inquiries; review of finalized store asset listing against previous ones provided by Danbury.	1.50	\$	475	\$	712.50
03/21/2024	Patel, Pritesh	Review of comments from counsel on draft response to MT re info requests; review and comments on consent letter; emails with M.Lurie re vendor issues; discussion with T.Fatima re SSP and info requests.	1.00	\$	750	\$	750.00
03/21/2024	Lomax, Broderick	Website and dataroom updates.	0.25	\$	350	\$	87.50
03/22/2024	Fatima, Tahreem	Updated VDR with additional docs; various creditor inquiries; coordination with interested parties relating to NDA execution and calls with management; file update with P. Patel; respond to interested party's due diligence requests.	2.50	\$	475	\$	1,187.50
03/22/2024	Patel, Pritesh	Review of emails from creditors; call with T.Fatima re SISP update; review of letter from MT; review of Danbury appraisal, email to MT on same.	1.00	\$	750	\$	750.00
03/22/2024	Chopowick, Annette	Submit and code Globe & Mail invoice for payment; update creditor details in Ascend and arrange for copy of creditors package to be mailed to creditor.	0.50	\$	275	\$	137.50
03/22/2024	Lomax, Broderick	Dataroom updates.	0.25	\$	350	\$	87.50
<b>Subtotal</b>			<b>52.50</b>	<b>\$</b>	<b>28,956.25</b>	<b>\$</b>	<b>28,956.25</b>

INVOICE NUMBER
977890
INVOICE DATE
03/19/2024

ACCOUNT NUMBER	AD ORDERED BY	YOUR PURCHASE ORDER NO	Order Number	PAGE
175670	Annette Chopowick		94000326	1 of 1

Name and Address		<b>Please direct your payment to:</b> <b>The Globe and Mail</b> <b>Cash Office</b> <b>The Globe and Mail Centre</b> <b>351 King Street East Suite 1600</b> <b>Toronto, ON M5A 0N1</b>
KPMG MSLP 333 BAY STREET, SUITE 4600 BAY ADELAIDE CENTRE TORONTO ON M5H 2S5 CANADA		
		<b>GST/HST# 892162611 RT0001</b> <b>PST# 1086770641 TQ0001</b>

Advertiser	AD Header	AD Classification
175670 KPMG MSLP	Organic Garage Notice	Ad Power

Start Date	End Date	Publication/Section	Insertions	Lines	Rate	Amount
03/19/2024	03/19/2024	BUSINESS TO BUS HST	1	134	FLAT	3,833.74 498.39
						CAD

We warrant that the information shown on this invoice correctly describes the advertisement inserted in the edition of the publication specified.	<b>To inquire about this invoice contact:</b> isorbo@globeandmail.com <b>Billing / Accounting Inquiry: 416-585-5039</b>	NOW DUE
		4,332.13

(Please detach and return with the payment)

## PAYMENT STUB

CAD

INVOICE DATE	ACCOUNT NAME	ACCOUNT NUMBER	INVOICE NUMBER	AMOUNT DUE
03/19/2024	KPMG MSLP	175670	977890	4,332.13

**PLEASE RETURN THIS STUB WITH YOUR PAYMENT FOR PROPER CREDIT TO YOUR ACCOUNT**

AMOUNT PAID

Danbury Global Limited

37 Kodiak Crescent

Unit 7

Toronto, ON M3J 3E5

# Invoice

Date	Invoice #
3/21/2024	611

Invoice To
KPMG Inc. Bay Adelaide Centre 333 Bay Street, Suite 4600 Toronto, ON M5H 2S5

P.O. No.	Terms	Project
	Due on receipt	

Qty	Description	Rate	Amount
1	Forced Liquidation Value Appraisal of Organic Garage (Canada) Ltd.	6,000.00	6,000.00

<b>Sales Tax Summary</b>	
HST (ON)@13.0%	780.00
Total Tax	780.00

		<b>Total</b>	\$6,780.00
		<b>Payments</b>	\$0.00
	<b>Phone #</b>	<b>Web Site</b>	<b>Balance Due</b> \$6,780.00
	416-630-5241	www.danburyauctions.com	

GST/HST No.

821675725



**KPMG LLP**  
 Suite 4600 Bay Adelaide Centre  
 333 Bay Street  
 Toronto, ON M5H 2S5

**Payment Address:**  
 KPMG LLP, T4348  
 P.O. Box 4348, Station A  
 Toronto, ON M5W 7A6

April 8, 2024

Organic Garage (Canada) Ltd.  
 579 Kerr Street  
 Oakville, ON L6K 3E1  
 ATTN: Matt Lurie  
 President

Invoice : 8005357177  
 Reference : 2001915928  
 Client : 1005455619  
 Contact : Pritesh Patel  
 Telephone : (416) 468-7923  
 Email : pritpatel@kpmg.ca

mlurie@organicgarage.com

For professional service rendered from March 23 to April 5, 2024 in our capacity as Proposal Trustee as part of the Company's NOI Proceedings.

Our Fee	\$	28,687.50	CAD
Disbursements		1,434.38	
		<b>30,121.88</b>	CAD
HST		3,915.84	
		<b>34,037.72</b>	CAD
Amount Due			

Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

**CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6**  
**Please return remittance advice with cheque.**

**CAD Wire Payments:** Beneficiary: KPMG LLP  
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank # 004, Transit # 10252,  
 Account # 0938281, Swift Code TDOMCATTOR  
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

**Invoice No:** 8005357177    **Reference:** 2001915928    **Client:** 1005455619    **Amount:** \$ 34,037.72    CAD

**Organic Garage (Canada) Ltd.**  
**Professional Fees Summary**  
For the period from March 23 to April 5, 2024

<b>Name</b>	<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Fee (\$)</b>
Pritesh Patel	Partner	\$ 750	23.00	\$ 17,250.00
Tahreem Fatima	Manager	475	21.75	10,331.25
Broderick Lomax	Sr. Consultant	350	1.00	350.00
Annette Chopowick	Technician	275	2.50	687.50
Angelina Hung	Technician	275	0.25	68.75
<b>Total Professional Fees</b>			<b>48.50</b>	<b>\$ 28,687.50</b>
Technology and support charges				1,434.38
<b>Subtotal</b>				<b>\$ 30,121.88</b>
HST				3,915.84
<b>Total Amount Due</b>				<b>\$ 34,037.72</b>

**ORAGIN Foods Inc.**  
**Time Keeper Details**  
**For the period from March 23 to April 5, 2024**

Work Date	Name	Time Narrative	Hours	Rate	Fee (\$)
03/25/2024	Fatima, Tahreem	Responses to creditor inquiries; call with two interested parties to discuss opportunity and answer questions re same.	1.25	\$ 475	\$ 593.75
03/25/2024	Patel, Pritesh	Calls with interested parties re SSP; update call with M.Lurie re cash flows and operations; call with creditor re post-filing payments.	1.75	\$ 750	\$ 1,312.50
03/26/2024	Fatima, Tahreem	Review and respond to interested party's NDA markups; follow-ups with interested parties for calls; responses to creditor inquiries; prepare variance analysis for previous week's CF actual results; review of questions/information requests from Oragin bankruptcy trustee; e-mail to M. Lurie re interested party request for supplier payments breakdown; upload of same to VDR.	2.50	\$ 475	\$ 1,187.50
03/26/2024	Patel, Pritesh	Discussion with T.Fatima re status of SSP; review of variance reporting re CF; call with M.Lurie re go forward plan on inventory purchases; review of information request from Zeifmans and call with A&B on same.	2.25	\$ 750	\$ 1,687.50
03/27/2024	Fatima, Tahreem	NDA markup review and coordination with interested parties; responses to interested parties for info requests; send follow-ups to interested parties for calls with M. Lurie; continued review of information/documents requested by Oragin bankruptcy trustee.	1.75	\$ 475	\$ 831.25
03/27/2024	Patel, Pritesh	Update meeting with T.Fatima re SISP, creditor inquiries, rent calculations, Zeifmans info requests; calls with M.Lurie re vendor issues, cash receipts, etc.; call with A&B re [REDACTED]; emails with counsel to stalking horse bidder re OG lease agreements.	2.50	\$ 750	\$ 1,875.00
03/27/2024	Chopowick, Annette	Update creditor listing for additional creditor details.	0.25	\$ 275	\$ 68.75
03/27/2024	Lomax, Broderick	VDR updates.	0.25	\$ 350	\$ 87.50
03/28/2024	Fatima, Tahreem	Management call with M.Lurie and interested party; discussion with interested party on bidding procedures; call with M. Lurie on interested party diligence requests; discussion with P. Patel on info requests from Oragin bankruptcy trustee; discussion with M. Lurie on cash receipts timing and review of bank statement; discussion with P. Patel on same; review of [REDACTED]; responses to interested party on diligence requests; call with interested party re SSP - email of NDA and teaser to same; review and analysis of bank statement, and update of variance analysis for timing differences.	4.25	\$ 475	\$ 2,018.75
03/28/2024	Patel, Pritesh	Review of [REDACTED]; discussions with T.Fatima on same, SSP updates, cash flow; review of markups on NDA; update call with M.Lurie re SSP, NDAs.	2.00	\$ 750	\$ 1,500.00
03/28/2024	Lomax, Broderick	VDR updates.	0.25	\$ 350	\$ 87.50
03/29/2024	Patel, Pritesh	Review comments on NDA received from interested parties; compile docs/information for Zeifmans information request.	1.50	\$ 750	\$ 1,125.00
04/01/2024	Fatima, Tahreem	Discussions with P. Patel on variance analysis, package for Oragin bankruptcy trustee, and other file/sales process updates; call with Oragin bankruptcy trustee; call with interested party re SSP; e-mail to Organic Garage on costing for top 25 products; response to interested parties on info requests and docs available in the data room; update of dataroom with info requested; coordination re NDA execution and dataroom access; call with Organic Garage on actuals reporting and timing of cash receipts; kick-off call with interested party on sales process and stalking horse bid; coordination of store tour; response to Alectra utilities creditor inquiry.	5.00	\$ 475	\$ 2,375.00
04/01/2024	Patel, Pritesh	Compile response letter to Zeifmans and email re same; call with Zeifmans; calls with interested parties re SSP and bid deadline; call with M.Lurie re interco balances and review of information on same; call with T.Fatima re CF variance reporting.	3.25	\$ 750	\$ 2,437.50
04/01/2024	Lomax, Broderick	VDR access updates.	0.25	\$ 350	\$ 87.50
04/02/2024	Fatima, Tahreem	Coordinate store visit by interested party; review of dataroom to ensure all parties have access to added docs; email to interested parties on access.	0.50	\$ 475	\$ 237.50
04/02/2024	Patel, Pritesh	Review of comments on NDA from Zeifmans; emails with interested party re store visit, call with M.Lurie on same; update call with M.Lurie re go forward purchasing, payments, cash flows and SSP update.	2.00	\$ 750	\$ 1,500.00
04/03/2024	Fatima, Tahreem	Call with A&B and interested party with respect to confidentiality concerns; discussion with OG on intercompany transactions; review of intercompany transactions and discussion with P. Patel re same; coordination with interested parties re SSP.	1.50	\$ 475	\$ 712.50
04/03/2024	Patel, Pritesh	Call with interested party re SSP; update call with T.Fatima re status of SSP, scheduled meetings and next steps; update call with M.Lurie re store sales, SSP, rent payments, etc.	2.50	\$ 750	\$ 1,875.00
04/03/2024	Chopowick, Annette	Prepare affidavits of mailing the Notice to Creditors for each estate and arrange for A.Hung to Commission; e-file each affidavit with OSB; revisions to NOI notice documents and submit revised documents to website to replace old versions; prepare letter to Court with copies of NOI packages and email as directed.	2.25	\$ 275	\$ 618.75
04/03/2024	Hung, Angelina	Commission for affidavits of mailing.	0.25	\$ 275	\$ 68.75
04/04/2024	Fatima, Tahreem	Prepare buyers list and VDR index for Oragin Trustee; e-mail to RBC re proof of claim; review bank statement; update NDA, management call with interested party and M. Lurie; call with Junction road landlord to provide update on sales process.	2.25	\$ 475	\$ 1,068.75
04/04/2024	Patel, Pritesh	Emails with Zeifmans re information requests; call with counsel to stalking horse bidder; calls with A&B re [REDACTED]; call with M.Lurie re RBC withdrawal from account, emails with counsel to RBC on same; call with counsel to company re SSP; call/emails with T.Fatima re SSP, cash flows.	3.00	\$ 750	\$ 2,250.00
04/05/2024	Fatima, Tahreem	Attend store tour and walkthrough with interested party; e-mail to interested parties re termination of stalking horse agreement; discussion with P. Patel re file/SSP matters; response to creditor inquiries; NDA coordination.	2.75	\$ 475	\$ 1,306.25
04/05/2024	Patel, Pritesh	Calls with potential interested parties; review of emails from counsel to stalking horse bidder re termination of stalking horse bid; call with M.Lurie re SH bid termination, cash flows and next steps; call with T.Fatima re site visit for SSP.	2.25	\$ 750	\$ 1,687.50

04/05/2024 Lomax, Broderick VDR access updates; 0.25 \$ 360 \$ 87.50

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**Subtotal 48.50 \$ 28,687.50**

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**KPMG LLP**  
 Suite 4600 Bay Adelaide Centre  
 333 Bay Street  
 Toronto, ON M5H 2S5

**Payment Address:**  
 KPMG LLP, T4348  
 P.O. Box 4348, Station A  
 Toronto, ON M5W 7A6

April 22, 2024

Organic Garage (Canada) Ltd.  
 579 Kerr Street  
 Oakville, ON L6K 3E1  
 ATTN: Matt Lurie  
 President

Invoice : 8005384547  
 Reference : 2001915928  
 Client : 1005455619  
 Contact : Pritesh Patel  
 Telephone : (416) 468-7923  
 Email : pritpatel@kpmg.ca

mlurie@organicgarage.com

For professional service rendered from April 6 to April 19, 2024 in our capacity as Proposal Trustee as part of the Company's NOI Proceedings.

Our Fee	\$	32,162.50	CAD
Technology and Support Charge		1,608.13	
Disbursements		2,000.00	
	\$	<b>35,770.63</b>	CAD
HST		4,650.18	
Amount Due	\$	<b>40,420.81</b>	CAD

Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

✕

**CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6**  
**Please return remittance advice with cheque.**

**CAD Wire Payments:** Beneficiary: KPMG LLP  
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank # 004, Transit # 10252,  
 Account # 0938281, Swift Code TDOMCATTOR  
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

**Invoice No:** 8005384547    **Reference:** 2001915928    **Client:** 1005455619    **Amount:** \$ 40,420.81 CAD

**Organic Garage (Canada) Ltd.**  
**Professional Fees Summary**  
For the period from April 6 to April 19, 2024

<b>Name</b>	<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Fee (\$)</b>
Pritesh Patel	Partner	\$ 750	24.50	\$ 18,375.00
Tahreem Fatima	Manager	475	25.75	12,231.25
Broderick Lomax	Sr. Consultant	350	4.25	1,487.50
Annette Chopowick	Technician	275	0.25	68.75
<b>Total Professional Fees</b>			<b>54.75</b>	<b>\$ 32,162.50</b>
Technology and support charges				1,608.13
Disbursements (Third Party Dataroom)				2,000.00
<b>Subtotal</b>				<b>\$ 35,770.63</b>
HST				4,650.18
<b>Total Amount Due</b>				<b>\$ 40,420.81</b>

**ORAGIN Foods Inc.**  
**Time Keeper Details**  
**For the period from April 6 to April 19, 2024**

Work Date	Name	Time Narrative	Hours	Rate	Fee (\$)
04/08/2024	Fatima, Tahreem	Prepare bidding instructions e-mail to A&B for review; upload of bidding instructions and wire instructions to VDR, follow-up with interested parties; call with utility company; response to interested party inquiries; discussions with P. Patel on the status of sales process; drafting of the second report.	3.25	\$ 475	\$ 1,543.75
04/08/2024	Patel, Pritesh	Review of emails from interested parties, discussions with T.Fatima on same; review and edits to Bid Submission Instructions; call with M.Lurie re cash flows; call with A&B and counsel to interested party re SSP.	1.50	\$ 750	\$ 1,125.00
04/09/2024	Fatima, Tahreem	Final follow-ups re sales process deadline; continued drafting of second report; discussion with Junction landlord.	2.75	\$ 475	\$ 1,306.25
04/09/2024	Patel, Pritesh	Update call with M.Lurie re intercompany transactions; review of emails from interested parties re SSP.	0.50	\$ 750	\$ 375.00
04/09/2024	Lomax, Broderick	VDR updates.	0.25	\$ 350	\$ 87.50
04/10/2024	Patel, Pritesh	Calls/emails with interested parties re bid submission; coordination with KPMG team on same; review of bids received, emails/call with A&B on same; email summary to Organic Garage and MT re bids received and next steps; update call with MT re timing for sale approval motion.	5.00	\$ 750	\$ 3,750.00
04/10/2024	Chopowick, Annette	Confirm wire transfer details with bidder; monitor account and provide confirmation of funds received.	0.25	\$ 275	\$ 68.75
04/10/2024	Lomax, Broderick	VDR access updates; corresponding with potential bidders; review of bids, emails with P.Patel on same.	0.50	\$ 350	\$ 175.00
04/11/2024	Fatima, Tahreem	Review of bids received and related notes from A&B; prepare bid summary and provide to MT and Organic Garage; call with former Oragin CFO; review of cash transactions; call with Enbridge; various discussions with P. Patel.	2.50	\$ 475	\$ 1,187.50
04/11/2024	Patel, Pritesh	Review of email from A&B re [REDACTED]; drafting email to bidders re resubmission, review of response on same; review and comments on SISF update; call with A&B re next steps in NOI proceedings; call with former Oragin CFO re assistance on interco reconciliation.	2.50	\$ 750	\$ 1,875.00
04/12/2024	Fatima, Tahreem	Creditor inquiries; follow-up with Qualified Bidder on bid resubmission; response to Organic Garage on storage payment request.	0.50	\$ 475	\$ 237.50
04/12/2024	Patel, Pritesh	Review of emails from counsel re scheduling matters; update call with A&B re [REDACTED]; emails to Successful Bidders re SSP and next steps; update call with M.Lurie re SSP results.	2.00	\$ 750	\$ 1,500.00
04/12/2024	Lomax, Broderick	Various calls with creditors re: NOI process/claims.	1.25	\$ 350	\$ 437.50
04/14/2024	Patel, Pritesh	Review and comments on APA from MAAB.	0.50	\$ 750	\$ 375.00
04/15/2024	Fatima, Tahreem	Continue drafting Second Report of the Proposal Trustee; assist company with preparation of updated cashflow for extension request.	3.50	\$ 475	\$ 1,662.50
04/15/2024	Patel, Pritesh	Update call with T.Fatima re cash flows, upcoming hearings and timing for materials; update call MT and A&B re next steps; call with party re Junction premises.	1.50	\$ 750	\$ 1,125.00
04/15/2024	Lomax, Broderick	Updates to Second Report of the Trustee; Website updates.	1.50	\$ 350	\$ 525.00
04/16/2024	Fatima, Tahreem	Continue updating second report of the Proposal Trustee.	2.00	\$ 475	\$ 950.00
04/16/2024	Patel, Pritesh	Review and edits to draft Second Report, email to T.Fatima on same; emails to Organic Garage re PPSA registrations and basis for same; review and comments on draft APAs; calls/emails with A&B re outstanding issues and timing for finalizing APAs.	2.75	\$ 750	\$ 2,062.50
04/16/2024	Lomax, Broderick	Review and updates to Second Report of the Trustee.	0.75	\$ 350	\$ 262.50
04/17/2024	Fatima, Tahreem	Discussion with P. Patel on report and cash-flow; update cash flow based on discussion; e-mail cash flow to P. Patel and M. Lurie for comments; update Second Report; questions to Organic Garage on cash flow items (utilities, rent deposits; HST, etc.)	3.25	\$ 475	\$ 1,543.75
04/17/2024	Patel, Pritesh	Review and comments on affidavit; calls/emails with A&B re status of APAs and timing for execution; review of letter from Zeifmans; calls with M.Lurie re store sales, cash flow and PPSA registrations; discussion with T.Fatima re CF review and next steps; review and edits to Second Report, email to A&B for review; review of emails from Organic Garage re TWPA amounts.	3.50	\$ 750	\$ 2,625.00
04/18/2024	Fatima, Tahreem	Update of cashflow for comments from M. Lurie re sales and cost of sales; review/recalc of HST and discussion with Organic Garage re same; commence drafting of Third Report of Proposal Trustee.	3.50	\$ 475	\$ 1,662.50
04/18/2024	Patel, Pritesh	Calls with Successful Bidders re finalizing APAs; call with M.Lurie re cash flow updates, go forward plans for stores to transaction closing, PPSA registrations, and next steps; discussions with T.Fatima re cash flow updates and preparation of Third Report; emails with A&B re signing of APAs; review of comments from A&B on Second Report, updates for same; call with counsel re timing for service.	2.25	\$ 750	\$ 1,687.50
04/19/2024	Fatima, Tahreem	Compile the Second Report for service; call with A&B [REDACTED]; continue updating the Third Report; internal discussion re Second Report and Third Report.	4.50	\$ 475	\$ 2,137.50
04/19/2024	Patel, Pritesh	Review of comments on report from MT; call with A&B re [REDACTED]; update and finalize Second Report for service; call with Junction purchaser re APA; calls with M.Lurie re plan for closing, cash flows; discussions with T.Fatima re finalize Second Report for service, status of Third Report.	2.50	\$ 750	\$ 1,875.00
<b>Subtotal</b>			<b>54.75</b>	<b>\$</b>	<b>32,162.50</b>

This is Exhibit "C" referred to in the Affidavit of Pritesh Patel  
sworn by Pritesh Patel located in the City of Toronto in the Province of Ontario  
before me at the City of Toronto, in the Province of Ontario  
this 23rd day of April, 2024 in accordance with O. Reg. 431/20  
Administering Oath or Declaration Remotely



---

A Commissioner, etc.  
Adrienne Ho (LSO # 68439N)

**KPMG Inc.**  
**in its capacity as Proposal Trustee of**  
**Organic Garage (Canada) Ltd. et al**  
**Statement of accounts**

**Exhibit C**

<b>Staff member</b>	<b>Number of hours</b>	<b>Hourly rate</b>	<b>Amount</b>
<b>Senior Vice President</b>			
Pritesh Patel	111.00	\$ 750.00	\$ 83,250.00
<b>Manager</b>			
Tahreem Fatima	120.75	\$ 475.00	\$ 57,356.25
<b>Senior Consultant</b>			
Broderick Lomax	16.70	\$ 350.00	\$ 5,845.00
<b>Technician</b>			
Angelina Hung	2.20	\$ 275.00	\$ 605.00
Annette Chopowick	13.75	\$ 275.00	\$ 3,781.25
<b>Total</b>	<b>264.4</b>		<b>\$ 150,837.50</b>
<b>Blended average hourly rate:</b>		<b>\$ 570.49</b>	

# **Appendix “H”**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO  
INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**AFFIDAVIT OF KYLE PLUNKETT**  
**(sworn April 23, 2024)**

I, **KYLE PLUNKETT**, of the City of Toronto, in the Province of Ontario, **MAKE OATH  
AND SAY AS FOLLOW:**

1. I am a partner at Aird & Berlis LLP and, as such, I have knowledge of the matters of which I hereinafter depose. Aird & Berlis LLP has acted and is acting as counsel for KPMG Inc. (“**KPMG**”), in its capacity as Proposal Trustee (in such capacity, the “**Trustee**”) of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Debtors**”).
2. Aird & Berlis LLP has prepared statements of account in connection with its mandate as counsel to the Trustee, detailing its services rendered and disbursements incurred, namely:
  - (a) an account dated March 21, 2024 in the amount of \$61,808.73 in respect of the period from February 15, 2024 to March 15, 2024;
  - (b) an account dated March 31, 2024 in the amount of \$17,696.37 in respect of the period from March 16, 2024 to March 31, 2024;

- (c) an account dated April 10, 2024 in the amount of \$3,535.77 in respect of the period of April 1, 2024 to April 10, 2024;
- (d) an account dated April 15, 2024 in the amount of \$4,458.42 in respect of the period of April 4, 2024 to April 12, 2024; and
- (e) an account dated April 23, 2024 in the amount of \$19,726.41 in respect of the period of April 10, 2024 to April 19; 2024

(the “**Statements of Account**”). Attached hereto and marked as Exhibit “A” to this Affidavit are copies of the Statements of Account, which have been redacted for privilege where appropriate. The average hourly rate of Aird & Berlis LLP is \$681.57.

- 3. Attached hereto and marked as Exhibit “B” to this Affidavit is a chart detailing the lawyers, law clerks and articling students who have worked on this matter.
- 4. This Affidavit is made in support of a motion to, *inter alia*, approve the attached accounts of Aird & Berlis LLP and the fees and disbursements detailed therein, and for no improper purpose whatsoever.

**SWORN** before me by video conference with )  
 KYLE PLUNKETT located at the City of )  
 Toronto, in the Province of Ontario before me )  
 at the City of Toronto in the Province of )  
 Ontario this 23<sup>rd</sup> day of April, 2024, in )  
 accordance with O. Reg 431/20, )  
 Administering Oath or Declaration Remotely. )

---

A commissioner, etc. )  
 Adrienne Ho (LSO # 68439N) )

---

**KYLE PLUNKETT**



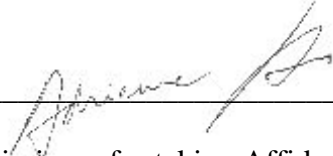
Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF KYLE PLUNKETT

Sworn before me

this 23<sup>rd</sup> day of April, 2024



Commissioner for taking Affidavits, etc

Kyle B. Plunkett  
Direct: 416-865-3406  
E-mail: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

March 21, 2024

Pritesh Patel  
KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

Dear Mr. Patel:

RE: Insolvency Advice on Potential Filing Options  
Our Matter No: 317016

---

Enclosed please find our invoice # 1377495 for services rendered to March 15, 2024. The balance due is \$61,808.73 CAD. Please include our invoice number in the payment detail section of your wire transfer.

I trust the foregoing is satisfactory. Please do not hesitate to call me if you have any questions.

Yours very truly,

AIRD & BERLIS LLP



Kyle B. Plunkett

KBP/ch

Encl.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 21, 2024

Attention: Pritesh Patel

**Invoice No: 1377495**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending March 15, 2024**

Total Fees	\$54,682.50
Total Disbursements	17.50
Total Taxes	7,108.73
<b>Amount Due</b>	<b>\$61,808.73 CAD</b>

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

---

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

**Bill.Com Payment Network ID: c114483219512158**

**Email notification for EFT and WIRE payments: [accounting@airdberlis.com](mailto:accounting@airdberlis.com)**

**\* Aird & Berlis LLP does not accept interac/email transfers \***

**Payment is due on receipt.**

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 6% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

**GST / HST Registration # 12184 6539 RT0001**

\* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 21, 2024

Attention: Pritesh Patel

**Invoice No: 1377495**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending March 15, 2024**

DATE	MEMBER	DESCRIPTION	RATE	HOURS	VALUE
15/02/24	KBP	Attend intro call with Company team and counsel.	775.00	0.50	387.50
16/02/24	KBP	Attend various calls with client and MT to discuss [REDACTED]; email exchanges with P. Patel.	775.00	1.20	930.00
18/02/24	KBP	Prepare and attend strategy call with MT and KPMG regarding filing structure.	775.00	1.00	775.00
19/02/24	AH	Emails with K. Plunkett regarding next steps	595.00	0.10	59.50
20/02/24	AH	Review bankruptcy petition	595.00	0.60	357.00
20/02/24	AH	Review financials and email K. Plunkett regarding the same	595.00	0.40	238.00
20/02/24	KBP	Review and consider [REDACTED]; email exchanges with A. Iqbal.	775.00	0.70	542.50
21/02/24	KBP	Review and respond to emails from client regarding court materials; email exchanges with M. Spence; attend call with A. Iqbal.	775.00	1.20	930.00
23/02/24	KBP	Attend strategy call with MT and KPMG; review and respond to emails from working group regarding filing and court materials.	775.00	1.40	1,085.00
26/02/24	AH	Call with K. Plunkett regarding SISP; draft SISP and circulate to K. Plunkett	595.00	1.50	892.50
26/02/24	AH	Review cash flow forecast	595.00	0.20	119.00
26/02/24	KBP	Review and respond to various emails from working group on filing; review draft CF; start draft Sale Process; attend calls with MT regarding same and filing materials.	775.00	2.20	1,705.00

DATE	MEMBER	DESCRIPTION	RATE	HOURS	VALUE
27/02/24	AH	Revise sales process	595.00	0.70	416.50
27/02/24	AH	Draft KERP letter and plan	595.00	1.00	595.00
27/02/24	AH	Review revisions to draft KERP documents and sales process	595.00	0.40	238.00
27/02/24	AH	Email P. Patel draft KERP documents and sales process	595.00	0.10	59.50
27/02/24	KBP	Review and provide comments on draft KERP documents; review and provide comments on draft Sale Process; attend calls with A. Iqbal; attend calls with P. Patel.	775.00	3.40	2,635.00
28/02/24	AH	Review KPMG's comments regarding sales process, make further revisions and email K. Plunkett on the same	595.00	1.00	595.00
28/02/24	KBP	Review and provide comments on draft KERP documents.	775.00	1.00	775.00
29/02/24	AH	Review revisions to sales process, and email revised version to borrowers' counsel and KPMG	595.00	0.30	178.50
29/02/24	KBP	Revise and provide comments on draft court materials; attend strategy calls with client team.	775.00	2.20	1,705.00
01/03/24	AH	Review and revise draft affidavit for initial relief and emails with K. Plunkett regarding the same	595.00	1.20	714.00
01/03/24	AH	Review email from A. Iqbal with revised SISP timeline	595.00	0.10	59.50
01/03/24	AH	Emails with K. Plunkett and borrowers' counsel regarding creditors	595.00	0.10	59.50
01/03/24	AH	Review draft stalking horse agreement	595.00	0.50	297.50
01/03/24	KBP	Review and provide comments on draft materials for extension and SISP; attend call with MT and client to discuss SISP timelines.	775.00	3.00	2,325.00
02/03/24	AH	Review K. Plunkett's revisions, revise affidavit on initial relief and circulate to KPMG and borrower's counsel	595.00	0.40	238.00
02/03/24	KBP	Review and provide comments on draft Affidavit; review and provide comments on draft SH APA; email exchanges with MT.	775.00	3.40	2,635.00
04/03/24	AH	Review draft teaser and email K. Plunkett regarding the same	595.00	0.20	119.00
04/03/24	AH	Review revised stalking horse agreement	595.00	0.30	178.50

DATE	MEMBER	DESCRIPTION	RATE	HOURS	VALUE
04/03/24	KBP	Draft and provide comments on draft court materials; attend calls with MT team to discuss materials.	775.00	3.20	2,480.00
05/03/24	AH	Review and revise draft order and emails with K. Plunkett on the same;	595.00	0.70	416.50
05/03/24	AH	Review revised affidavit and email K. Plunkett on the same; circulate comments to debtors' counsel	595.00	0.80	476.00
05/03/24	AH	Emails with debtors' counsel and KPMG regarding draft teaser	595.00	0.10	59.50
05/03/24	AH	Revise draft sales process and email K. Plunkett on the same	595.00	0.90	535.50
05/03/24	AH	Emails with KPMG on draft order; further revise draft order and email K. Plunkett on the same	595.00	0.50	297.50
05/03/24	AH	Review email from P. Patel regarding certificates of filing	595.00	0.10	59.50
05/03/24	AH	Review revised stalking horse agreement and emails from K. Plunkett and borrowers' counsel on the same	595.00	0.40	238.00
05/03/24	AH	Review revised suppliers letter and email from P. Patel and debtors' counsel on the same	595.00	0.10	59.50
05/03/24	AH	Review emails from KPMG regarding cash flow	595.00	0.10	59.50
05/03/24	KBP	Review and respond to emails from client team regarding materials.	775.00	0.90	697.50
06/03/24	AH	Revise order and emails with K. Plunkett, KPMG, and debtors' counsel regarding the same; review companies' counsel revisions to order	595.00	0.60	357.00
06/03/24	AH	Revise sales process and emails with K. Plunkett, borrowers' counsel and KPMG regarding the same	595.00	0.40	238.00
06/03/24	AH	Review draft notice of motion and email debtors' counsel regarding the same	595.00	0.20	119.00
06/03/24	AH	Review emails with companies' counsel regarding APA	595.00	0.10	59.50
06/03/24	AH	Review email from companies' counsel regarding NDA	595.00	0.10	59.50
06/03/24	KBP	Review and provide comments on draft court materials.	775.00	1.00	775.00

<b>DATE</b>	<b>MEMBER</b>	<b>DESCRIPTION</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>
06/03/24	PLW	Emails and calls with D. Jin and A. Ho, and attempt to submit Certificate of Notice of Intention to make a proposal online with the court	280.00	1.00	280.00
07/03/24	KBP	Draft and update court materials; attend calls to discuss report and APA.	775.00	2.10	1,627.50
07/03/24	PLW	Submitted 5 Certificates for Notice of Intention to make a proposal	280.00	1.10	308.00
08/03/24	AH	Review draft proposal trustee's report; emails with K. Plunkett regarding the same	595.00	1.60	952.00
08/03/24	AH	Revise sales process, and call and emails with K. Plunkett regarding the same; email debtor's counsel and KPMG regarding sales process	595.00	1.20	714.00
08/03/24	AH	Review debtors' motion record for initial relief	595.00	0.40	238.00
08/03/24	AH	Review revisions to stalking horse agreement and emails regarding the same	595.00	0.40	238.00
08/03/24	KBP	Review and revise First Report; attend calls with client and MT to discuss materials and next steps; review and consider updated Sale Process materials.	775.00	2.20	1,705.00
09/03/24	AH	Review revisions to draft proposal trustee's report; emails with K. Plunkett regarding the same; circulate draft proposal trustee report to KPMG and companies counsel	595.00	0.60	357.00
09/03/24	AH	Revise draft non-disclosure agreement and email to K. Plunkett	595.00	0.70	416.50
09/03/24	KBP	Review and provide comments on Report; review and provide comments on updated Report.	775.00	2.20	1,705.00
10/03/24	AH	Circulate draft non-disclosure agreement to KPMG and companies' counsel	595.00	0.10	59.50
10/03/24	KBP	Review and provide comments on draft NDA template; review and consider updated comments on First Report from MT and client.	775.00	1.50	1,162.50
11/03/24	AH	Review revisions to draft proposal trustee's report	595.00	0.30	178.50
11/03/24	AH	Reviewing final proposal trustee's report and serve report	595.00	0.70	416.50
11/03/24	AH	Email KPMG and companies' counsel regarding draft non-disclosure agreement	595.00	0.10	59.50

DATE	MEMBER	DESCRIPTION	RATE	HOURS	VALUE
11/03/24	KBP	Attend strategy call with client regarding motion and opposition; review and respond to various emails from company counsel; attend to closing.	775.00	2.20	1,705.00
11/03/24	MES	Revise factum of the applicants for March 14 motion; Call with Miller Thomson, KPMG re potential opposition to motion	775.00	1.40	1,085.00
12/03/24	AH	Emails with KPMG and companies' counsel regarding service list and next steps	595.00	0.20	119.00
12/03/24	AH	Revise factum for initial relief and emails internally and with companies' counsel regarding the same	595.00	0.60	357.00
12/03/24	AH	Emails with KPMG regarding trustee's report; serve revised trustee's report	595.00	0.20	119.00
12/03/24	AH	Emails with T. Diamond regarding service list	595.00	0.10	59.50
12/03/24	KBP	Review and respond to emails from F. Tayar regarding relief on March 14th; attend calls with company counsel; attend calls with client.	775.00	1.20	930.00
12/03/24	MES	Review email from F. Tayar seeking engagement letter; Discuss with K. Plunkett and P. Patel; Draft response and revise and send to F. Tayar; Review response from F. Tayar	775.00	0.70	542.50
13/03/24	AH	Review email from OSB regarding service list; emails with companies' counsel regarding service list; emails with D. Peat regarding service list; emails with S. Tanvir regarding service list	595.00	0.20	119.00
13/03/24	AH	Review email from F. Tayar	595.00	0.10	59.50
13/03/24	AH	Review affidavit of T. Ihde	595.00	0.50	297.50
13/03/24	AH	Call with A. Iqbal and K. Plunkett regarding next steps; email M. Spence regarding next steps	595.00	0.20	119.00
13/03/24	AH	Email additional parties on the service list proposal trustee's report	595.00	0.10	59.50
13/03/24	KBP	Attend various calls with Company counsel and client to discuss hearing; review and provide comments on draft order;	775.00	1.50	1,162.50



DATE	MEMBER	DESCRIPTION	RATE	HOURS	VALUE
13/03/24	MES	Draft and revise emails to F. Tayar re information requests; Exchange emails with K. Plunkett and P. Patel re same; Call with Miller Thomson re March 14 hearing; Review affidavit filed by Fred Tayer	775.00	1.90	1,472.50
13/03/24	PLW	Submitted First Report of Trustee for filing online with the court and emailed same to court	280.00	0.60	168.00
13/03/24	PLW	Emails and Teams call with D. Jin and A. Ho regarding filing and form of Trustee's Report and call with Bankruptcy Court	280.00	0.80	224.00
14/03/24	AH	Attend court hearing for initial relief	595.00	1.80	1,071.00
14/03/24	AH	Calls with KPMG, M. Spence and companies' counsel regarding next steps	595.00	0.50	297.50
14/03/24	AH	Review endorsement and order	595.00	0.10	59.50
14/03/24	AH	Review email from F. Tayer regarding cross-examinations	595.00	0.10	59.50
14/03/24	KBP	Prepare for motion to approve extension; attend various calls with company team to discuss relief and post-relief steps.	775.00	1.20	930.00
14/03/24	MES	Prepare submissions for sale process hearing; Discuss prep with P. Patel and K. Plunkett; Attend hearing (parts 1 and 2); Strategize and debrief with Miller Thomson and KPMG; Review order and endorsement of Justice Steele	775.00	5.70	4,417.50

**TOTAL:** 78.60    \$54,682.50

Name	Year of Call	Title	Hours	Rate	Value
Ho, Adrienne (AH)	2015	Associate	25.00	\$595.00	\$14,875.00
Plunkett, Kyle B. (KBP)	2011	Partner	40.40	\$775.00	\$31,310.00
Spence, Miranda E. (MES)	2011	Partner	9.70	\$775.00	\$7,517.50
Williams, Patrick L. (PLW)		Law Clerk	3.50	\$280.00	\$980.00

**OUR FEE** \$54,682.50  
 HST @ 13% 7,108.73

**DISBURSEMENTS**

**Non-Taxable Disbursements**

Wire Charges 17.50

Total Non-Taxable Disbursements \$17.50

**AMOUNT DUE**

**\$61,808.73 CAD**

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THIS IS OUR INVOICE HEREIN  
AIRD & BERLIS LLP



Kyle B. Plunkett

E.&O.E.

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

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Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

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**Payment is due on receipt.**

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 6% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

**GST / HST Registration # 12184 6539 RT0001**

\* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.



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F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 21, 2024

Attention: Pritesh Patel

**Invoice No: 1377495**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**REMITTANCE SLIP**

Total Fees	\$54,682.50
Total Non-Taxable Disbursements	17.50
Total Taxes	7,108.73

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**AMOUNT DUE** **\$61,808.73 CAD**

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AIRD BERLIS

Kyle B. Plunkett  
Direct: 416-865-3406  
E-mail: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

March 31, 2024

Pritesh Patel  
KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

Dear Mr. Patel:

RE: Insolvency Advice on Potential Filing Options  
Our Matter No: 317016

---

Enclosed please find our invoice # 1379388 for services rendered to March 31, 2024. The balance due is \$17,696.37 CAD. Please include our invoice number in the payment detail section of your wire transfer.

I trust the foregoing is satisfactory. Please do not hesitate to call me if you have any questions.

Yours very truly,

AIRD & BERLIS LLP



Kyle B. Plunkett

KBP/ch

Encl.



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airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 31, 2024

Attention: Pritesh Patel

**Invoice No: 1379388**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending March 31, 2024**

Total Fees	\$15,660.50
Total Taxes	2,035.87
<b>Amount Due</b>	<b><u>\$17,696.37 CAD</u></b>

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
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KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 31, 2024

Attention: Pritesh Patel

**Invoice No: 1379388**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending March 31, 2024**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	18/03/24	595.00	0.20	119.00	Review company by-laws
CH	18/03/24	350.00	3.00	1,050.00	Research [REDACTED]
KBP	18/03/24	775.00	1.00	775.00	Review and provide comments [REDACTED]; attend calls with client to discuss next steps and SISP.
MES	18/03/24	775.00	0.20	155.00	Exchange emails re potential efforts by F. Tayar to bankrupt companies
AH	19/03/24	595.00	0.20	119.00	Emails with C. Horsten and K. Plunkett regarding next steps
AH	19/03/24	595.00	0.10	59.50	Email companies' counsel regarding service list
CH	19/03/24	350.00	0.10	35.00	Discussion with K. Plunkett re [REDACTED]
KBP	19/03/24	775.00	1.50	1,162.50	Attend call with MT team to discuss bankruptcy application and updates on SISP; review and respond to emails from client regarding NDAs;
MES	19/03/24	775.00	0.80	620.00	Call with Miller Thomson, KPMG re [REDACTED]; Discussion and exchange of emails with K. Plunkett re same
PLW	19/03/24	280.00	0.40	112.00	Submitted Supplementary Affidavit of Service for filing online with the court
AH	20/03/24	595.00	0.10	59.50	Email S. Tanvir regarding service list; update service list; email G. Phoenix service list
AH	20/03/24	595.00	0.10	59.50	Review labour relations board decision

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	20/03/24	595.00	0.20	119.00	Emails with K. Plunkett regarding next steps; call with M. Spence regarding next steps
CH	20/03/24	350.00	2.50	875.00	Research [REDACTED] per A. Ho
KBP	20/03/24	775.00	1.40	1,085.00	Email exchange with Loopstra Nixon regarding request for information; review and provide comments on draft response to F. Tayar; review and consider letter to F. Tayar.
MES	20/03/24	775.00	0.80	620.00	Review [REDACTED]; Review F. Tayar request for information from Trustee and discuss with K. Plunkett
AH	21/03/24	595.00	0.10	59.50	Review email from P. Patel regarding leases
AH	21/03/24	595.00	0.10	59.50	Email M. Faheim service list; email G. Phoenix and T. Fatima service list
AH	21/03/24	595.00	0.10	59.50	Email union representatives proposal trustee's report
KBP	21/03/24	775.00	1.40	1,085.00	Review and provide comments on draft letter; attend SISP update call with client; review appraisal.
MES	21/03/24	775.00	0.90	697.50	Draft response to questions posed by F. Tayar of Proposal Trustee; Revise per P. Patel comments; Revise [REDACTED]
AH	22/03/24	595.00	0.10	59.50	Review letter from F. Tayar and emails with K. Plunkett on next steps
KBP	22/03/24	775.00	1.00	775.00	Attend calls with MT to discuss bankruptcy application; review and consider materials; review liquidation summary,
MES	22/03/24	775.00	0.30	232.50	Exchange emails with A. Iqbal, K. Plunkett re [REDACTED]
AH	23/03/24	595.00	0.80	476.00	Review case law regarding [REDACTED]
AH	24/03/24	595.00	0.40	238.00	Review Oragin Food submissions in bankruptcy application
AH	24/03/24	595.00	0.10	59.50	Email K. Plunkett, M. Spence and companies' counsel regarding stays
KBP	24/03/24	775.00	0.90	697.50	Review and consider respondent materials to bankruptcy application;

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
MES	24/03/24	775.00	0.50	387.50	Review A. Iqbal letter to court and written submissions re bankruptcy application
KBP	25/03/24	775.00	0.50	387.50	Review and provide comments on draft response to F. Tayar; email exchanges with client team regarding same.
MES	25/03/24	775.00	1.00	775.00	Attend court before Justice Wilton Siegel to address request for terms relevant to bankruptcy application; Telephone call with A. Iqbal re same; Review bankruptcy order and emails re same
AH	26/03/24	595.00	0.10	59.50	Review endorsement from Oragin Food hearing
AH	26/03/24	595.00	0.10	59.50	Review email from P. Patel regarding questions from Zeifmans
KBP	26/03/24	775.00	0.50	387.50	Review and respond to emails from Debtor side regarding SISP updates.
MES	26/03/24	775.00	0.20	155.00	Review endorsement of Justice Wilton Siegel re bankruptcy application
AH	27/03/24	595.00	0.30	178.50	Prepare draft cover letter for response to Zeifmans and emails with K. Plunkett and P. Patel on next steps
KBP	27/03/24	775.00	0.50	387.50	Review and consider request for information from Oragin Foods request for information.
MES	27/03/24	775.00	0.60	465.00	Review request from Zeifmans, discuss with K. Plunkett and revise proposed response
AH	28/03/24	595.00	0.20	119.00	Review P. Patel and M. Spence's comments on [REDACTED]
KBP	28/03/24	775.00	0.70	542.50	Review and provide comments on reply package to Parentco Trustee.
MES	28/03/24	775.00	0.30	232.50	Revise KPMG response to Zeifmans re request for information

**TOTAL:** 24.30 \$15,660.50

Name	Year of Call	Title	Hours	Rate	Value
Ho, Adrienne (AH)	2015	Associate	3.30	\$595.00	\$1,963.50
Horsten, Calvin (CH)		Student	5.60	\$350.00	\$1,960.00
Plunkett, Kyle B. (KBP)	2011	Partner	9.40	\$775.00	\$7,285.00
Spence, Miranda E. (MES)	2011	Partner	5.60	\$775.00	\$4,340.00
Williams, Patrick L. (PLW)		Law Clerk	0.40	\$280.00	\$112.00

**OUR FEE** \$15,660.50  
 HST @ 13% 2,035.87



**AMOUNT DUE**

**\$17,696.37 CAD**

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AIRD & BERLIS LLP



Kyle B. Plunkett

E.&O.E.

---

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Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
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TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

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**GST / HST Registration # 12184 6539 RT0001**

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Toronto, Ontario M5J 2T9 Canada

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F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

March 31, 2024

Attention: Pritesh Patel

**Invoice No: 1379388**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

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**REMITTANCE SLIP**

Total Fees	\$15,660.50
Total Taxes	2,035.87
<b>AMOUNT DUE</b>	<b><u>\$17,696.37 CAD</u></b>

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Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

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**GST / HST Registration # 12184 6539 RT0001**

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Kyle B. Plunkett  
Direct: 416-865-3406  
[E-mail: kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

April 10, 2024

Pritesh Patel  
KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

Dear Mr. Patel:

RE: **BIA Proposal Proceedings of Organic Garage (Canada) Ltd. et al.**  
Our Matter No: 317016

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Enclosed please find our invoice # 1380276 for services rendered to April 10, 2024. The balance due is \$3,535.77 CAD. Please include our invoice number in the payment detail section of your wire transfer.

I trust the foregoing is satisfactory. Please do not hesitate to call me if you have any questions.

Yours very truly,

AIRD & BERLIS LLP

Kyle B. Plunkett  
KBP/ch

Encl.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
[airdberlis.com](http://airdberlis.com)

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 10, 2024

Attention: Pritesh Patel

**Invoice No: 1380276**

**Re: BIA Proposal Proceedings of Organic Garage (Canada) Ltd. et al.**

Client No: 022647  
Matter No: 317016

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 10, 2024**

Total Fees	\$3,129.00
Total Taxes	406.77
<b>Amount Due</b>	<b>\$3,535.77 CAD</b>

Payment by EFT / Wire Transfer:

Beneficiary Bank: TD Canada Trust  
TD Centre  
55 King Street West  
Toronto, ON M5K 1A2

Beneficiary: Aird & Berlis LLP  
Bank No.: 004  
Transit No.: 10202  
Account: 5221521  
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**GST / HST Registration # 12184 6539 RT0001**

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KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 10, 2024

Attention: Pritesh Patel

**Invoice No: 1380276**

**Re: BIA Proposal Proceedings of Organic Garage (Canada) Ltd. et al.**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 10, 2024**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	01/04/24	595.00	0.10	59.50	Review update from P. Patel regarding call with Zeifmans
AH	01/04/24	595.00	0.20	119.00	Review emails from K. Plunkett and P. Patel regarding non-disclosure agreement
AH	02/04/24	595.00	0.20	119.00	Review revisions to non-disclosure agreement
AH	02/04/24	595.00	0.20	119.00	Review licence agreement
KBP	03/04/24	775.00	1.00	775.00	Review and provide comments on draft NDA from prospective bidder; attend call with Weirfoulds to discuss potential bid terms for prospective bidder.
KBP	04/04/24	775.00	1.00	775.00	Email exchanges with client regarding prospective bidder questions; review and respond to emails from Parentco Trustee; email exchanges with company counsel regarding SISP.
MES	04/04/24	775.00	0.50	387.50	Exchange emails with Miller Thomson re scheduling sale approval motion; Revise P. Patel response email to Zeifmans re request to access data room
KBP	05/04/24	775.00	0.70	542.50	Attend call with client to discuss termination of SH offer; review and provide comments on draft termination notice.
MES	05/04/24	775.00	0.20	155.00	Exchange further emails re sale approval court date
MES	06/04/24	775.00	0.10	77.50	Exchange emails re parties to attend scheduling conference
<b>TOTAL:</b>			<b>4.20</b>	<b>\$3,129.00</b>	

Name	Year of Call	Title	Hours	Rate	Value
Ho, Adrienne (AH)	2015	Associate	0.70	\$595.00	\$416.50
Plunkett, Kyle B. (KBP)	2011	Partner	2.70	\$775.00	\$2,092.50
Spence, Miranda E. (MES)	2011	Partner	0.80	\$775.00	\$620.00
<b>OUR FEE</b>					\$3,129.00
HST @ 13%					406.77
<b>AMOUNT DUE</b>					<b>\$3,535.77 CAD</b>

THIS IS OUR INVOICE HEREIN  
AIRD & BERLIS LLP



Kyle B. Plunkett  
E.&O.E.

Payment by EFT / Wire Transfer:

Beneficiary Bank: TD Canada Trust  
TD Centre  
55 King Street West  
Toronto, ON M5K 1A2

Beneficiary: Aird & Berlis LLP  
Bank No.: 004  
Transit No.: 10202  
Account: 5221521  
Swift Code: TDOMCATTOR

Payment by Cheque:

Payable To: Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, ON M5J 2T9

[Bill.Com](#) Payment Network ID: c114483219512158

Email notification for EFT and WIRE payments: [accounting@airdberlis.com](mailto:accounting@airdberlis.com)

**\* Aird & Berlis LLP does not accept interac/email transfers \***

**Payment is due on receipt.**

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 6% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

**GST / HST Registration # 12184 6539 RT0001**

\* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
[airdberlis.com](http://airdberlis.com)

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 10, 2024

Attention: Pritesh Patel

**Invoice No: 1380276**

**Re: BIA Proposal Proceedings of Organic Garage (Canada) Ltd. et al.**

Client No: 022647  
Matter No: 317016

---

**REMITTANCE SLIP**

Total Fees	\$3,129.00
Total Taxes	406.77
<b>AMOUNT DUE</b>	<b><u>\$3,535.77 CAD</u></b>

---

Payment by EFT / Wire Transfer:

Payment by Cheque:

Beneficiary Bank:  
TD Canada Trust  
TD Centre  
55 King Street West  
Toronto, ON M5K 1A2

Beneficiary: Aird & Berlis LLP  
Bank No.: 004  
Transit No.: 10202  
Account: 5221521  
Swift Code: TDOMCATTTOR

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**GST / HST Registration # 12184 6539 RT0001**

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AIRD BERLIS

Kyle B. Plunkett  
Direct: 416-865-3406  
E-mail: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

April 15, 2024

Pritesh Patel  
KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

Dear Mr. Patel:

RE: Insolvency Advice on Potential Filing Options  
Our Matter No: 317016

---

Enclosed please find our invoice # 1380776 for services rendered to April 12, 2024. The balance due is \$4,458.42 CAD. Please include our invoice number in the payment detail section of your wire transfer.

I trust the foregoing is satisfactory. Please do not hesitate to call me if you have any questions.

Yours very truly,

AIRD & BERLIS LLP



Kyle B. Plunkett

KBP/ch

Encl.





Aird & Berlis LLP  
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Toronto, Ontario M5J 2T9 Canada

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F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 15, 2024

Attention: Pritesh Patel

**Invoice No: 1380776**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 12, 2024**

Total Fees	\$3,945.50
Total Taxes	512.92
<b>Amount Due</b>	<b>\$4,458.42 CAD</b>

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

---

Payment by Cheque:

Payable To:
Aird & Berlis LLP
Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

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**Payment is due on receipt.**

Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

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**GST / HST Registration # 12184 6539 RT0001**

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4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 15, 2024

Attention: Pritesh Patel

**Invoice No: 1380776**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

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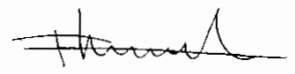
**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 12, 2024**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	04/04/24	595.00	0.10	59.50	Review emails with P. Patel regarding response to Zeifmans
AH	04/04/24	595.00	0.10	59.50	Review emails with G. Phoenix regarding offer
AH	05/04/24	595.00	0.10	59.50	Emails with P. Patel regarding note to service list; review email from G. Phoenix regarding bid
AH	05/04/24	595.00	0.10	59.50	Email service list regarding stalking horse bid
AH	05/04/24	595.00	0.10	59.50	Review P. Patel email to G. Phoenix regarding license
AH	05/04/24	595.00	0.10	59.50	Review emails with K. Plunkett and T. Fatima regarding note to potential bidders
AH	08/04/24	595.00	0.10	59.50	Review emails from T. Fatima and K. Plunkett regarding bid submission instructions
KBP	08/04/24	775.00	1.20	930.00	Attend call with P. Cho to discuss SISP; attend call with client to discuss SISP terms and offer deadline; review and consider emails from Trustee
KBP	10/04/24	775.00	1.50	1,162.50	Review bids; attend call with Weirfoulds to discuss prospective bid terms; attend calls with client team to discuss same
KBP	11/04/24	775.00	1.20	930.00	Review and consider successful bid details and provide summary to client; attend calls with P. Patel
AH	12/04/24	595.00	0.20	119.00	Attend scheduling hearing for approval and vesting order and stay extension

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
KBP	12/04/24	775.00	0.50	387.50	Review and provide comments on draft email to successful bidders
<b>TOTAL:</b>			5.30	\$3,945.50	

Name	Year of Call	Title	Hours	Rate	Value
Ho, Adrienne (AH)	2015	Associate	0.90	\$595.00	\$535.50
Plunkett, Kyle B. (KBP)	2011	Partner	4.40	\$775.00	\$3,410.00
<b>OUR FEE</b>					\$3,945.50
HST @ 13%					512.92
<b>AMOUNT DUE</b>					<b>\$4,458.42 CAD</b>

THIS IS OUR INVOICE HEREIN  
AIRD & BERLIS LLP



Kyle B. Plunkett  
E.&O.E.

<b>Payment by EFT / Wire Transfer:</b>			<b>Payment by Cheque:</b>		
Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP	Payable To:	Aird & Berlis LLP	
TD Canada Trust	Bank No.:	004	181 Bay Street	Toronto, ON M5J 2T9	
TD Centre	Transit No.:	10202			
55 King Street West	Account:	5221521			
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR			

**Bill.Com Payment Network ID: c114483219512158**

**Email notification for EFT and WIRE payments: [accounting@airdberlis.com](mailto:accounting@airdberlis.com)**

**\* Aird & Berlis LLP does not accept interac/email transfers \***

**Payment is due on receipt.**  
Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

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**GST / HST Registration # 12184 6539 RT0001**

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airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 15, 2024

Attention: Pritesh Patel

**Invoice No: 1380776**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

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**REMITTANCE SLIP**

Total Fees	\$3,945.50
Total Taxes	512.92
<b>AMOUNT DUE</b>	<b><u>\$4,458.42 CAD</u></b>

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

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Payment by Cheque:

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AIRD BERLIS

Kyle B. Plunkett  
Direct: 416-865-3406  
E-mail: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

April 23, 2024

Pritesh Patel  
KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

Dear Mr. Patel:

RE: Insolvency Advice on Potential Filing Options  
Our Matter No: 317016

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Enclosed please find our invoice # 1381771 for services rendered to April 19, 2024. The balance due is \$19,726.41 CAD. Please include our invoice number in the payment detail section of your wire transfer.

I trust the foregoing is satisfactory. Please do not hesitate to call me if you have any questions.

Yours very truly,

AIRD & BERLIS LLP



Kyle B. Plunkett

KBP/ch

Encl.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
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airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 23, 2024

Attention: Pritesh Patel

**Invoice No: 1381771**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 19, 2024**

Total Fees	\$17,457.00
Total Taxes	2,269.41
<b>Amount Due</b>	<b>\$19,726.41 CAD</b>

---

Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
55 King Street West	Account:	5221521
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR

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Payment by Cheque:

Payable To:
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Brookfield Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

**Bill.Com Payment Network ID: c114483219512158**

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**GST / HST Registration # 12184 6539 RT0001**

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KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 23, 2024

Attention: Pritesh Patel

**Invoice No: 1381771**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ending April 19, 2024**

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	10/04/24	595.00	0.10	59.50	Email P. Patel regarding bid; review email from M. Faheim regarding scheduling conference
AH	10/04/24	595.00	0.10	59.50	Review P. Patel email regarding bids
AH	10/04/24	595.00	1.80	1,071.00	Review multiple asset purchase agreements from bidder and email K. Plunkett regarding the same
MES	10/04/24	775.00	0.20	155.00	Telephone call with M. Faheim re scheduling of sale approval hearing and bid deadline
AH	11/04/24	595.00	0.10	59.50	Email P. Patel regarding bids
AH	11/04/24	595.00	0.10	59.50	Emails with P. Patel regarding hearing dates; call with M. Faheim regarding court hearings
AH	11/04/24	595.00	0.10	59.50	Review KPMG summary of sales process and bids
AH	11/04/24	595.00	0.10	59.50	Review emails with P. Patel and A. Iqbal regarding bids
MES	11/04/24	775.00	0.20	155.00	Exchange emails with A. Ho re potential court dates
AH	12/04/24	595.00	0.20	119.00	Review proposal trustee's communications to bidders and emails with K. Plunkett on next steps
AH	12/04/24	595.00	0.10	59.50	Review endorsement from scheduling hearing
AH	12/04/24	595.00	0.10	59.50	Review email from P. Cho regarding bid
MES	12/04/24	775.00	0.30	232.50	Exchange emails re dates for stay extension and sale approval motions

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	14/04/24	595.00	0.30	178.50	Review revised asset purchase agreement and emails from G. Phoenix and K. Plunkett on the same
KBP	14/04/24	775.00	1.00	775.00	Review and consider updated APA from MAAB purchaser; email exchange with client regarding same
AH	15/04/24	595.00	0.10	59.50	Email T. Courtis and S. Tanvir regarding asset purchase agreement
AH	15/04/24	595.00	0.10	59.50	Emails with P. Cho regarding asset purchase agreement and approval order
AH	15/04/24	595.00	0.10	59.50	Emails with T. Fatima regarding service list; emails with S. Garrafa regarding service list
AH	15/04/24	595.00	0.60	357.00	Review Junction asset purchase agreement and email K. Plunkett regarding the same
AH	15/04/24	595.00	0.10	59.50	Review emails with G. Phoenix regarding asset purchase agreement
KBP	15/04/24	775.00	2.00	1,550.00	Review and revise APAs for successful bids; attend calls with client regarding same
MES	15/04/24	775.00	0.60	465.00	Call with KPMG and Miller Thomson teams re sale approval motion; Email to A&B team re same
AH	16/04/24	595.00	0.60	357.00	Review revisions to Liberty asset purchase agreement and email K. Plunkett on the same
AH	16/04/24	595.00	0.40	238.00	Review PPSA searches and emails with K. Plunkett on the same
AH	16/04/24	595.00	0.30	178.50	Emails with P. Patel and K. Plunkett regarding equipment lessors
AH	16/04/24	595.00	0.20	119.00	Emails with P. Patel regarding scope of assets
AH	16/04/24	595.00	0.10	59.50	Emails with P. Cho regarding asset purchase agreement
AH	16/04/24	595.00	0.70	416.50	Revise Junction asset purchase agreement and circulate to K. Plunkett
AH	16/04/24	595.00	0.10	59.50	Email P. Patel regarding Junction asset purchase agreement
AH	16/04/24	595.00	0.10	59.50	Emails with C. Delfino regarding approval and vesting order
AH	16/04/24	595.00	0.10	59.50	Review emails with G. Phoenix regarding asset purchase agreement
AH	16/04/24	595.00	0.90	535.50	Revise Liberty and Junction asset purchase agreements further and circulate to P. Patel

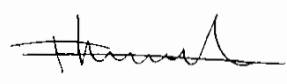


<b>MEMBER</b>	<b>DATE</b>	<b>RATE</b>	<b>HOURS</b>	<b>VALUE</b>	<b>DESCRIPTION</b>
AH	16/04/24	595.00	0.10	59.50	Review Organic software invoicing
AH	16/04/24	595.00	0.10	59.50	Email T. Courtis and S. Tanvir revised asset purchase agreement
AH	16/04/24	595.00	0.10	59.50	Email P. Cho revised asset purchase agreement
AH	16/04/24	595.00	0.10	59.50	Review email from G. Phoenix regarding closing deliverables
AH	16/04/24	595.00	0.30	178.50	Review equipment leases
AH	16/04/24	595.00	0.20	119.00	Emails with K. Plunkett regarding asset purchase agreement revisions
CD	16/04/24	395.00	2.70	1,066.50	Draft Approval and Vesting Order for A. Ho and K. Plunkett's review and comment
KBP	16/04/24	775.00	2.00	1,550.00	Review and respond to emails from Purchasers regarding APA and finalizing terms; email exchange with client regarding rent deposits and APAs; review and provide comments on draft Order
AH	17/04/24	595.00	0.10	59.50	Emails with S. Morris and K. Plunkett regarding CIPO searches
AH	17/04/24	595.00	0.10	59.50	Call with P. Patel regarding next steps
AH	17/04/24	595.00	0.10	59.50	Call with P. Patel regarding next steps
AH	17/04/24	595.00	0.10	59.50	Emails with P. Patel regarding asset purchase agreement
AH	17/04/24	595.00	0.10	59.50	Review emails with G. Phoenix regarding asset purchase agreement
AH	17/04/24	595.00	0.10	59.50	Review letter from Zeifmans
AH	17/04/24	595.00	0.30	178.50	Review draft proposal trustee report
AH	17/04/24	595.00	0.10	59.50	Review email from T. Courtis regarding asset purchase agreement
AH	17/04/24	595.00	0.10	59.50	Review emails with P. Cho regarding asset purchase agreement
KBP	17/04/24	775.00	0.70	542.50	Email exchanges with purchasers to finalize APAs
MES	17/04/24	775.00	0.60	465.00	Revise affidavit of M. Lurie and exchange emails with KPMG and A&B re proposed response to A. Rutman
AH	18/04/24	595.00	0.10	59.50	Emails with K. Plunkett regarding asset purchase agreements

MEMBER	DATE	RATE	HOURS	VALUE	DESCRIPTION
AH	18/04/24	595.00	0.10	59.50	Email companies' counsel regarding asset purchase agreement
KBP	18/04/24	775.00	1.20	930.00	Review and provide comments on court materials; attend calls with client to discuss APAs and deposits; email exchanges with Purchasers' counsel
MES	18/04/24	775.00	0.70	542.50	Revise Second Report in support of stay extension motion
SRM	18/04/24	485.00	0.50	242.50	Review email; Conduct intellectual property searches at CIPO and report on same
AH	19/04/24	595.00	0.50	297.50	Call with M. Spence, K. Plunkett and KPMG regarding next steps
AH	19/04/24	595.00	0.40	238.00	Revise asset purchase agreement and email T. Courtis the same
AH	19/04/24	595.00	0.10	59.50	Emails with P. Cho regarding outside date
AH	19/04/24	595.00	0.20	119.00	Emails with G. Phoenix and companies' counsel regarding outside date
AH	19/04/24	595.00	0.50	297.50	Review proposal trustee's second report and emails with T. Fatima on the same
AH	19/04/24	595.00	0.10	59.50	Email proposal trustee's report to service list and Zeifmans
AH	19/04/24	595.00	0.10	59.50	Emails with T. Courtis and S. Tanvir regarding asset purchase agreement
AH	19/04/24	595.00	0.10	59.50	Emails with companies' counsel regarding asset purchase agreements
AH	19/04/24	595.00	0.10	59.50	Emails with P. Cho regarding outside date
KBP	19/04/24	775.00	1.40	1,085.00	Attend calls with P. Patel to discuss finalizing APAs; review and provide comments on draft report
MES	19/04/24	775.00	0.80	620.00	Exchange emails with F. Tayar re stay extension motion; Call with P. Patel, T. Fatima, K. Plunkett, A. Ho re response to Zeifmans, finalizing materials for upcoming motions; Exchange emails with M. Faheim re stay extension materials
<b>TOTAL:</b>			26.80	\$17,457.00	

Name	Year of Call	Title	Hours	Rate	Value
Delfino, Cristian (CD)	2023	Associate	2.70	\$395.00	\$1,066.50
Ho, Adrienne (AH)	2015	Associate	11.90	\$595.00	\$7,080.50
Morris, Shannon R (SRM)		Law Clerk	0.50	\$485.00	\$242.50
Plunkett, Kyle B. (KBP)	2011	Partner	8.30	\$775.00	\$6,432.50
Spence, Miranda E. (MES)	2011	Partner	3.40	\$775.00	\$2,635.00
<b>OUR FEE</b>					\$17,457.00
HST @ 13%					2,269.41
<b>AMOUNT DUE</b>					<b>\$19,726.41 CAD</b>

THIS IS OUR INVOICE HEREIN  
AIRD & BERLIS LLP



Kyle B. Plunkett  
E.&O.E.

Payment by EFT / Wire Transfer:			Payment by Cheque:		
Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP	Payable To:	Aird & Berlis LLP	
TD Canada Trust	Bank No.:	004	Aird & Berlis LLP	Brookfield Place, Suite 1800	
TD Centre	Transit No.:	10202	181 Bay Street	Toronto, ON M5J 2T9	
55 King Street West	Account:	5221521			
Toronto, ON M5K 1A2	Swift Code:	TDOMCATTOR			

**Bill.Com Payment Network ID: c114483219512158**  
**Email notification for EFT and WIRE payments: [accounting@airdberlis.com](mailto:accounting@airdberlis.com)**

**\* Aird & Berlis LLP does not accept interac/email transfers \***

**Payment is due on receipt.**  
Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 6% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

**GST / HST Registration # 12184 6539 RT0001**

\* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.



Aird & Berlis LLP  
Brookfield Place, Suite 1800  
181 Bay Street  
Toronto, Ontario M5J 2T9 Canada

T 416 863 1500  
F 416 863 1515  
airdberlis.com

KPMG Inc.  
4600-333 Bay Street  
Toronto, ON  
M5H 2S5 Canada

April 23, 2024

Attention: Pritesh Patel

**Invoice No: 1381771**

**Re: Insolvency Advice on Potential Filing Options**

Client No: 022647  
Matter No: 317016

---

**REMITTANCE SLIP**

Total Fees	\$17,457.00
Total Taxes	2,269.41
<b>AMOUNT DUE</b>	<b><u>\$19,726.41 CAD</u></b>

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Payment by EFT / Wire Transfer:

Beneficiary Bank:	Beneficiary:	Aird & Berlis LLP
TD Canada Trust	Bank No.:	004
TD Centre	Transit No.:	10202
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Please quote our Matter No. and the invoice number(s) to ensure correct allocation of payment.

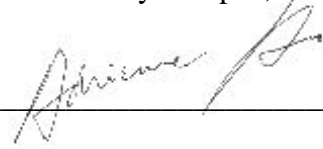
IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 6% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS INVOICE IS DELIVERED.

**GST / HST Registration # 12184 6539 RT0001**

\* For legal services provided to clients residing in British Columbia, Quebec, Manitoba and Saskatchewan, clients are advised to self-assess provincial sales tax on fees and disbursements charged.

Attached is Exhibit "B"  
Referred to in the  
AFFIDAVIT OF KYLE PLUNKETT

Sworn before me  
this 23<sup>rd</sup> day of April, 2024

A handwritten signature in cursive script, appearing to read "Adrienne B.", is written over a horizontal line.

Commissioner for taking Affidavits, etc.

## STATEMENT OF RESPONSIBLE INDIVIDUALS

*Aird & Berlis LLP's professional fees herein are made with respect to the following individuals*

<b>Lawyer</b>	<b>Call to Bar</b>	<b>Hourly Rate</b>	<b>Total Time</b>	<b>Value</b>
K. Plunkett	2011	\$775.00	65.2	\$50,530.00
M. Spence	2011	\$775.00	19.5	\$15,112.50
A. Ho	2015	\$595.00	41.8	\$24,871.00
C. Delfino	2023	\$395.00	2.7	\$1,066.50
<b>Clerk/Student</b>	<b>Call to Bar</b>	<b>Hourly Rate</b>	<b>Total Time</b>	<b>Value</b>
P. Williams	N/A	\$280.00	3.9	\$1,092.00
S. Morris	N/A	\$485.00	0.5	\$242.50
C. Horsten	N/A	\$350.00	5.6	\$1,960.00

*\*Standard hourly rates listed. However, in certain circumstances adjustments to the account may have been made.*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

Proceedings commenced at TORONTO

**AFFIDAVIT OF KYLE PLUNKETT  
(sworn April 23, 2024)**

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Kyle Plunkett** (LSO # 61044N)

Tel: (416)-865-3406

Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Miranda Spence** (LSO # 60621M)

Tel: (416)865-3414

Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

**Adrienne Ho** (LSO # 68439N)

Tel: (416)637-7980

Email: [aho@airdberlis.com](mailto:aho@airdberlis.com)

*Lawyers for KPMG Inc., in its Capacity as  
Proposal Trustee*

# **CONFIDENTIAL APPENDIX “1”**



# **CONFIDENTIAL APPENDIX “2”**

# **CONFIDENTIAL APPENDIX “3”**

# **CONFIDENTIAL APPENDIX “4”**

# **CONFIDENTIAL APPENDIX “5”**

IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO  
INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO  
INC.

Court / Estate File Nos: 31-3051650  
31-3051654  
31-3051653  
31-3051656  
31-3051657

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**PROCEEDING COMMENCED AT TORONTO**

---

**THIRD REPORT OF THE PROPOSAL "....."**  
**TRUSTEE "**  
Cr tki'23, 2024

---

**AIRD & BERLIS LLP**

Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9  
Tel: 416.863.1500  
Fax: 416.863.1515

**Kyle Plunkett (LSO # 61044N)**

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Email: mspence@airdberlis.com

**Adrienne Ho (LSO # 68439N)**

Tel: (416) 637-7980  
Email: aho@airdberlis.com

*Lawyers for KPMG Inc., in its Capacity as Proposal Trustee*

# TAB 5

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

THE HONOURABLE ) THURSDAY, THE 2nd  
JUSTICE <\*> ) DAY OF MAY, 2024

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KPMG Inc. (“**KPMG**”), in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”), for an Order, *inter alia*, approving the sale transaction (the “**Transaction**”) that was selected by the Proposal Trustee under the sale and solicitation process (the “**SISP**”) granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 14, 2024 (the “**Sale Process Order**”), and as contemplated by an asset purchase agreement between Organic Garage and 2581751 Ontario Inc., as vendors (together, the “**Vendors**”), and

1000858769 Ontario Inc., as purchaser (the “**Purchaser**”), dated April 16, 2024 (the “**Sale Agreement**”), an unredacted copy of which is attached as Confidential Appendix “<\*>” to the third report of the Proposal Trustee dated <\*>, 2024 (the “**Third Report**”), and vesting in the Purchaser the Vendors’ right, title and interest in and to the assets as described in the Sale Agreement (the “**Purchased Assets**”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <\*> sworn April <\*>, 2024, filed,

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Proposal Trustee may deem necessary. The Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, including without limitation, the Assignment and Assumption Agreements.



3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Proposal Trustee's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Companies and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **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 Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully

requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

8. **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, and this Order is enforceable without the need for entry and filing.

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**Schedule “A” – Form of Proposal Trustee’s Certificate**

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE’S CERTIFICATE**

**RECITALS**

- I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada) each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).
  
- II. Pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made March 14, 2024 (the “**Sale Process Order**”), the Court

approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. Pursuant to an Order of the Court dated April <\*>, 2024, the Court approved the asset purchase agreement between Organic Garage and 2581751 Ontario Inc. as vendors (together, the “**Vendors**”), and 1000858769 Ontario Inc. as purchaser (the “**Purchaser**”), dated April 16, 2024 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser all the Vendors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the Proposal Trustee.

IV. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE PROPOSAL TRUSTEE CERTIFIES** the following:

1. The Purchaser has paid and the Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Proposal Trustee; and

4. This Proposal Trustee's Certificate was delivered by the Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KPMG INC.**, solely in its capacity as the proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

Court File No.: 31-3051650

Estate File No.: 31-3051650

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN BANKRUPTCY & INSOLVENCY**  
**Proceedings commenced at Toronto**

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**APPROVAL AND VESTING ORDER**

---

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Kyle Plunkett (LSO# 61044N)**

Tel: 416.865.3406  
Email: kplunkett@airdberlis.com

**Miranda Spence (LSO# 60621M)**

Tel: (416) 865-3414  
Email: mspence@airdberlis.com

**Adrienne Ho (LSO# 68439N)**

Tel: 416.637.7989  
Email: aho@airdberlis.com

*Lawyers for the Proposal Trustee*

# TAB 6



District of Ontario  
Division No. 9 - Toronto  
 Court File No. —: 31-3051650  
 Estate File No.: 31-3051650

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

THE HONOURABLE	)	<del>WEEKDAY</del> <u>THURSDAY</u> , THE <u>#2<sup>nd</sup></u>
	)	
JUSTICE —	)	DAY OF <del>MONTH</del> <u>MAY</u> , <del>20YR</del> <u>2024</u>

~~BETWEEN:~~

**~~PLAINTIFF~~**

Plaintiff

~~—and—~~

**~~DEFENDANT~~**

Defendant

**IN THE MATTER OF THE BANKRUPTCY AND**  
**INSOLVENCY ACT, R.S.C., 1985, c. B-3, AS AMENDED**  
**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

## APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ KPMG Inc. ("KPMG"), in its capacity as the ~~Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR]~~ (proposal trustee (in such capacity, the "Proposal Trustee") of Organic Garage (Canada) Ltd. ("Organic Garage"), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the "Debtor" "Companies"), for an order Order, *inter alia*, approving the sale transaction (the "Transaction") that was selected by the Proposal Trustee under the sale and solicitation process (the "SISP") granted by the Ontario Superior Court of Justice (Commercial List) (the "Court") on March 14, 2024 (the "Sale Process Order"), and as contemplated by an asset purchase agreement ~~of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER]~~ (the "between Organic Garage and 2581751 Ontario Inc., as vendors (together, the "Vendors"), and 1000858769 Ontario Inc., as purchaser (the "Purchaser")), dated ~~[DATE]~~ and appended April 16, 2024 (the "Sale Agreement"), an unredacted copy of which is attached as Confidential Appendix "~~<\*>~~" to the ~~Report~~ third report of the ~~Receiver~~ Proposal Trustee dated ~~[DATE]~~ <\*>, 2024 (the "Third Report"), and vesting in the Purchaser the ~~Debtor~~ Vendors's right, title and interest in and to the assets as described in the Sale Agreement (the "Purchased Assets"); was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the ~~Receiver, [NAMES~~

~~OF OTHER PARTIES APPEARING~~ Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ ~~<\*>~~ sworn ~~[DATE]~~ April <\*>, 2024, filed<sup>1</sup> ~~2~~.

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISF is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the ~~Receiver~~<sup>3</sup> Vendors is hereby authorized and approved, with such minor amendments as the ~~Receiver~~ Vendors and the Proposal Trustee may deem necessary. The ~~Receiver is~~ Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, including without limitation, the Assignment and Assumption Agreements.

~~<sup>1</sup> This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

~~<sup>2</sup> In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

~~<sup>3</sup> In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~ Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the ~~"Receiver"~~ "Proposal Trustee's Certificate"), all of the ~~Debtor's~~ Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup> shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the ~~"Claims"~~ "Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ Steele dated ~~[DATE]~~ March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the ~~"Encumbrances"~~ "Encumbrances", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants~~

<sup>4</sup> ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

<sup>5</sup> ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~listed on Schedule D~~) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver~~Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the

~~<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

~~<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

~~<sup>8</sup> This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Proposal Trustee to file with the Court a copy of the ~~Receiver~~Proposal Trustee's Certificate, forthwith after delivery thereof.

~~6. — THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

6. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Companies and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on ~~any~~the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~Companies and shall not be void or voidable by creditors of the ~~Debtor~~Companies, nor shall it constitute nor be deemed to be a fraudulent preference,

assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

7. ~~9.~~ **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 ~~Receiver~~ Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~ Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~ Proposal Trustee and its agents in carrying out the terms of this Order.

8. **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, and this Order is enforceable without the need for entry and filing.

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Revised: January 21, 2014

Schedule "A—" – Form of ~~Receiver~~ Proposal Trustee's Certificate

District of Ontario  
Division No. 9 - Toronto  
Court File No. \_\_\_\_\_: 31-3051650  
Estate File No.: 31-3051650

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

**BETWEEN:**

**PLAINTIFF**

**Plaintiff**

**—and—**

**DEFENDANT**

**Defendant**

**RECEIVER**

**IN THE MATTER OF THE *BANKRUPTCY AND***  
***INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED***

**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE'S CERTIFICATE**

**RECITALS**

**A. \_\_\_\_\_**



I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act (Canada)* each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).

II. Pursuant to an Order of ~~the~~The Honourable ~~[NAME OF JUDGE]~~Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “Court”) ~~dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the “Receiver”~~made March 14, 2024 (the “Sale Process Order”) ~~of, the undertaking, property and assets of [DEBTOR] (the “Debtor”)~~Court approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. ~~B-~~ Pursuant to an Order of the Court dated ~~[DATE]~~April <\*>, 2024, the Court approved the asset purchase agreement ~~of purchase and sale made as of [DATE OF AGREEMENT] (the “between Organic Garage and 2581751 Ontario Inc. as vendors (together, the “Vendors”), and 1000858769 Ontario Inc. as purchaser (the “Purchaser”), dated April 16, 2024 (the “Sale Agreement”)~~ ~~between the Receiver [Debtor] and [NAME OF PURCHASER] (the “Purchaser”)~~, and provided for the vesting in the Purchaser ~~of all the Debtor~~Vendors’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to ~~Closing~~closing as set out in ~~section • of~~ the Sale Agreement

have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee.

IV. ~~€-~~ Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE ~~RECEIVER~~PROPOSAL TRUSTEE CERTIFIES** the following:

1. ~~1-~~The Purchaser has paid and the ~~Receiver~~Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. ~~2-~~The conditions to Closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; ~~and~~

3. ~~3-~~The Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee; and

4. ~~4-~~This Proposal Trustee's Certificate was delivered by the ~~Receiver~~Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

5.

~~[NAME OF RECEIVER],~~KPMG INC., solely in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per:

\_\_\_\_\_  
Name:

Title:



Revised: January 21, 2014

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**Schedule B—Purchased Asset**

Revised: January 21, 2014

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)~~

Court File No.  
Estate File No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY & INSOLVENCY  
Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

AIRD & BERLIS  
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Lawyers for the Proposal Trustee

60015768.1

Document comparison by Workshare Compare on April 23, 2024 8:45:56 AM

Input:	
Document 1 ID	file://C:\Users\aho\Downloads\approval-and-vesting-order-EN (1).doc
Description	approval-and-vesting-order-EN (1)
Document 2 ID	iManage://cloudimanager.com/CM/60015768/1
Description	#60015768v1<cloudimanager.com> - DRAFT - Liberty Approval and Vesting Order
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
	<u>Moved to</u>
	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:
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	Count
Insertions	159
Deletions	151
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	310



# TAB 7

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

THE HONOURABLE ) THURSDAY, THE 2nd  
JUSTICE <\*> ) DAY OF MAY, 2024

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KPMG Inc. (“**KPMG**”), in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”), for an Order, *inter alia*, approving the sale transaction (the “**Transaction**”) that was selected by the Proposal Trustee under the sale and solicitation process (the “**SISP**”) granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 14, 2024 (the “**Sale Process Order**”), and as contemplated by an asset purchase agreement between Organic Garage and 2412383 Ontario Inc., as vendors (together, the “**Vendors**”), and

Junction Road Nominee Inc., as purchaser (the “**Purchaser**”), dated April 19, 2024 (the “**Sale Agreement**”), an unredacted copy of which is attached as Confidential Appendix “<\*>” to the third report of the Proposal Trustee dated <\*>, 2024 (the “**Third Report**”), and vesting in the Purchaser the Vendors’ right, title and interest in and to the assets as described in the Sale Agreement (the “**Purchased Assets**”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <\*> sworn April <\*>, 2024, filed,

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Proposal Trustee may deem necessary. The Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Proposal Trustee's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Companies and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **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 Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

7. **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, and this Order is enforceable without the need for entry and filing.

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**Schedule “A” – Form of Proposal Trustee’s Certificate**

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE’S CERTIFICATE**

**RECITALS**

- I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada) each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).
  
- II. Pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made March 14, 2024 (the “**Sale Process Order**”), the Court

approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. Pursuant to an Order of the Court dated April <\*>, 2024, the Court approved the asset purchase agreement between Organic Garage and 2412383 Ontario Inc. as vendors (together, the “**Vendors**”), and Junction Road Nominee Inc. as purchaser (the “**Purchaser**”), dated April 19, 2024 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser all the Vendors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the Proposal Trustee.

IV. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE PROPOSAL TRUSTEE CERTIFIES** the following:

1. The Purchaser has paid and the Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Proposal Trustee; and



4. This Proposal Trustee's Certificate was delivered by the Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KPMG INC.**, solely in its capacity as the proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

Court File No.: 31-3051650

Estate File No.: 31-3051650

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN BANKRUPTCY & INSOLVENCY**  
**Proceedings commenced at Toronto**

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**APPROVAL AND VESTING ORDER**

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*Lawyers for the Proposal Trustee*

# TAB 8

Revised: January 21, 2014

District of Ontario  
Division No. 9 - Toronto  
Court File No. —: 31-3051650  
Estate File No.: 31-3051650

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

THE HONOURABLE )  
JUSTICE ~~—~~  ) ~~WEEKDAY~~THURSDAY, THE #2nd  
DAY OF ~~MONTH~~MAY, ~~20YR~~2024

~~B E T W E E N:~~

**~~PLAINTIFF~~**

**~~Plaintiff~~**

~~—and—~~

**~~DEFENDANT~~**

**~~Defendant~~**

**IN THE MATTER OF THE BANKRUPTCY AND**  
**INSOLVENCY ACT, R.S.C., 1985, c. B-3, AS AMENDED**  
**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

## APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ KPMG Inc. ("KPMG"), in its capacity as the ~~Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR]~~ (proposal trustee (in such capacity, the "Proposal Trustee") of Organic Garage (Canada) Ltd. ("Organic Garage"), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the "Debtor" "Companies"), for an order Order, *inter alia*, approving the sale transaction (the "Transaction") that was selected by the Proposal Trustee under the sale and solicitation process (the "SISP") granted by the Ontario Superior Court of Justice (Commercial List) (the "Court") on March 14, 2024 (the "Sale Process Order"), and as contemplated by an asset purchase agreement ~~of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER]~~ (the "between Organic Garage and 2412383 Ontario Inc., as vendors (together, the "Vendors"), and Junction Road Nominee Inc., as purchaser (the "Purchaser")), dated ~~[DATE] and appended~~ April 19, 2024 (the "Sale Agreement"), an unredacted copy of which is attached as Confidential Appendix "~~<\*>~~" to the ~~Report~~ third report of the ~~Receiver~~ Proposal Trustee dated ~~[DATE]~~ ~~<\*>~~, 2024 (the "Third Report"), and vesting in the Purchaser the ~~Debtor~~ Vendors's right, title and interest in and to the assets as described in the Sale Agreement (the "Purchased Assets"); was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the ~~Receiver, [NAMES~~

~~OF OTHER PARTIES APPEARING~~ Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ [NAME] sworn ~~[DATE]~~ April, 2024, filed<sup>1</sup>.

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the ~~Receiver~~<sup>3</sup> Vendors is hereby authorized and approved, with such minor amendments as the ~~Receiver~~ Vendors and the Proposal Trustee may deem necessary. The ~~Receiver is~~ Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

<sup>1</sup> ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

<sup>2</sup> ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the ~~"Receiver"~~"Proposal Trustee's Certificate"), all of the ~~Debtor's~~Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup> shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the ~~"Claims"~~"Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Steele dated ~~[DATE]~~March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the ~~"Encumbrances"~~"Encumbrances", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants~~

~~<sup>4</sup>To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

~~<sup>5</sup>The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~listed on Schedule D~~) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. — THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

3. **4. THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver~~Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the

~~<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

~~<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

~~<sup>8</sup> This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~



possession or control of the person having that possession or control immediately prior to the sale.

4. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~ Proposal Trustee to file with the Court a copy of the ~~Receiver~~ Proposal Trustee's Certificate, forthwith after delivery thereof.

~~6. — THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

5. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

~~(a)~~ (a) the pendency of these proceedings;

~~(b)~~ (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~ Companies and any bankruptcy order issued pursuant to any such applications; and

~~(c)~~ (c) any assignment in bankruptcy made in respect of the ~~Debtor~~ Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on ~~any~~ the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be

appointed in respect of the ~~Debtor~~Companies and shall not be void or voidable by creditors of the ~~Debtor~~Companies, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

6. ~~9.~~ **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 ~~Receiver~~Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Proposal Trustee and its agents in carrying out the terms of this Order.

7. **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, and this Order is enforceable without the need for entry and filing.



Revised: January 21, 2014

Schedule "A—" – Form of ~~Receiver~~ Proposal Trustee's Certificate

District of Ontario  
Division No. 9 - Toronto  
Court File No. \_\_\_\_\_: 31-3051650  
Estate File No.: 31-3051650

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

**BETWEEN:**

**PLAINTIFF**

**Plaintiff**

**—and—**

**DEFENDANT**

**Defendant**

**RECEIVER**

**IN THE MATTER OF THE *BANKRUPTCY AND***  
***INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED***

**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE'S CERTIFICATE**

**RECITALS**

**A. \_\_\_\_\_**

I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act (Canada)* each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).

II. Pursuant to an Order of ~~the~~The Honourable ~~[NAME OF JUDGE]~~Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “Court”) ~~dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the “Receiver”~~made March 14, 2024 (the “Sale Process Order”) ~~of,~~ the ~~undertaking, property and assets of [DEBTOR] (the “Debtor”)~~Court approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. ~~B.-~~ Pursuant to an Order of the Court dated ~~[DATE]~~April <\*>, 2024, the Court approved the asset purchase agreement ~~of purchase and sale made as of [DATE OF AGREEMENT] (the “between Organic Garage and 2412383 Ontario Inc. as vendors (together, the “Vendors”), and Junction Road Nominee Inc. as purchaser (the “Purchaser”), dated April 19, 2024 (the “Sale Agreement”)~~ ~~between the Receiver [Debtor] and [NAME OF PURCHASER] (the “Purchaser”)~~, and provided for the vesting in the Purchaser ~~of~~all the ~~Debtor~~Vendors’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to ~~Closing~~closing as set out in ~~section • of~~ the Sale Agreement

have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee.

IV. ~~€-~~ Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE ~~RECEIVER~~PROPOSAL TRUSTEE CERTIFIES the following:

1. ~~1-~~The Purchaser has paid and the ~~Receiver~~Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. ~~2-~~The conditions to Closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; ~~and~~

3. ~~3-~~The Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee; and

4. ~~4-~~This Proposal Trustee's Certificate was delivered by the ~~Receiver~~Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

5.

~~[NAME OF RECEIVER],~~KPMG INC., solely in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_  
Name:  
Title:



Revised: January 21, 2014

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**Schedule B—Purchased Asset**



Revised: January 21, 2014

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)~~

Court File No  
Estate File No

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY & INSOLVENCY  
Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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Lawyers for the Proposal Trustee

56802545.2

Document comparison by Workshare Compare on April 22, 2024 10:24:36 PM

Input:	
Document 1 ID	file://C:\Users\aho\Downloads\approval-and-vesting-order-EN (1).doc
Description	approval-and-vesting-order-EN (1)
Document 2 ID	iManage://cloudimanager.com/CM/56802545/2
Description	#56802545v2<cloudimanager.com> - DRAFT - Junction Approval and Vesting Order
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
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	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	163
Deletions	156
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	319

# TAB 9

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

THE HONOURABLE

)

THURSDAY, THE 2nd

JUSTICE <\*>

)

DAY OF MAY, 2024

)

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C., 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KPMG Inc. (“**KPMG**”), in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”), for an Order, *inter alia*, approving the sale transaction (the “**Transaction**”) that was selected by the Proposal Trustee under the sale and solicitation process (the “**SISP**”) granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 14, 2024 (the “**Sale Process Order**”), and as contemplated by an asset purchase agreement between Organic Garage, 2347018 Ontario Inc. and 2507158 Ontario Inc., as vendors (together,

the “**Vendors**”), and Maab Global Ltd., as purchaser (the “**Purchaser**”), dated April 14, 2024 (the “**Sale Agreement**”), an unredacted copy of which is attached as Confidential Appendix “<\*>” to the third report of the Proposal Trustee dated <\*>, 2024 (the “**Third Report**”), and vesting in the Purchaser the Vendors’ right, title and interest in and to the assets as described in the Sale Agreement (the “**Purchased Assets**”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <\*> sworn April <\*>, 2024, filed,

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Proposal Trustee may deem necessary. The Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, including without limitation, the Assignment and Assumption Agreements.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Proposal Trustee's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the



sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Proposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Vendors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Companies and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by creditors of the Companies, nor

shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **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 Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

9. **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, and this Order is enforceable without the need for entry and filing.

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**Schedule “A” – Form of Proposal Trustee’s Certificate**

District of Ontario  
Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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

**IN THE MATTER OF THE *BANKRUPTCY AND***  
***INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE’S CERTIFICATE**

**RECITALS**

- I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada) each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).
  
- II. Pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made March 14, 2024 (the “**Sale Process Order**”), the Court

approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. Pursuant to an Order of the Court dated April <\*>, 2024, the Court approved the asset purchase agreement between Organic Garage, 2347018 Ontario Inc., and 2507158 Ontario Inc. as vendors (together, the “**Vendors**”), and Maab Global Ltd. as purchaser (the “**Purchaser**”), dated April 19, 2024 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser all the Vendors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the Proposal Trustee.

IV. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE PROPOSAL TRUSTEE CERTIFIES** the following:

1. The Purchaser has paid and the Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Proposal Trustee; and

4. This Proposal Trustee's Certificate was delivered by the Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KPMG INC.**, solely in its capacity as the proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

Court File No.: 31-3051650

Estate File No.: 31-3051650

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY & INSOLVENCY  
Proceedings commenced at Toronto**

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**APPROVAL AND VESTING ORDER**

---

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Tel: 416.637.7989  
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*Lawyers for the Proposal Trustee*

# TAB 10





## APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ KPMG Inc. ("KPMG"), in its capacity as the ~~Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR]~~ (proposal trustee (in such capacity, the "Proposal Trustee") of Organic Garage (Canada) Ltd. ("Organic Garage"), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the "Debtor" "Companies"), for an ~~order~~ Order, *inter alia*, approving the sale transaction (the "Transaction") that was selected by the Proposal Trustee under the sale and solicitation process (the "SISP") granted by the Ontario Superior Court of Justice (Commercial List) (the "Court") on March 14, 2024 (the "Sale Process Order"), and as contemplated by an asset purchase agreement ~~of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER]~~ (the "between Organic Garage, 2347018 Ontario Inc. and 2507158 Ontario Inc., as vendors (together, the "Vendors"), and Maab Global Ltd., as purchaser (the "Purchaser"), dated ~~[DATE] and appended~~ April 14, 2024 (the "Sale Agreement"), an unredacted copy of which is attached as Confidential Appendix "~~<\*>~~" to the ~~Report~~ third report of the ~~Receiver~~ Proposal Trustee dated ~~[DATE]~~ <\*>, 2024 (the "Third Report"), and vesting in the Purchaser the ~~Debtor~~ Vendors's right, title and interest in and to the assets as described in the Sale Agreement (the "Purchased Assets"); was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Proposal Trustee, including the Third Report and appendices thereto, and on hearing the submissions of counsel for the ~~Receiver, [NAMES~~

~~OF OTHER PARTIES APPEARING~~ Vendors and counsel for the Proposal Trustee and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ ~~<\*>~~ sworn ~~[DATE]~~ April <\*>, 2024, filed<sup>1</sup> ~~2~~.

1. **THIS COURT ORDERS** that all capitalized terms in this Order shall have the meaning as set out in the Sale Agreement, unless otherwise expressly defined herein.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction selected from the SISP is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the ~~Receiver~~<sup>3</sup> Vendors is hereby authorized and approved, with such minor amendments as the ~~Receiver~~ Vendors and the Proposal Trustee may deem necessary. The ~~Receiver is~~ Vendors and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, including without limitation, the Assignment and Assumption Agreements.

~~<sup>1</sup>This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

~~<sup>2</sup>In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

~~<sup>3</sup>In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~ Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the ~~"Receiver"~~ "Proposal Trustee's Certificate"), all of the ~~Debtor's~~ Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup> shall vest absolutely in the Purchaser, free and clear of and from any and all certificates of pending litigation and any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the ~~"Claims"~~<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ Steele dated ~~[DATE]~~ March 14, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the ~~"Encumbrances"~~, ~~which term shall not include the permitted encumbrances, easements and restrictive covenants~~

<sup>4</sup> ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

<sup>5</sup> ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~listed on Schedule D~~) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver~~Proposal Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the

~~<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

~~<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

~~<sup>8</sup> This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Proposal Trustee to file with the Court a copy of the ~~Receiver~~Proposal Trustee's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the ~~Receiver~~Proposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the ~~Debtor's~~Vendors' past and current employees, ~~including personal information of those employees listed on Schedule "•" to the Sale Agreement~~. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Vendors.

7. **THIS COURT ORDERS** that, notwithstanding:

~~(a)~~ (a) the pendency of these proceedings;

~~(b)~~ (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Companies and any bankruptcy order issued pursuant to any such applications; and

~~(c)~~ (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Companies,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on ~~any~~the Proposal Trustee and any other licensed insolvency trustee in bankruptcy that may be

appointed in respect of the ~~Debtor~~Companies and shall not be void or voidable by creditors of the ~~Debtor~~Companies, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

8. ~~9.~~ **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 ~~Receiver~~Proposal Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Proposal Trustee and its agents in carrying out the terms of this Order.

9. **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, and this Order is enforceable without the need for entry and filing.



Revised: January 21, 2014

Schedule "A—" – Form of ~~Receiver~~ Proposal Trustee's Certificate

District of Ontario  
Division No. 9 - Toronto  
Court File No. \_\_\_\_\_: 31-3051650  
Estate File No.: 31-3051650

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

**BETWEEN:**

**PLAINTIFF**

**Plaintiff**

**—and—**

**DEFENDANT**

**Defendant**

**RECEIVER**

**IN THE MATTER OF THE *BANKRUPTCY AND***  
***INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED***

**AND IN THE MATTER OF A NOTICE OF INTENTION TO**  
**MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)**  
**LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,**  
**2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

**PROPOSAL TRUSTEE'S CERTIFICATE**

**RECITALS**

**A. \_\_\_\_\_**



I. Pursuant to a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act (Canada)* each filed by Organic Garage (Canada) Ltd. (“**Organic Garage**”), 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc. (collectively, the “**Companies**”) on March 5, 2024, KPMG Inc. was named as the Companies’ proposal trustee (in such capacity, the “**Proposal Trustee**”).

II. Pursuant to an Order of ~~the~~The Honourable ~~[NAME OF JUDGE]~~Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “Court”) ~~dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the “Receiver”~~made March 14, 2024 (the “Sale Process Order”) ~~of,~~ the ~~undertaking, property and assets of [DEBTOR] (the “Debtor”)~~Court approved, among other things, a sale and investment solicitation process with respect to the assets and/or business of the Companies to be conducted by the Proposal Trustee.

III. ~~B-~~ Pursuant to an Order of the Court dated ~~[DATE]~~April <\*>, 2024, the Court approved the asset purchase agreement ~~of purchase and sale made as of [DATE OF AGREEMENT] (the “between Organic Garage, 2347018 Ontario Inc., and 2507158 Ontario Inc. as vendors (together, the “Vendors”), and Maab Global Ltd. as purchaser (the “Purchaser”), dated April 19, 2024 (the “Sale Agreement”)~~”) ~~between the Receiver [Debtor] and [NAME OF PURCHASER] (the “Purchaser”)~~, and provided for the vesting in the Purchaser ~~of all~~ the ~~Debtor~~Vendors’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to ~~Closing~~closing as set out in ~~section 1~~of the Sale Agreement

have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; and (iii) that the Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee.

IV. ~~€-~~ Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE ~~RECEIVER~~PROPOSAL TRUSTEE CERTIFIES the following:

1. ~~1-~~The Purchaser has paid and the ~~Receiver~~Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. ~~2-~~The conditions to Closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the ~~Receiver~~Vendors and the Purchaser; ~~and~~

3. ~~3-~~The Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee; and

4. ~~4-~~This Proposal Trustee's Certificate was delivered by the ~~Receiver~~Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

5.

~~[NAME OF RECEIVER],~~KPMG INC., solely in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~proposal trustee of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc. and 2581751 Ontario Inc., and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_  
Name:  
Title:



Revised: January 21, 2014

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**Schedule B—Purchased Asset**

Revised: January 21, 2014

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)~~

Court File No

Estate File No

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY & INSOLVENCY  
Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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Lawyers for the Proposal Trustee

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Document comparison by Workshare Compare on April 23, 2024 10:07:20 AM

Input:	
Document 1 ID	file://C:\Users\aho\Downloads\approval-and-vesting-order-EN (1).doc
Description	approval-and-vesting-order-EN (1)
Document 2 ID	iManage://cloudimanager.com/CM/60017446/1
Description	#60017446v1<cloudimanager.com> - DRAFT - Maab Approval and Vesting Order
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
	<u>Moved to</u>
	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	164
Deletions	155
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	319



# TAB 11

District of Ontario  
Division No. 09 - Toronto  
Court File No. 31-3051650  
Estate File No. 31-3051650

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY & INSOLVENCY)**

THE HONOURABLE ) THURSDAY, THE 2<sup>ND</sup> DAY  
 )  
JUSTICE <\*> ) OF MAY, 2024

IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF ORGANIC GARAGE (CANADA)  
LTD., 2412383 ONTARIO INC., 2347018 ONTARIO INC.,  
2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

**ANCILLARY ORDER**

**THIS MOTION**, made by KPMG Inc., in its capacity as proposal trustee (in such capacity, the “**Proposal Trustee**”) of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (collectively the “**Companies**”), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the “**BIA**”), for an ancillary order (this “**Order**”) was heard by this Honourable Court (the “**Court**”) on this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Proposal Trustee, including the first report of the Proposal Trustee dated March 11, 2024 (the “**First Report**”), the second report of the Proposal Trustee dated April 19, 2024 (the “**Second Report**”) and the third report of the Proposal Trustee dated April 23, 2024 (the “**Third Report**”) and the affidavits of the Proposal Trustee and its counsel as to fees appended to the Third Report (collectively, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Companies, and counsel to

and the other parties listed on the participant information form, no one else appearing although properly served as appears from the affidavit of <\*>, sworn <\*> 2024, filed:

**APPROVAL OF FIRST, SECOND AND THIRD REPORT, ACTIONS & FEES**

1. **THIS COURT ORDERS** that the First Report, Second Report, Third Report and the actions, activities and conduct of the Proposal Trustee described therein be and are hereby approved; provided, however, that only the Proposal Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

2. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Third Report and the Fee Affidavits be and are hereby taxed and approved.

**SEALING CONFIDENTIAL DOCUMENTS**

3. **THIS COURT ORDERS** that Confidential Exhibits 1 through 5 to the Third Report (collectively, the “**Confidential Exhibits**”), shall be sealed, kept confidential, and shall not form part of the public record, but shall rather be placed separate and apart from all the other contents of the Court File in a separately sealed envelope on which is affixed a notice setting out the title of these proceedings and a statement that the contents are subject to a sealing order.

4. **THIS COURT ORDERS** that the Confidential Exhibits shall remain under seal until the Liberty Transaction, Junction Transaction, and OG Transaction, as each are described in the Third Report, are completed, or upon further order of this Court.

**GENERAL**

5. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today’s date and is enforceable without the need for entry and filing.

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**THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC., 2347018  
ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.**

Court File No.: BK-24-03051650-0031

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY & INSOLVENCY**  
**Proceedings commenced at Toronto**

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**ANCILLARY ORDER**

---

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*Lawyers for KPMG Inc., in its Capacity as Proposal Trustee*

# TAB 12

**SERVICE LIST**  
(As at April 15, 2024)

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<p><b>TORONTO WHOLESALE PRODUCE ASSOCIATION</b></p> <p><i>PPSA Registrant</i></p>	<p><b>Joy Achu</b>  Email: <a href="mailto:joy.achu@twpa.ca">joy.achu@twpa.ca</a>  Tel: 416-259-7827 ext. 225</p>
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<p><b>SZETO PING HAY</b></p> <p><i>Landlord</i></p>	<p><b>Thomas Szeto</b> Email: <a href="mailto:thomasszeto123@gmail.com">thomasszeto123@gmail.com</a> Tel: 437.434.5851</p>
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<p><b>UNITED FOOD AND COMMERCIAL  WORKERS CANADA LOCAL 1006A</b></p>	<p><b>Michael Hancock</b>  Email: <a href="mailto:mhancock@ufcw1006a.ca">mhancock@ufcw1006a.ca</a>  Tel: 647-334-1736</p> <p><b>Lesley Prince</b>  Email: <a href="mailto:lprince@ufcw1006a.ca">lprince@ufcw1006a.ca</a>  Tel: 647-518-3973</p>
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IN THE MATTER OF ORGANIC GARAGE (CANADA) LTD., 2412383 ONTARIO INC.,  
2347018 ONTARIO INC., 2507158 ONTARIO INC., AND 2581751 ONTARIO INC.

District of Ontario Division No. 9 - Toronto  
Court File No.: 31-3051650  
Estate File No.: 31-3051650

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

Proceedings commenced at TORONTO

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**MOTION RECORD**  
**(Returnable May 2, 2024)**

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**AIRD & BERLIS LLP**

Brookfield Place  
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