



NO. S-209201  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

**IN THE MATTER OF 1077 HOLDINGS CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED**

**PETITIONERS**

**NOTICE OF APPLICATION**

**NAME OF APPLICANTS:** Alvarez & Marsal Canada Inc. ("A&M"), in its capacity as the court-appointed monitor (and, in such capacity, the "**Monitor**") of 1077 Holdings Co-operative (formerly, Mountain Equipment Co-operative) ("**1077**") and 1314625 Ontario Limited (together with 1077, the "**Petitioners**")

**TO:** Service List, attached as **Schedule "A"**

TAKE NOTICE that an application will be made by the Monitor to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, British Columbia, at **9:00 a.m. on November 29, 2023, via Microsoft Teams videoconference**, for the order set out in Part 1 below.

**PART 6. ORDER SOUGHT**

1. An order substantially in the form attached as **Schedule "B"**.

**PART 7. FACTUAL BASIS**

**A. Background**

1. On September 14, 2020, the Petitioners were granted an Initial Order by this Court (the "**Initial Order**"), pursuant to which these proceedings (these "**CCAA Proceedings**") were commenced under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").
2. Among other things, the Initial Order granted the Petitioners an initial stay of proceedings up to and including September 24, 2020 (the "**Stay Period**") and appointed A&M as the Monitor in these CCAA Proceedings.
3. The Initial Order also provided that the Petitioners may file a voluntary assignment in bankruptcy when they determined that such filing is appropriate.

4. On September 22, 2020, the Petitioners brought an application (the “**Comeback Application**”) to seek approval of the amended and restated initial order (the “**ARIO**”) to, *inter alia*:
  - (a) seek an extension of the Stay Period through to October 31, 2020;
  - (b) authorize an increased maximum amount of borrowing under the Interim Financing Facility, as defined in the First Report of the Monitor, dated September 24, 2020 (the “**First Report**”) to \$100,000,000;
  - (c) grant a key employee retention plan charge against the assets of the Petitioners in an amount not to exceed \$778,000; and
  - (d) seek approval of the sale approval and vesting order (the “**SAVO**”) to approve the sale transaction (the “**Transaction**”) contemplated by the asset purchase and sale agreement between the Petitioners and 1264686 B.C. Ltd. dated September 11, 2020 for the sale of the Purchased Assets and the vesting of all of the Purchased Assets in the Purchaser (defined below) free and clear of any Encumbrances other than Permitted Encumbrances (as such terms are defined in the SAVO).
5. On September 24, 2020, this Court granted an extension of the Stay Period from September 24, 2020 to September 28, 2020 to allow for the Comeback Application to be heard on September 28, 2020.
6. During the period from September 28, 2020 through to October 1, 2020, in addition to hearing the Comeback Application of the Petitioners, this Court heard several applications, including, *inter alia*, by Plateau Village Properties Inc and Midtown Plaza Inc (together, the “**Landlords’ Application**”), Kevin Harding and Save MEC (together, the “**Members’ Application**”), and the BC Co-op Association and Mutuels Canada (the “**Public Intervenors’ Application**”).
7. On October 2, 2020, this Court dismissed the Landlords’ Application, the Members’ Application, and the Public Intervenors’ Application and granted the ARIO, which included, *inter alia*, an extension of the Stay Period to November 3, 2020, and the SAVO sought by the Petitioners.
8. On October 21, 2020, this Court granted an assignment order to assign all of the rights and obligations of the Petitioners under certain remaining contracts to 1266524 B.C. Ltd. (recently renamed MEC Canada Inc. and referred to as the “**Purchaser**”).
9. On October 28, 2020, this Court granted a further extension of the Stay Period to January 20, 2021 to, *inter alia*, provide the Petitioners with sufficient time to complete post-closing matters related to the Transaction and seek an order to expand the powers of the Monitor provided for in the ARIO.
10. On November 12, 2020, an application was filed by a former employee on behalf of certain other former employees of 1077, to be heard on November 24, 2020 (the “**Former Employees’ Application**”), seeking an order from this Court, *inter alia*, approving the appointment of Victory Square Law Office (“**VSLO**”) as representative counsel to former

employees of 1077 in these CCAA Proceedings and granting a charge of \$85,000 over the property of the Petitioners in respect of VSLO's anticipated fees.

11. On November 27, 2020, this Court granted an order enhancing the powers of the Monitor and an order (the “**Claims Process Order**”) establishing a claims process (the “**Claims Process**”) by which creditors may confirm or prove their claims against 1077 arising prior to the filing date of September 14, 2020 (“**Claims**” and each a “**Claim**”) by submitting proofs of their Claims in the prescribed form (“**Proofs of Claim**” and each a “**Proof of Claim**”).
12. On December 21, 2020, the Former Employees’ Application was dismissed.
13. On April 9, 2021, this Court pronounced an order approving the following reports of the Monitor and the activities contained therein:
  - (a) the Proposed Monitor’s Report, dated September 13, 2020;
  - (b) the First Report;
  - (c) the Second Report of the Monitor, dated October 19, 2021;
  - (d) the Third Report of the Monitor, dated October 27, 2020;
  - (e) the Fourth Report of the Monitor, dated November 23, 2020;
  - (f) the Fifth Report of the Monitor, dated January 12, 2021; and
  - (g) the Sixth Report of the Monitor, dated April 1, 2021.
14. On April 29, 2021, the Monitor submitted the seventh report of the Monitor to this Court, which was a special purpose report providing this Court with an update of the Claims Process as well as disclosure of the number and quantum of claims received by the Monitor pursuant to paragraph 32 of the Claims Process Order.
15. On March 29, 2022, the Court pronounced an order (the “**Distribution Order**”) granting, *inter alia*, the following relief:
  - (a) approval of the following distribution methodology (the “**Distribution Methodology**”), to be applied by the Monitor in administering any distributions in these CCAA Proceedings (the “**Distributions**”):
    - (i) all Claims against the Petitioners, including Pre-filing Claims, Restructuring Period Claims, D&O Claims, and Employee Claims, which have been allowed by the Monitor accordance with the Claims Process Order, shall be accepted and valid Claims (the “**Accepted Claims**”) for purposes of participating in any Distributions;
    - (ii) directing the Monitor to establish and maintain a reserve fund for Claims that are subject to a Notice of Revision or Disallowance and/or a Notice of Dispute, and are therefore not Accepted Claims (the “**Disputed Claims**”);

- (iii) all Claims against the Petitioners, except for the Disputed Claims, that were:
      - (i) not asserted or preserved as required by the Claims Process Order, or (ii) were otherwise disallowed by the Monitor pursuant to the Claims Process Order (and which are not Disputed Claims), shall be forever barred and extinguished (each such claim, a “**Barred and Extinguished Claim**”), and any such person asserting a Barred and Extinguished Claim shall not be entitled to participate in the Distributions;
    - (iv) approval of a “top-up” payment to certain Employee Claimants, in lieu of the payments under the Wage Earners Protection Program (the “**WEPP**”) to which they would otherwise have been entitled, and allocating the total “top-up” amounts to the other Employee Claimants and Claimants on a *pro rata* basis,
  - (b) authorizing the Petitioners to make one or more cash Distributions to each Claimant and Employee Claimant holding an Accepted Claim; and
  - (c) confirming that the Distributions made to the Employee Claimants shall be in lieu of any and all amounts that might have otherwise received from Service Canada, through its administration of the WEPP.
16. In addition to the Distribution Order, on March 29, 2022, this Court also pronounced an order sealing the confidential appendix appended to the Twelfth Report of the Monitor, dated March 23, 2022, on the basis that it contained personal and sensitive details pertaining to the Employee Claimants.
17. On or about May 31, 2022, on November 28, 2022, and on October 31, 2023, the Monitor made three Distributions for a combined total of \$30.0 million and representing 94.6% of the total Accepted Claims.
18. In addition to the foregoing, this Court has granted the following extensions of the Stay Period to, *inter alia*, provide the Petitioners with sufficient time to complete the Claims Process:
- (a) January 15, 2021 to April 9, 2021;
  - (b) April 9, 2021 to June 25, 2021;
  - (c) June 23, 2021 to September 28, 2021;
  - (d) September 28, 2021, to December 10, 2021;
  - (e) December 10, 2021, to June 10, 2022;
  - (f) June 10, 2022 to December 9, 2022;
  - (g) December 9, 2022 to March 31, 2023;
  - (h) March 31, 2023 to September 29, 2023; and

- (i) September 29, 2023 to November 30, 2023.

**B. Update on Activities of the Monitor**

- 1. Since the filing of the Monitor's Sixteenth Report dated September 20, 2023 (the "**Sixteenth Report**"), the Monitor has been engaged in the following activities:

**Review of CCAA Court Materials**

- (a) reviewing draft Court application materials in consultation with Osler, Hoskin & Harcourt LLP ("**Osler**"), the Monitor's legal counsel;

**Attending to Matters Related to the Distributions**

- (b) making the final distribution totaling approximately \$1.8 million to Claimants and Employee Claimants holding Accepted Claims (the "**Final Distribution**"), in accordance with the Distribution Methodology as set out in and approved by the Distribution Order;
- (c) addressing numerous enquiries from Claimants, Employee Claimants, and statutory authorities related to the distributions;
- (d) corresponding and following up with numerous Claimants and Employee Claimants and/or Osler regarding distributions, outstanding cheques, and updating addresses and contact information as required;
- (e) reconciling and making payroll withholding remittances related to the Final Distribution payments to Employee Claimants;
- (f) coordinating with a third-party payroll service provider to assist in completing the Final Distribution and Records of Employment for Employee Claimants;

**Monitoring of Cash Receipts & Disbursements**

- (g) preparing and reviewing bi-weekly payments, as well as reconciling cash receipts and disbursements of the trust accounts of the Monitor;

**Statutory and Other Responsibilities**

- (h) preparing the Monitor's Seventeenth Report dated November 17, 2023 (the "**Seventeenth Report**"); and
- (i) reconciling and/or filing pre-filing payroll withholding remittances and post-filing GST returns and corresponding with the Canada Revenue Agency regarding post-filing refunds and other related matters.

### C. Update on Claims Process and Distribution to Claimants

1. As detailed in the Monitor's Fifteenth Report dated March 23, 2023 and summarized in the following table, there are 249 Accepted Claims totaling \$31.7 million that the Monitor has, or is deemed to have, accepted. There are no unresolved Disputed Claims remaining.

1077 Holdings Co-operative and 1314625 Ontario Limited Distributions to Claimants as at November 14, 2023 (in CAD 000's)						
	Accepted Claims		Distributions			
	No.	Accepted Amount (\$)	#1 May 31, 2022	#2 November 28, 2022	#3 October 31, 2023	Total
Landlord	6	\$ 20,591	\$ 15,443	\$ 2,883	\$ 1,153	\$ 19,479
Employee	228	8,980	6,735	1,257	508	8,500
Trade and other	15	2,151	1,613	301	120	2,035
Total	249	\$ 31,722	\$ 23,791	\$ 4,441	\$ 1,781	\$ 30,014
Recovery to Claimants			75.0%	14.0%	5.6%	94.6%

2. The Monitor confirms in its Seventeenth Report that, to date, it has made three distributions:
  - (a) the first on or about May 31, 2022,
  - (b) the second on November 28, 2022, and
  - (c) the third and final distribution on October 31, 2023.
3. Together, the above three distributions total \$30.0 million and represent 94.6% of the total Accepted Claims.
4. The Monitor confirms in its Seventeenth Report that there are 93 Claimants and Employee Claimants who have not yet deposited their distribution cheques, which in aggregate totals to \$301,765.64.

## D. Update on Cash Flow

- As detailed in the Monitor's Seventeenth Report, the Petitioners' actual cash receipts and disbursements compared to the Eleventh Cash Flow Forecast during the period from September 20, 2020 to November 12, 2023 is summarized here:

1077 Holdings Co-operative and 1314625 Ontario Limited Cash Flow Variance Analysis For the period September 15, 2020 to November 12, 2023 (in CAD 000's)				
	For the 165 Weeks Ended November 12, 2023			
	Actual	Forecast	Variance	
<b>Receipts</b>				
Sales	\$ 41,176	\$ 41,176	\$ -	
Canada Emergency Wage and Rent Subsidy	8,628	8,628	-	
Other receipts and letters of credit	4,772	4,755	16	
GST refunds	201	200	1	
Return of deposits	(601)	(601)	-	
<b>Total receipts</b>	<b>54,175</b>	<b>54,159</b>	<b>17</b>	
<b>Disbursements</b>				
Merchandise and/or vendor prepayments	33,507	33,507	-	
Freight and other non-merchandise	3,142	3,142	-	
Wages and salary	11,377	11,377	-	
SG&A	3,404	3,399	(5)	
Insurance	145	145	-	
Property taxes and other property liabilities	4,547	4,547	(1)	
Statutory obligations	3,762	3,764	2	
Consultants	63	63	-	
<b>Total disbursements</b>	<b>59,947</b>	<b>59,943</b>	<b>(4)</b>	
	<b>(5,771)</b>	<b>(5,784)</b>	<b>13</b>	
<b>Other disbursements</b>				
KERP payments	778	778	-	
Professional fees	6,328	6,281	(47)	
Debt service	987	987	-	
Contingency	574	584	10	
<b>Total other disbursements</b>	<b>(8,667)</b>	<b>(8,630)</b>	<b>(37)</b>	
<b>Distributions to Claimants</b>	<b>(30,014)</b>	<b>(28,233)</b>	<b>(1,781)</b>	
<b>Net proceeds from Sale Transaction</b>	<b>30,411</b>	<b>30,411</b>	<b>-</b>	
<b>Net Cash Flow</b>	<b>\$ (14,041)</b>	<b>\$ (12,236)</b>	<b>\$ (1,806)</b>	
<b>Opening Cash Balance</b>	<b>\$ 14,188</b>	<b>\$ 14,188</b>	<b>\$ -</b>	
<b>Net Cash Flow</b>	<b>(14,041)</b>	<b>(12,236)</b>	<b>(1,806)</b>	
<b>Ending Cash Balance</b>	<b>\$ 147</b>	<b>\$ 1,953</b>	<b>\$ (1,806)</b>	
* Net proceeds from the Sale Transaction are presented net of secured debt due to the Royal Bank of Canada which was repaid on the Closing Date.				

- The Monitor confirms in its Seventeenth Report that, as at November 12, 2023, the closing cash balance it held in trust totaled approximately \$147,000. The Monitor also reported that certain variances in respect of the reported cash receipts and disbursements were as follows:
  - total operating receipts were approximately \$17,000 higher than forecast, primarily due to higher than anticipated interest income;

- (b) total operating disbursements were approximately \$41,000 higher than forecast, primarily due to timing differences with respect to the payment of professional fees; and
  - (c) the Final Distribution of \$1.8 million was made to Claimants on October 31, 2023, which was not forecast in the Eleventh Cash Flow Forecast.
- 3. The Monitor confirmed in its Seventeenth Report that the balance of the funds it held are reserved to resolve the remaining residual matters in the CCAA Proceedings, to fund the administration of the Petitioners' bankrupt estate, and to pay the anticipated professional fees of the Monitor and Osler, to complete the administration of the CCAA Proceedings.
- 4. The Monitor advises in its Seventeenth Report that, since the Sixteenth Report, nothing has come to its attention that causes it to believe that there have been material adverse changes in the cash flow of the Petitioners or that would financially prejudice the stakeholders of the Petitioners.

**E. Update on Professional Fees**

- 1. The Monitor confirms in its Seventeenth report that the professional fees and disbursements of the Monitor and its legal counsel, Cassels and Osler, for the period from September 14, 2020 to November 30, 2023.
- 2. As provided in the Seventeenth Report:
  - (a) the Monitor's professional fees and disbursements for the period ending November 30, 2023 (or until the Monitor's completion of the administration of the CCAA Proceedings) totals \$3,210,937.13, including out of pocket disbursements of \$50,084.86 and applicable taxes of \$152,901.77;
  - (b) the Monitor's previous legal counsel, Cassels Brock & Blackwell LLP ("Cassels"), fees for the period September 14, 2020 to August 31, 2022, totals \$879,932.42, including out-of-pocket disbursements of \$32,763.27 and applicable taxes of \$92,938.15; and
  - (c) the Monitor's legal counsel, Osler's fees for the period September 1, 2022 to November 30, 2023, totals \$91,587.54, including out of pocket disbursements of \$805.63 and applicable taxes of \$9,751.91.
- 3. The Monitor confirms in its Seventeenth Report that its professional fees and disbursements have been properly incurred and are fair and reasonable in the circumstances, as are its estimated fees and disbursements associated with the discharge of its duties as Monitor and completion of the administration of the CCAA Proceedings.
- 4. The Monitor also confirms that it considers the professional fees and disbursements charged by Cassels and Osler to have been necessarily incurred and that the hours and hourly rates charged are fair and reasonable given the circumstances, as are the estimated fees and disbursements for the completion of this matter.



**F. Residual Matters**

1. The Monitor confirms in its Seventeenth Report that it expects to be able to resolve the following remaining issues by April 2024 or earlier:
  - (a) matters relating to the Final Distribution including addressing queries from Claimants and other interested parties;
  - (b) following-up on and reissuing outstanding distribution payments;
  - (c) coordinating the issuance of Records of Employment and annual tax forms for Employee Claimants;
  - (d) reviewing and reconciling the cash flow;
  - (e) responding to information requests from statutory authorities regarding former employees; and
  - (f) attending to other wind-down matters.
2. The date of April 2024 is provided because it is six months from the Final Distribution, and aligns with the timing of Federal and Provincial Income tax collection (for issuance of T4 forms, and will allow the Monitor to respond to queries).

**PART 8. LEGAL BASIS**

**A. Approval of the Monitor's Seventeenth Report, Termination of the CCAA, and Assignment into Bankruptcy**

1. The broad remedial objective of the *CCAA* is to facilitate a restructuring of a debtor company, rather than a liquidation of assets. Section 11 of the *CCAA* provides the supervising *CCAA* judge with the broad statutory authority to make such orders that are necessary to achieve this objective.

*Bul River Mineral Corporation (Re)*, 2014 BCSC 1732 at para 36  
*Century Services Inc v Canada (Attorney General)*, 2010 SCC 60 at paras 15-19, 57-66  
*CCAA*, s 11

2. Pursuant to the order granted by this Honourable Court on March 30, 2023, the Monitor is authorized to make an assignment of bankruptcy on behalf of the Petitioners under the *Bankruptcy and Insolvency Act*, R.S.C. 1986, c. B-3, as amended (the “**BIA**”), and to act as trustee in bankruptcy of the Petitioners.
3. Approval of the Monitor's activities is appropriate in the circumstances because such approval will:
  - (a) allow the Monitor to move forward with the next steps in the *CCAA* proceedings;
  - (b) bring the Monitor's activities before the Court;

- (c) allow an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified,
- (d) enable the court to satisfy itself that the Monitor's activities have been conducted in prudent and diligent manners;
- (e) provide protection for the Monitor not otherwise provided by the CCAA; and
- (f) protect creditors from the delay and distribution that would be caused by:
  - (i) re-litigation of steps taken to date, and
  - (ii) potential indemnity claims by the Monitor.

*Target Canada Co (Re)*, 2015 ONSC 7574 at paras 12, 23

- 4. The Petitioner's wind down within the CCAA proceedings is complete.
- 5. Terminating these CCAA proceedings and assigning the Petitioners into bankruptcy under the BIA is appropriate and necessary in the circumstances.
- 6. The Monitor expects there to be no further distribution in the bankruptcy.
- 7. The Petitioners (to the extent still relevant) have acted in good faith and with due diligence in these CCAA Proceedings since the pronouncement of the Initial Order.

**B. Approval of Fees and Accounts**

- 1. Factors courts will consider in assessing the reasonableness of a receiver's fees include the following:
  - (a) the nature, extend and value of the assets;
  - (b) the complications and difficulties encountered by the Monitor;
  - (c) the degree of assistance provided by the debtor;
  - (d) the time spent by the Monitor;
  - (e) The Monitor's knowledge, experience and skill;
  - (f) the diligence and thoroughness displayed by the Monitor;
  - (g) the responsibilities assumed;
  - (h) the results of the receiver's best efforts; and
  - (i) the cost of comparable services

Frant Bennett, *Bennett on Receiverships* 3rd ed (Toronto: Carswell, 2011) at 595 [*Bennett*]

2. A Monitor's fees must be "fair and reasonable, moderate and not generous, but sufficient to induce competent people to act as receivers".

*Vantright v Vantreight*, 2007 BCSC 1345 at para 43; *Street v Sather Ranch Ltd.*, 2021 BCSC 1090 at para 50 [*Sather Ranch*]

3. As noted by the New Brunswick Court of Appeal:

3. There is no fixed rate or settled scale for determining the amount of compensation to be paid a receiver. He is usually allowed either a percentage upon his receipts or a lump sum based upon the time, trouble and degree of responsibility involved. The governing principle appears to be that the compensation allowed a receiver should be measured by the fair and reasonable value of his services and while sufficient fees should be paid to induce competent persons to serve as receivers, receiverships should be administered as economically as possible. Thus allowances for services must be just, but nevertheless moderate rather than generous.

*Belyea v Federal Business Development Bank* (1983) 44 NBR (2d) 248, 1983 CarswellNB 27 (CA) at para 3; *Sather Ranch* at para 52

4. It is not necessary a court to go through the supporting documentation for the fees line by line to determine what the appropriate fees are. Nor is the court to second-guess the amount of time spent by a receiver/monitor unless it is clearly excessive or overreaching.

*Bank of Nova Scotia v Diemer*, 2014 ONSC 365 at para 19

5. Similar factors are considered in the assessment of the accounts of legal counsel to a receiver, including:

- (a) the time expended;
- (b) the complexity of the receivership;
- (c) the degree of responsibility assumed by the lawyers;
- (d) the amount of money involved, including the amount of proceeds after payments to the creditors;
- (e) the degree and skill of the lawyers involved;
- (f) the results achieved; and
- (g) the client's expectations as to the fee.

*Bennett* at 600

6. The Monitor and its counsel's fees were necessarily incurred and the hours and hourly rates charged are fair and reasonable given the circumstances, as are the estimated fees and disbursements for the completion of this matter. This is particularly in light of the significant time and effort expended by the Monitor in performing the activities contained in the Monitor's Reports. Similarly, the Monitor submits that its counsel's fees and disbursements are fair, reasonable, and consistent with the market for similar legal services in British Columbia.

## **PART 9. MATERIAL TO BE RELIED ON**

1. Seventeenth Report of the Monitor, dated November 17, 2023;
2. Affidavit of Mary Buttery, K.C., sworn November 21, 2023;
3. Affidavit of Todd Martin, sworn November 21, 2023; and
4. such further and other materials as counsel may advise and this Court may permit.

The applicant estimates that the Application will take 30 minutes.


- ☐ This matter is within the jurisdiction of a Master.
- ☒ This matter is not within the jurisdiction of a Master. This matter is scheduled to be heard by the Honourable Madam Justice Fitzpatrick, who is seized of these proceedings.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this Application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every Affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this Application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed Affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: November 22, 2023

  
\_\_\_\_\_  
Signature of Lawyer for the Monitor  
Osler, Hoskin & Harcourt LLP  
Mary Buttery, K.C. / Elie Laskin

To be completed by the Court only:

Order made

☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application

☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature of ☐ Judge ☐ Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ other

## SCHEDULE A

<p><b>Norton Rose Fulbright Canada LLP</b> 1800 – 510 West Georgia Street Vancouver, BC V6B 0M3</p> <p><b>Attention: Howard A. Gorman, K.C. Scott M. Boucher</b></p> <p>Email: howard.gorman@nortonrosefulbright.com scott.boucher@nortonrosefulbright.com alexander.schmitt@nortonrosefulbright.com krystal.shayler@nortonrosefulbright.com</p> <p>Tel: 604-687-6575</p> <p><i>Counsel for the Petitioners, 1077 Holdings Co-operative (formerly Mountain Equipment Co-operative) and 1314625 Ontario Limited</i></p>	<p><b>Alvarez &amp; Marsal Canada Inc.</b> 1680 – 400 Burrard Street Vancouver, BC V6C 3A6</p> <p>Attention: Todd Martin Vicki Chan Marianna Lee Nishant Virmani</p> <p>Email: tmartin@alvarezandmarsal.com vchan@alvarezandmarsal.com marianna.lee@alvarezandmarsal.com nvirmani@alvarezandmarsal.com</p> <p>Tel: 1-833-591-1288</p> <p><i>Monitor</i></p>
<p><b>Osler, Hoskin &amp; Harcourt LLP</b> Suite 3000, Bentall 4 1055 Dunsmuir Street Vancouver, BC V7X 1K8</p> <p><b>Attention: Mary I.A. Buttery, K.C. Elie Laskin</b></p> <p>Email: <a href="mailto:mbuttery@osler.com">mbuttery@osler.com</a> <a href="mailto:elaskin@osler.com">elaskin@osler.com</a></p> <p>Tel: 778-785-3000</p> <p><i>Counsel for the Monitor, Alvarez &amp; Marsal Canada Inc.</i></p>	<p><b>Dentons Canada LLP</b> 2000 – 250 Howe Street Vancouver, BC V6C 3R8</p> <p><b>Attention: John R. Sandrelli Valerie Cross</b></p> <p>Email: john.sandrelli@dentons.com valerie.cross@dentons.com emma.newbery@dentons.com avic.arenas@dentons.com lee.ngo@dentons.com</p> <p>Tel: 604-687-4460</p> <p><i>Counsel for Royal Bank of Canada as administrative agent and collateral agent under the Updated Credit Agreement</i></p>

<p><b>FTI Consulting</b> 1450 – 701 West Georgia Street Vancouver, BC V7Y 1B6</p> <p><b>Attention: Tom Powell Mike Clark</b></p> <p>Email: Tom.Powell@fticonsulting.com Mike.Clark@fticonsulting.com</p> <p>Tel: 604-484-9525</p> <p><i>Financial Advisor to the Royal Bank of Canada as administrative agent and collateral agent under the Updated Credit Agreement</i></p>	<p><b>Fasken Martineau DuMoulin LLP</b> 2900 – 550 Burrard Street Vancouver, BC V6C 0A3</p> <p><b>Attention: Dylan Chochla</b></p> <p>Email: dchochla@fasken.com</p> <p>Tel: 604-631-3131</p> <p><i>Counsel for Kingswood Capital Management LP and 1264686 B.C. Ltd.</i></p>
<p><b>Camelino Galessiere LLP</b> 6 Adelaide Street East, Suite 220 Toronto, ON M5C 1H6</p> <p><b>Attention: Linda Galessiere Jessica Wuthmann</b></p> <p>Email: lgalessiere@cglegal.ca jwuthmann@cglegal.ca</p> <p>Tel: 416-306-3827</p> <p><i>Counsel for RioCan Reit</i></p>	<p><b>Kirryn Hashmi</b> Legal Counsel First Capital Realty Inc. 85 Hanna Avenue, Suite 400 Toronto, ON M6K 3S3</p> <p>Email: kirryn.hashmi@fcr.ca</p> <p>Tel: 416.216.2083</p> <p><i>Counsel for First Capital Realty Inc.</i></p>
<p><b>The Cadillac Fairview Corporation Limited</b> 1100 avenue des Canadiens-de-Montréal Bureau 400 Montréal, QC H3B 2S2</p> <p><b>Attention: Robert Crepin</b></p> <p>Email: robert.crepin@cadillacfairview.com</p> <p>Tel: 514-353-2241</p> <p><i>The Cadillac Fairview Corporation Limited</i></p>	<p><b>Gowling WLG (Canada) S.E.N.C.R.L., s.r.l.</b> 1, Place Ville Marie, bureau 3700 Montréal QC H3B 3P4</p> <p><b>Attention: François Viau</b></p> <p>Email: francois.viau@gowlingwlg.com</p> <p>Tel: 514-392-9530</p> <p><i>Counsel for Les Galeries de la Capitale Holdings Inc., managed by Oxford Properties Group</i></p>



<p><b>Victory Square Law Office LLP</b> #710 – 777 Hornby Street Vancouver, BC V6Z 1S4</p> <p><b>Attention: Colin Gusikoski</b></p> <p>Email: cgusikoski@vslo.ca</p> <p>Tel: 604-602-7984</p> <p><b>- and -</b></p> <p><b>Nathanson Schachter &amp; Thompson LLP</b> Suite 750 - 900 Howe Street Vancouver, BC V6Z 2M4</p> <p><b>Attention: Peter J. Reardon</b></p> <p>Email: preardon@nst.bc.ca</p> <p>Tel: 778-328-8940</p> <p><i>Counsel for Kevin Harding and certain other co-operative members</i></p>	<p><b>WeirFoulds LLP</b> 66 Wellington Street West, Suite 4100 P.O. Box 35, TD Bank Tower Toronto, ON M5K 1B7</p> <p><b>Attention: Philip Cho</b></p> <p>Email: pcho@weirfoulds.com</p> <p>Tel: 416-619-6296</p> <p><i>Counsel for Plateau Village Properties Inc.</i></p>
	<p><b>Paine Edmonds LLP</b> Suite 1100 - 510 Burrard Street Vancouver, BC V6C 3A8</p> <p><b>Attention: Kathryn R. Taylor</b></p> <p>Email ktaylor@paine-edmonds.com</p> <p>Tel: 604-683-1211</p> <p><i>Counsel for Brandon John Wah Soo</i></p>
<p><b>McCarthy Tétrault LLP</b> 66 Wellington Street West Suite 5300, TD Bank Tower Box 48 Toronto, ON M5K 1E6</p> <p><b>Attention: Alexander Steele</b></p> <p>Email: asteele@mccarthy.ca</p> <p>Tel: 416-601-8370</p> <p><i>Counsel for Concert Realty</i></p>	<p><b>Goodmans LLP</b> Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p><b>Attention: Bradley Wiffen</b></p> <p>Email: bwiffen@goodmans.ca</p> <p>Tel: 416-979-2211</p> <p><i>Crestpoint Real Estate Investments Ltd., as authorized asset manager on behalf of 0965311 B.C. Ltd.</i></p>

<p><b>Department of Justice – Nova Scotia</b> 6<sup>th</sup> floor, 1690 Hollis Street Halifax, NS B3J 3J9</p> <p><b>Attention: Pamela Branton</b> <b>Senior Solicitor</b> <b>Legal Services Division</b></p> <p>Email: pamela.branton@novascotia.ca catherine.lunn@novascotia.ca agnes.macneil@novascotia.ca</p> <p>Tel: 902-424-7244</p> <p><i>Counsel for Department of Justice (Nova Scotia)</i></p>	<p><b>Borden Ladner Gervais LLP</b> 1200 - 200 Burrard Street Vancouver, BC V7X 1T2</p> <p><b>Attention: Ian Graf</b></p> <p>Email igraf@blg.com</p> <p>Tel: 604-640-4121</p> <p><i>Counsel for Southern Railway of British Columbia Limited</i></p>
<p><b>Lax O’Sullivan Lisus Gottlieb LLP</b> Suite 2750, 145 King Street West Toronto, ON M5H 1J8</p> <p><b>Attention: Matthew P. Gottlieb</b> <b>Andrew Winton</b> <b>Crawford Smith</b> <b>Sapna Thakker</b></p> <p>Email: mgottlieb@lolg.ca awinton@lolg.ca csmith@lolg.ca sthakker@lolg.ca</p>	<p><b>The Tax and Revenue Administration</b> 9811 - 109 Street Edmonton, AB TSK 2L5</p> <p><b>Attention: Tessi Midiburo,</b> <b>Senior Compliance Officer</b></p> <p>Email: TBF.SCO@gov.ab.ca</p> <p>Tel: 780-644-4230</p> <p><i>Her Majesty The Queen In Right of The Province of Alberta as represented by The Minister of Finance (Income Tax)</i></p>

<p>Tel: 416-598-1744</p> <p><b>- and -</b></p> <p><b>McEwan Cooper Dennis LLP</b> 900 – 980 Howe Street Vancouver, BC V6Z 0C8</p> <p><b>Attention: J. Kenneth McEwan, Q.C.</b> <b>William Stransky</b></p> <p>Email: kmcewan@mcewanpartners.com wstransky@mcewanpartners.com</p> <p>Tel: 604-283-7740</p> <p><i>Counsel for Midtown Plaza Inc.</i></p>	<p><b>Elliot H. Bridgewater</b> 3232 Morley Trail NW Calgary, AB T2M 4H2</p> <p>Email: ehb@bridgewaterlaw.ca</p> <p>Tel: 403-703-9821</p> <p><i>Counsel for BC Coop Association and Cooperatives and Mutuels Canada</i></p>
<p><b>Environment Legal Services</b> <b>Department of Justice – Government of Canada</b> 1869 Upper Water St., Suite AH201 Halifax, NS B3J 1S9</p> <p><b>Attention: J.G. (Jim) Rossiter, Q.C.</b></p> <p>Email: jim.rossiter@canada.ca</p> <p>Tel: 902-830-2927</p> <p><i>Counsel for Parks Canada Agency</i></p>	<p><b>Nite Ize, Inc.</b> 5660 Central Avenue Boulder, CO 80301</p> <p><b>Attention: Clint Todd,</b> <b>Chief Legal Officer</b></p> <p>Email: ctodd@niteize.com</p> <p>Tel: 303-962-0532</p> <p><i>Counsel for Nite Ize, Inc.</i></p>
<p><b>Bison Transport</b> 1001 Sherwin Road Winnipeg, MB R3H 0T8</p> <p><b>Attention: Scott Griffiths,</b> <b>Senior Credit Specialist</b></p> <p>Email: sgriffiths@bisontransport.com</p> <p>Tel: 204-833-0277</p> <p><i>Bison Transport</i></p>	<p><b>Blaney McMurtry LLP</b> 1500 – 2 Queen Street East Toronto, ON M5C 3G5</p> <p><b>Attention: John C. Wolf</b> <b>Brendan Jones</b></p> <p>Email: jwolf@blaney.com bjones@blaney.com</p> <p>Tel: 416-593-1221</p> <p><i>Counsel for bcIMC Realty Corporation</i></p>

<p><b>Field LLP</b> 400 – 444 7 Avenue SW Calgary, AB T2P 0X8</p> <p><b>Attention: Trevor Batty</b></p> <p>Email: <a href="mailto:tbatty@fieldlaw.com">tbatty@fieldlaw.com</a></p> <p>Tel: 403-260-8537</p> <p><i>Counsel for Brookfield Residential (Alberta) LP</i></p>	<p><b>Department of Justice   Government of Canada</b> British Columbia Regional Office 900 – 840 Howe Street Vancouver, BC V6Z 2S9</p> <p><b>Attention: Jason W. Levine Mika Chircoski</b></p> <p>Email: <a href="mailto:jason.levine@justice.gc.ca">jason.levine@justice.gc.ca</a> <a href="mailto:mika.chircoski@justice.gc.ca">mika.chircoski@justice.gc.ca</a></p> <p>Tel: 604-666-0632</p> <p><i>Counsel for Her Majesty the Queen</i></p>
<p><b>Legal Services Branch Ministry of Attorney General</b> PO Box 9280 Stn Prov Govnt Victoria, BC V8W 9J7</p> <p><b>Attention: Aaron Welch</b></p> <p>Email: <a href="mailto:Aaron.Welch@gov.bc.ca">Aaron.Welch@gov.bc.ca</a> <a href="mailto:AGLSBRevTaxInsolvency@gov.bc.ca">AGLSBRevTaxInsolvency@gov.bc.ca</a></p>	<p><b>Sports Industry Credit Association</b> 245 Victoria Avenue, Suite 800 Westmount (Quebec) H3Z 2M6</p> <p><b>Attention: William Anidjar Brian Dabarno</b></p> <p>Email: <a href="mailto:william@sica.ca">william@sica.ca</a> <a href="mailto:brian@sica.ca">brian@sica.ca</a></p> <p>Tel: 514-931-5561 ext: 223</p>

<p><b>Jean Cloutier</b> Lanctôt Ltée 5290 Boul. Thimens Montréal, QC H4R 2B2</p> <p>Email: jcloutier@rlanctot.com</p> <p>Tel: 514-815-7729</p>	<p><b>Margaret Watson</b> Ocean Trailer 9076 River Road Delta, BC V4G 1B5</p> <p>Email: margaretw@oceantrailer.com</p> <p>Tel: 604-952-2356</p>
<p><b>Labour Program Employment and Social Development Canada</b> 165 de l'Hotel-de-Ville Street Gatineau, Québec J8X 3X2</p> <p><b>Attention: Adrian Raddatz Johanna Howes Julie Matte</b></p> <p>Email: adrian.raddatz@labour-travail.gc.ca johannar.howes@labour-travail.gc.ca julie.l.matte@servicecanada.gc.ca</p> <p>Tel: 873-396-2833</p>	<p><b>David Harvey</b> Burlington, Ontario</p> <p>Email: dharvey@gmail.com</p>

**Schedule “B”**

NO. S-209201  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF 1077 HOLDINGS CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

PETITIONERS

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE	)	WEDNESDAY THE 29TH DAY
	)	
MADAM JUSTICE FITZPATRICK	)	OF NOVEMBER, 2023

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor (and, in such capacity, the “**Monitor**”) of 1077 Holdings Co-operative (formerly, Mountain Equipment Co-operative) and 1314625 Ontario Limited, coming on for hearing at Vancouver, British Columbia, on Wednesday the 29th day of November, 2023, via Microsoft Teams videoconference; AND ON HEARING Mary Buttery, K.C. and Elie Laskin, counsel for the Monitor and those other counsel listed on **Schedule “A”** hereto; AND UPON READING the material filed, including the Seventeenth Report of the Monitor, dated November 17, 2023;

THIS COURT ORDERS AND DECLARES THAT:

1. the CCAA proceedings shall be and are hereby terminated effective 12:01 AM on November 30 2023;

2. upon termination of these CCAA proceedings, the Petitioners shall be assigned into bankruptcy for the purposes of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 and creditors who participated in the Claims Process and filed proofs of claim are not required to file any additional Proof of Claim;
3. Approval of our the Monitor's Activities as detailed in the Monitor's Eighth Report dated June 18, 2023, Ninth Report dated September 21, 2021, Eleventh Report dated December 1, 2021, Twelfth Report dated March 23, 2022, Thirteenth Report dated May 26, 2022, Fourteenth Report dated November 29, 2022, Fifteenth Report dated March 23, 2023, Sixteenth Report dated September 22, 2023, and Seventeenth Report dated November 17, 2023;
4. as of the filing of this Order (the "**Effective Date**"), the Monitor shall be discharged from its duties in these proceedings and shall have no further liabilities, obligations, responsibilities, or duties under the Initial Order granted by this Court on September 14, 2020 and the amended and restated initial order dated October 2, 2020, or otherwise in respect of these proceedings, subject to paragraph 5 in this Order, below;
5. notwithstanding the discharge of the Monitor, the Monitor remains empowered to perform any act necessary or incidental to the conclusion of the CCAA proceedings, and will continue to enjoy the same rights and protections previously granted to the Monitor in these proceedings including, but not limited, to future administrative tax services in relation to tax filings for time periods during which the Monitor was appointed;
6. the Monitor and its affiliates and its respective officers, directors, employees, and agents, attorneys and solicitors (together, the "**Monitor Parties**" and each a "**Monitor Party**") are hereby released and forever discharged from any and all claims, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in while or in party on any act or omission of a Monitor Party in any way relating to, arising out of or in respect of the performance or intended performance of the Monitor's mandate or any activity related to the CCAA proceedings, except for any claim against a

Monitor Party arising out of any gross negligence or wilful misconduct on the part of that Monitor Party;

7. no action or other proceeding in any way arising from or related to the performance or intended performance of the Monitor's mandate or any activity in these CCAA proceedings shall be commenced against a Monitor Party except with prior leave of this Court and on prior written notice to the Monitor Party and upon further order securing, as security for costs, the solicitor and his own client costs of the Monitor Party in connection with any proposed action or proceeding;
8. if, subsequent to the granting of this Order, the Monitor is required to respond to enquiries to provide evidence or testimony in respect of any proceedings in respect of the Petitioners, then the requesting party shall pay the reasonable fees and disbursements incurred by the Monitor, as the case may be, associated with responding to such enquiries or providing such evidence or testimony;
9. the following fees (which include disbursements and applicable taxes) of the Monitor and its legal counsel incurred in connection with these proceedings are approved:
  - (a) \$3,210,937.13 on behalf of the Monitor;
  - (b) \$879,932.42 on behalf of the Monitor's counsel, Cassels, Brock & Blackwell LLP;  
and
  - (c) \$91,587.54 on behalf of the Monitor's counsel, Osler, Hoskin & Harcourt LLP;
10. this Order shall have full force and effect from and after the date of this Order in all Provinces and Territories in Canada and abroad and as against all Persons and Parties against whom it may otherwise be enforced; and
11. this Order shall be served, by courier, facsimile transmission, electronic transmission, or ordinary post on all parties present at this application and on all parties who received notice



of this application or who are presently on the service list established in these proceedings,  
and service on any or all other parties is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO  
EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY  
CONSENT:

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Lawyer for the Monitor  
Osler, Hoskin & Harcourt LLP  
Mary Buttery, K.C., Elie Laskin

BY THE COURT

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REGISTRAR

**SCHEDULE “A”**

**List of Counsel**

<b>Name of Counsel</b>	<b>Party Represented</b>
Mary Buttery, K.C., Elie Laskin	Petitioner

NO. S-209201  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF 1077 HOLDINGS CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

PETITIONERS

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**ORDER MADE AFTER APPLICATION**

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(Attention: Mary I.A. Buttery, K.C.)