

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

B E T W E E N:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PAYSTONE HOLDINGS INC., PAYSTONE INC., ATOM GROWTH INC., AND ATOM  
GROWTH (USA), INC.

Applicants

**FACTUM OF THE MONITOR**

August 24, 2026

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## PART I - NATURE OF THE APPLICATION

1. This motion is brought by AlixPartners Restructuring, Inc. (formerly KSV Restructuring Inc.), in its capacity as court-appointed monitor (in such capacity, the “**Monitor**”) of Paystone Holdings Inc., Paystone Inc. (“**Paystone**”), Atom Growth Inc., and Atom Growth (USA), Inc. (collectively the “**Applicants**” or “**Company**”) for three orders:

- (a) **AVO**: an Approval and Vesting Order that will approve the APA and the Transaction, and vest the Purchased Assets (defined below) in the Purchaser;
- (b) **CCAA Assignment Order**: an order that will (i) assign all the Applicants rights and obligations under the Assigned Contracts (defined below) in the Purchaser; and (ii) seal the Confidential Exhibit (defined below); and
- (c) **Ancillary Order**: an order that will (i) extend the Stay of Proceedings to September 18, 2026; and (ii) provide enhanced powers to the Monitor.

2. On June 5, 2026, the Applicants were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended pursuant to an initial order (as amended and restated on June 15, 2026, the “**Initial Order**”).

3. On June 22, 2026, the Applicants sought approval of a sale transaction with 1001632600 Ontario Inc. (“**100 Ontario**”), an entity controlled by the principals of the Applicants, which was opposed by BDC Capital Inc. (“**BDC**”), the subordinate secured creditor of the Applicants. On June 24, 2026, the Court declined to approve the proposed transaction and instead suggested that a sale process would likely need to be undertaken by the Monitor.

4. On July 10, 2026, the Court granted the “**SISP Approval Order**,” which approved a Court-supervised sale and investment solicitation process to be conducted exclusively by the Monitor (the “**SISP**”). The Monitor worked diligently to implement the SISP and solicit interest in the Applicants’ business and property. These efforts were successful, and the SISP resulted in three Bids (defined below). In accordance with the SISP, the Monitor, in consultation with Sandton Investments X (Luxembourg) S.à r.l. (“**Sandton**”), the Applicants’ senior secured creditor, and BDC, evaluated the Bids, and selected the bid submitted by 100 Ontario as the only implementable transaction for the entirety of the Applicants’ business arising from the SISP.

5. The selected Bid contemplates a transaction (the “**Transaction**”) between the Applicants, as sellers, and 100 Ontario, as purchaser (in such capacity, the “**Purchaser**”) for the business and assets of the Applicants pursuant to an Asset Purchase Agreement dated August 18, 2026 (the “**APA**”). To implement the Transaction, the Monitor seeks the AVO, CCAA Assignment Order, and the Ancillary Order.

6. The Transaction is in the best interest of the Applicants’ stakeholders and should be approved by the Court. The Transaction represents the greatest recovery available in the circumstances, provides for a going-concern solution which contemplates the continuation of the Applicants’ ongoing operations, and preserves employment for substantially all of the Applicants’ employees. The Transaction is supported by Sandton, as the Applicants’ senior secured creditor and DIP lender, and is not opposed by BDC.

## PART II - SUMMARY OF FACTS

### A. Background<sup>1</sup>

#### (a) The Business of the Applicants

7. The Applicants' operations are focused on providing specialized products and services in three primary business lines: (i) payment solutions and payment processing; (ii) loyalty, gift card, and customer engagement programs; and (iii) marketing, reputation, and customer growth software. The Company has 38,000 customers, mostly small and medium businesses in Canada, and its revenues are driven by recurring payment processing fees charged to customers in the payment process business line and recurring software subscription fees in the other business lines.<sup>2</sup>

8. The Company's business depends on maintaining the confidence of its customers, payment processing partners, employees, and other counterparties. The Company's business requires reliable service from banks that connect the Company to their credit card network, along with cloud service providers and providers of proprietary software. The Company's customers expect seamless operations to maintain their own customer relationships and business operations. Maintaining uninterrupted service to customers is key to preserving enterprise value.<sup>3</sup>

9. The CCAA Proceedings were initiated to create a stabilized environment for the Applicants to continue operating in the ordinary course and complete a going-concern transaction in an efficient manner.<sup>4</sup>

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<sup>1</sup> The facts are more fully set out in the Fifth Report of the Monitor (the "**Fifth Report**"). Capitalized terms not defined here have the same meaning as in the Fifth Report.

<sup>2</sup> [Fifth Report](#) at paras. 2.0.2, 2.1.1-2.1.2, 2.2.1.

<sup>3</sup> [Fifth Report](#) at paras. 2.1.3, 2.2.2-2.2.4.

<sup>4</sup> [Fifth Report](#) at para. 1.0.3.

**(b) Secured Creditors**

10. The Company's senior secured creditor was a lending syndicate (the "**Syndicate**"), led by National Bank of Canada, as agent, that provided debt financing pursuant to credit facilities to the Company (the "**Senior Credit Facilities**").<sup>5</sup> On May 8, 2026, the Applicants, Sandton, the Syndicate, and certain other parties entered into agreements (collectively, the "**Loan Purchase Transaction**"), pursuant to which Sandton purchased the Syndicate's outstanding debt, becoming the Applicants' senior secured creditor. The transaction closed on May 12, 2026. As of June 30, 2026, \$92.2 million (including interest, excluding legal fees and other costs) was owing.<sup>6</sup>

11. As of August 21, 2026, Sandton has also funded \$2.6 million to the Applicants under a debtor-in-possession financing facility (the "**DIP Facility**"), which is secured on a priority basis pursuant to the DIP Lender's Charge (as defined in the DIP Approval, BNS Charge & Stay Extension Order dated July 10, 2026). Interest and fees continue to accrue on the outstanding indebtedness under the DIP Facility.<sup>7</sup>

12. Pursuant to a letter of offer dated January 29, 2024, BDC advanced a loan to Paystone in the aggregate principal amount of \$10,000,000 (the "**BDC Loan**"). The BDC Loan is subordinated to the amounts owing under the Senior Credit Facilities pursuant to a priority agreement dated February 29, 2024. As of June 30, 2026, approximately \$12.9 million was owing under the BDC Loan (inclusive of accrued interest).<sup>8</sup>

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<sup>5</sup> [Fifth Report](#) at para. 3.1.1.

<sup>6</sup> [Fifth Report](#) at para. 3.1.2-3.1.3.

<sup>7</sup> [Fifth Report](#) at para 3.1.4.

<sup>8</sup> [Fifth Report](#) at para. 3.2.1-3.2.2.

13. In addition, the Company maintains bank and deposit accounts with The Bank of Nova Scotia (“BNS”), which plays a critical role in the Applicants’ business as its primary billing provider. As a condition of its ongoing use of BNS banking services, Paystone pledged cash collateral to secure obligations owing to BNS related to customer chargeback or refund requests. The Company has \$250,000 of restricted cash with BNS that is used to secure such obligations.<sup>9</sup>

**B. The SISP and the Transaction**

**(a) The SISP**

14. The Court approved the proposed SISP on July 10, 2026, to be conducted exclusively by the Monitor. The purpose of the SISP was to solicit bids from interested parties for the sale of or investment in the Applicants’ business, property and/or shares and/or an investment in, restructuring, recapitalization, refinancing or other form or reorganization of the Applicants and their business or combination thereof.<sup>10</sup>

15. The SISP was carried out by the Monitor in accordance with the terms of the SISP Approval Order. The SISP was launched on July 13, 2026, at which time the Monitor distributed an NDA to 14 prospective purchasers, comprised of parties who requested a copy of the NDA or expressed interest in the Applicants’ business during the CCAA Proceedings and parties identified by the Monitor as potential bidders, including those that submitted a bid in the pre-filing sale and investment solicitation process conducted in respect of the Applicants.<sup>11</sup>

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<sup>9</sup> [Fifth Report](#) at para. 3.3.1.

<sup>10</sup> [Fifth Report](#) at para. 5.0.1.

<sup>11</sup> [Fifth Report](#) at para. 5.0.4(b).

16. Nine parties executed an NDA and were provided with access to a virtual data room (the “VDR”) prepared by the Monitor (each, a “**Potential Bidder**”). The Monitor facilitated many information requests from Potential Bidders. After a request from a Potential Bidder, the Monitor extended certain deadlines under the SISP, including extending the Bid Deadline to August 7, 2026, in accordance with the powers granted to the Monitor in the SISP Approval Order.<sup>12</sup>

17. Three Potential Bidders submitted bids by the Bid Deadline, two of which were for the entirety of the Applicants’ business, and one of which was for a portion of the business (the “**Bids**”). The two Bids for the entirety of the Applicants’ business were submitted by 100 Ontario and Shopley Inc. (“**Shopley**”). In accordance with the SISP Approval Order, the Monitor evaluated each of the Bids in consultation with Sandton and BDC, and ultimately selected the Bid submitted by 100 Ontario as the Successful Bid.<sup>13</sup> The process by which the Bid submitted by 100 Ontario was selected as the Successful Bid is discussed in more detail below.

#### **(b) The Transaction and the APA**

18. Following the SISP, the APA was entered into between the Applicants and the Purchaser on August 18, 2026. All capitalized terms not otherwise defined in this section have the meanings provided in the APA. Under the terms of the APA,<sup>14</sup> the Purchaser will provide consideration consisting of: (i) an amount equal to the amount necessary to satisfy the Priority Payables and pay all necessary Cure Costs (to be paid to the Monitor in trust on behalf of the Sellers) and the amount of the Wind-Up Reserve (to be paid to the Sellers); (ii) the assumption of the Assumed Liabilities;<sup>15</sup>

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<sup>12</sup> [Fifth Report](#) at para. 5.0.4(a), (d)-(g).

<sup>13</sup> [Fifth Report](#) at para. 5.0.10(a)-(c), (i).

<sup>14</sup> See [Fifth Report](#) at para. 6.0.1 for a detailed summary of the terms of the APA.

<sup>15</sup> See [Fifth Report](#) at para. 6.0.1(g) for a detailed summary of the Assumed Liabilities.

and (iii) payment in full of the Sandton Obligations (being the balance outstanding under the DIP Facility and the Senior Credit Facilities), which shall be satisfied by the Purchaser entering into the New Credit Agreement with Sandton, and in exchange for which Sandton shall consent to the vesting off of all Encumbrances against the Purchased Assets related to the Sandton Obligations pursuant to the AVO (collectively, the “**Purchase Price**”).<sup>16</sup>

19. In exchange, the Purchaser will acquire the “**Purchased Assets**,” which include, among other things: (i) equipment, machinery, and inventory of the Sellers; (ii) cash on hand, cash equivalents, bank deposits and cash floats (subject to the setting aside of an amount sufficient for the Wind-Up Reserve); and (iii) the contracts and permits set out as “**Assigned Contracts**” in Schedule “C” to the APA.<sup>17</sup> The APA provides for payment in cash, on closing, of any Cure Costs in relation to the Assigned Contracts.<sup>18</sup>

### **PART III - THE ISSUES AND THE LAW**

20. This Factum addresses the following issues:

- (a) whether the APA and the Transaction should be approved;
- (b) whether the assignment of the Assigned Contracts should be approved;
- (c) whether the Confidential Appendix should be sealed;
- (d) whether the Monitor should be granted certain enhanced powers; and
- (e) whether the Stay of Proceedings should be extended to September 18, 2026.

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<sup>16</sup> [Fifth Report](#) at para. 6.0.1(c).

<sup>17</sup> See [Fifth Report](#) at para. 6.0.1(e) for a detailed summary of the Purchased Assets.

<sup>18</sup> Cure Costs consist of costs required to: (i) cure all monetary defaults in relation to the Assigned Contracts as at the date of Closing, including any amount that is required to be paid under section 11.3 of the CCAA, other than those arising by reason only of the commencement of the CCAA Proceedings by the Sellers, the Sellers’ insolvency or the Sellers’ failure to perform a non-monetary obligation; (ii) obtain any Third Party Consents required to effect an assignment of an Assigned Contract to the Purchaser; and (iii) otherwise effect an assignment to the Purchaser of any Assigned Contract.

**A. The APA and the Transaction Should be Approved**

**(a) The Court Has Jurisdiction to Approve the Transaction**

21. It is well recognized that a CCAA court has jurisdiction to approve a sale of all or substantially all of a CCAA debtor's business and assets, provided that the approval of the court is first obtained. Section 36 of the CCAA sets out the legal test for obtaining court approval, and requires the court to consider, among other things: (i) whether the sale process was reasonable in the circumstances; (ii) whether the Monitor approved of the sale process and filed a report supporting the sale; (iii) the extent to which creditors were consulted; (iv) the effect of the sale on creditors and stakeholders; and (v) whether the purchase price is fair and reasonable.<sup>19</sup> The factors listed in s. 36(3) are not intended to be exhaustive, nor to be a formulaic checklist that must be followed in every case.<sup>20</sup>

22. The s. 36(3) factors overlap to a large extent with the factors that were applied in approving sale transactions prior to the enactment of s. 36, and these factors remain relevant in determining whether a sale should be approved.<sup>21</sup> Under the prior *Soundair* test, it was necessary for the court to consider: (i) whether sufficient efforts had been made to obtain the best price and that the debtor had not acted improvidently; (ii) whether the interests of all parties had been considered; (iii) the integrity and efficacy of the process for obtaining offers; and (iv) whether there was any unfairness in working out the process.<sup>22</sup>

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<sup>19</sup> CCAA, s. 36(3).

<sup>20</sup> *Target Canada Co. (Re)*, [2015 ONSC 2066](#) at para. 15 [*Target*].

<sup>21</sup> *Target*, at para. 15.

<sup>22</sup> *Canwest Publishing Inc./Publications Canwest Inc. (Re)*, [2010 ONSC 2870](#) at para. 13, citing *Royal Bank v. Soundair Corp.*, [\[1991\] O.J. No. 1137](#) (C.A.) at para. 16 [*Soundair*].

**(b) The Transaction is the Only Implementable Bid to Emerge from the SISP**

23. As set out above, the SISP resulted in two Bids for the entirety of the Applicants' business: the Bid submitted by 100 Ontario, and the Bid submitted by Shopley.

24. The SISP provided interested parties with the opportunity to submit proposals that included the cash consideration necessary to satisfy all obligations owing by the Applicants to Sandton in full. Before the SISP, Shopley indicated that it would be able to fund a cash purchase price of \$75 million to acquire the Applicants' business, and during the SISP, Shopley further expressed to the Monitor an intention to submit a Bid containing significant cash consideration. However, Shopley's Bid provided for cash consideration that was significantly lower than the amount contemplated in its prior indication of interest and was insufficient to repay Sandton in full.<sup>23</sup>

25. Both 100 Ontario's Bid and Shopley's Bid contemplate the assumption of liabilities owing to Sandton (Shopley's Bid also contemplates the assumption of the BDC Loan). As senior secured creditors cannot be forced to treat their debt in ways which they do not approve of,<sup>24</sup> Sandton's consent was required for the assumption of its debt in respect of either Bid. Shopley's Bid required Sandton's consent to the assumption of approximately \$92 million in secured indebtedness.<sup>25</sup>

26. Sandton advised the Monitor that it was unwilling to consent to the Shopley Bid, as it was unwilling to maintain its significant secured exposure to the Applicants' business following a change in ownership and management or to assume the associated business and credit risks. In

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<sup>23</sup> [Fifth Report](#) at para. 5.0.8, 5.0.10(d)-(f).

<sup>24</sup> See, e.g., *Paystone Holdings Inc. et. al. (Re)*, (June 24, 2026), Ont S.C.J. [Commercial List], Court File No. CV-26-00000261-00CL ([Endorsement of Justice Myers](#)), in which, in the context of the previously proposed transaction, Justice Myers acknowledged that Sandton was willing to compromise its debt only with respect to a specific bid, at that the Court cannot "make [Sandton] do what it does not want to do" (at paras. 88, 90).

<sup>25</sup> [Fifth Report](#) at para. 5.0.10(d), (f).

contrast, Sandton advised the Monitor that it was willing to consent to the 100 Ontario Bid, as Sandton had previously undertaken its own underwriting of the Applicants' existing management team, including obtaining the requisite internal credit approvals to continue its significant secured exposure to the business under the existing ownership and management.<sup>26</sup>

27. As a result, the Monitor determined that Shopley's Bid was not capable of being implemented on its terms, and that the 100 Ontario Bid was the only implementable Bid for the entirety of the Applicants' business to emerge from the SISP. The Monitor therefore selected the 100 Ontario Bid as the Successful Bid in the SISP.

**(c) The Transaction Satisfies the Section 36(3) Factors and the *Soundair* Criteria**

28. In addition to being the sole implementable Bid for the entirety of the Applicants' business to emerge from the SISP, the Transaction satisfies the s. 36(3) factors and the *Soundair* criteria:

- (a) **Canvassing the Market:** Whether the process for achieving a sale transaction under the CCAA is fair and reasonable must be examined contextually, in light of the particular circumstances.<sup>27</sup> This inquiry does not require the court to examine in minute detail all of the circumstances leading up to the acceptance of a particular offer,<sup>28</sup> or to hold the sales process to a standard of perfection.<sup>29</sup> Here, the SISP was commercially reasonable, and the Monitor canvassed the market for strategic and financial parties with relevant experience. The Applicants' business has now

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<sup>26</sup> [Fifth Report](#) at para. 5.0.10(f)-(g).

<sup>27</sup> See *White Birch Paper Holding Co. (Re)*, [2010 QCCS 4915](#), at para. 49.

<sup>28</sup> *Soundair*, at paras. 48-49.

<sup>29</sup> *Sanjel Corporation (Re)*, [2016 ABQB 257](#) at para. 80.

been exposed to the market through both the Pre-Filing Process and the Court-approved SISP, and as part of the SISP the Monitor reached out to parties that submitted bids in the Pre-Filing Process.<sup>30</sup> Potential Bidders, including Shopley, had ample time and a full and fair opportunity to submit their best available transaction.<sup>31</sup>

- (b) **Integrity of the SISP:** All Potential Bidders were treated fairly, with the Monitor facilitating numerous information requests and extending SISP deadlines to facilitate due diligence by Potential Bidders.<sup>32</sup> The Monitor: (i) ensured that all information requests and/or bids were directed through the Monitor; (ii) was in attendance for all discussions between Potential Bidders and the Applicants or other stakeholders; and (iii) maintained the confidentiality of Potential Bidders, and has not shared the details of any bids and bidders to any officer, director, principal, employee or other non-arm's length party in relation to 100 Ontario.<sup>33</sup>
- (c) **Purchase Price:** To establish that a purchase price is fair and reasonable, a debtor must show that sufficient efforts have been made to obtain the best price, and that the debtor has not acted improvidently.<sup>34</sup> The SISP is a court-approved sales process, conducted exclusively by the Monitor, against which the Transaction can be evaluated.<sup>35</sup> The Transaction is the only implementable transaction for the

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<sup>30</sup> [Fifth Report](#) at para. 6.3.1(b)-(c), (m).

<sup>31</sup> [Fifth Report](#) at para. 5.0.7.

<sup>32</sup> [Fifth Report](#) at para. 5.0.4(e), (h).

<sup>33</sup> [Fifth Report](#) at paras. 5.0.5-5.0.6.

<sup>34</sup> See, e.g., *Terrace Bay Pulp Inc. (Re)*, [2012 ONSC 4247](#) at paras. 50-55.

<sup>35</sup> [Fifth Report](#) at para. 6.3.1(a).

Applicants' business, and provides for the assumption of certain liabilities, including all liabilities of the Sellers relating to the Transferred Employees and Post Filing Ordinary Course Obligations.<sup>36</sup> The Monitor does not believe that any further time marketing the Applicants' business or assets will result in a superior implementable transaction.<sup>37</sup>

(d) **Benefits to Creditors and Stakeholders:** In addition to the Purchase Price, the Transaction provides benefits to the Applicant's creditors and stakeholders, including: (i) the business of the Applicants will be preserved and continued as a going concern; (ii) the Transaction preserves employment of substantially all employees on substantially similar terms and conditions; (iii) the Transaction provides for Cure Costs to be paid in respect of the Assigned Contracts (as applicable and to the extent alternate consensual arrangements are not reached); (iv) the Purchaser has a strong understanding of the Applicants' operations, enabling it to maintain continuity of the business in the ordinary course with minimal disruption; and (v) no other Bid submitted in the SISP is acceptable to Sandton, as senior secured creditor and DIP Lender, and Sandton is not prepared to continue to fund the Applicants absent the Transaction.<sup>38</sup>

(e) **Support of the Monitor and Stakeholders:** The SISP was conducted exclusively by the Monitor, and the Monitor supports the Transaction for the reasons set out above. Significant deference is given to the opinion of a Monitor with respect to a

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<sup>36</sup> [Fifth Report](#) at para. 6.3.1(g). See Fifth Report at para. 6.0.1(g)-(h) for a detailed summary of the Assumed Liabilities and Excluded Liabilities under the Transaction.

<sup>37</sup> [Fifth Report](#) at para. 6.3.1(m).

<sup>38</sup> [Fifth Report](#) at para. 6.3.1(h)-(j), (n).

proposed sale transaction, especially where the Monitor has been closely involved in the sale and has accumulated valuable knowledge and insight into the business of the debtors.<sup>39</sup> The Transaction is supported by Sandton, the Applicants' senior secured creditor and DIP Lender, and BDC does not oppose the selection of 100 Ontario's Bid as the Successful Bid, or the approval of the Transaction.<sup>40</sup>

**(d) The Transaction Satisfies the Related Party Transaction Requirements**

29. In addition to the factors set out in s. 36(3), s. 36(4) of the CCAA provides that, in the case of a sale or disposition to a related party, the court must be satisfied that: (i) good faith efforts were made to sell or dispose the assets to non-related parties; and (ii) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the sale process.

30. These requirements are satisfied. As set out above, the Monitor acted in accordance with the SISP Approval Order and made extensive good faith efforts to market the Applicants' business and assets to non-related parties. As the only viable Bid received under the SISP for the Applicants' entire business, the Transaction represents the highest consideration available from an implementable transaction through the SISP. Based on the extensive canvassing of the market undertaken as part of both the Pre-Filing Process and the SISP, the Monitor does not believe that

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<sup>39</sup> See, e.g., *Calpine Canada Energy Ltd. (Re)*, [2007 ABQB 49](#) at paras. 52-53. See also *Pride Group Holdings Inc. et al.*, [2024 ONSC 5908](#), in which the court held that “[w]here the s. 36 factors and the *Soundair* Principles have been met, the Court should uphold the business judgment of the Monitor as to the result of the sales process and should not lightly interfere with the exercise the commercial and business judgment [of the Monitor] so long as the sale process was fair, reasonable, transparent and efficient” (at para. 14).

<sup>40</sup> [Fifth Report](#) at paras. 5.0.10(j); 6.3.1(l).

any further marketing of the business or assets would result in a superior, implementable transaction.<sup>41</sup>

**B. The Assigned Contracts Should be Assigned Pursuant to Section 11.3**

31. A critical part of the proposed Transaction is the assumption by the Purchaser of the rights and obligations of the Applicants with respect to the Assigned Contracts, as set out in Schedule “C” of the APA. Certain of the Assigned Contracts require consents from third parties to be assigned, with such contracts being set out in Schedule “A” of the proposed CCAA Assignment Order or in the Confidential Exhibit (as discussed in more detail below).<sup>42</sup>

32. The Monitor therefore seeks the CCAA Assignment Order, which is contemplated by the APA and which will, among other things: (i) assign to the Purchaser any Assigned Contract for which a required consent, approval, or waiver has not been obtained prior to the hearing of this motion; (ii) prevent the counterparty to such assigned documents from exercising any right or remedy arising by reason of any default(s) arising from the CCAA Proceedings, the insolvency of the Sellers, the assignment of such assigned documents, or the failure of the Sellers to perform a non-monetary obligation under the assigned documents; and (iii) vesting in the Purchaser all right, title, benefit and interest of the Applicants in the Assigned Contracts.<sup>43</sup>

33. Section 11.3 of the CCAA gives this Court the jurisdiction and the discretion to make an order assigning the rights and obligations of a debtor company under an agreement to a third party who agrees to such assignment. The requirements as set out in s. 11.3 have been fulfilled:

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<sup>41</sup> [Fifth Report](#) at para. 6.3.1(m).

<sup>42</sup> [Fifth Report](#) at para. 6.1.4.

<sup>43</sup> [Fifth Report](#) at para. 6.1.3.

- (a) **No Exception Applies:** Pursuant to s. 11.3(2), no assignment can be granted in respect of: (i) obligations that are not assignable by reason of their nature; (ii) an agreement entered into on or after the filing date; (iii) an eligible financial contract; or (iv) a collective agreement. None of these exceptions applies.
- (b) **Assignment is Appropriate:** Pursuant to s. 11.3(3), the Court must consider, among other things: (i) whether the Monitor approves of the proposed assignments; (ii) whether the persons to whom the rights and obligations will be assigned will be able to perform such obligations; and (iii) whether it would be appropriate to assign the rights and obligations to that person. Each of these considerations is fulfilled. The Monitor supports the proposed assignments as necessary and appropriate in the circumstances.<sup>44</sup> Further, the Purchaser has a strong understanding of the Applicants' operations and is well positioned to perform the Applicants' contractual obligations under the Assigned Contracts going forward.<sup>45</sup> Finally, the assignments are appropriate, as the Assigned Contracts identified by 100 Ontario are necessary to ensure the continued operation of the Applicants' business, and to avoid operational disruption following Closing.<sup>46</sup>
- (c) **Monetary Defaults Cured:** Pursuant to s. 11.3(4), the Court must be satisfied that all monetary defaults in relation to the agreement – other than those arising by reason only of the company's insolvency, the commencement of proceedings under the CCAA or the company's failure to perform a non-monetary obligation – will be

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<sup>44</sup> [Fifth Report](#) at para. 6.1.7.

<sup>45</sup> [Fifth Report](#) at para. 6.3.1(j).

<sup>46</sup> [Fifth Report](#) at para. 6.1.7.

remedied on or before a day fixed by the Court. The APA specifically provides for the payment to the Monitor, on trust, of an amount sufficient to pay all necessary Cure Costs and further provides that all Cure Costs not paid at Closing will be an Assumed Liability of the Purchaser.<sup>47</sup>

34. The proposed assignments are a vital part of the Applicants' proposed restructuring and should be approved by the Court. Counterparties to contracts that will be assigned pursuant to s. 11.3 received advance notice of the motion for the CCAA Assignment Order and the AVO,<sup>48</sup> and any assignment under the CCAA Assignment Order will not be effective if the applicable counterparty did not receive notice in the proper form.<sup>49</sup>

### **C. The Confidential Exhibit Should be Sealed**

35. The Applicants filed the affidavit of Abdullah Saab sworn on August 22, 2026, which includes as a confidential exhibit (the "**Confidential Exhibit**") a list of all contracts with customers, merchants, and technology partners that are proposed to be assigned through the CCAA Assignment Order (with other contracts to be listed in Schedule "A" of the CCAA Assignment Order). Pursuant to s. 137(2) of the *Courts of Justice Act*, R.S.O. c. C.43, the Monitor requests that the Confidential Exhibit be treated as confidential and sealed until further order of the Court.

36. The test for a sealing order was set by the Supreme Court in *Sherman Estate*. The test considers the following factors: (i) whether court openness poses a serious risk to an important public interest; (ii) whether the order sought is necessary to prevent this serious risk to the

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<sup>47</sup> [Fifth Report](#) at para. 6.0.1(c), (g)(iii).

<sup>48</sup> See [Fifth Report](#) at para. 6.1.5 for a detailed summary of the notice that will be provided and the affidavit of Abdullah Saab sworn on August 22, 2026.

<sup>49</sup> [Fifth Report](#) at para. 6.1.6.

identified interest because reasonable alternative measure will not prevent this risk; and (iii) whether, as a matter of proportionality, the benefits of the order outweigh its negative effects.<sup>50</sup>

37. Each of these considerations supports sealing the Confidential Exhibit:

- (a) **Public Interest:** The maximization of recovery in insolvency has been found to constitute an important public interest for the purpose of obtaining a sealing order. The granting of a sealing order in respect of commercially sensitive information is therefore “standard practice” in insolvency proceedings,<sup>51</sup> and courts have approved sealing orders where they are required to protect commercially sensitive information, including where the disclosure would jeopardize “value-maximizing dealings” with third parties moving forward.<sup>52</sup> The Confidential Exhibit, which includes details of Paystone’s commercial relationships and contractual arrangements, contains precisely this type of commercially sensitive information, which, if disclosed, could undermine Paystone’s future going concern operations, and potentially cause harm to Paystone and its customers, merchants, and technology partners.<sup>53</sup>
- (b) **Lack of a Reasonable Alternative:** There is no reasonable alternative to the sealing order which would protect the commercial interests of the business as a going concern moving forward.

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<sup>50</sup> *Sherman Estate v. Donovan*, [2021 SCC 25](#) at para. 38.

<sup>51</sup> *Yukon (Government of) v. Yukon Zinc Corporation*, [2022 YKSC 2](#) at para. 39.

<sup>52</sup> *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#) at para. 84.

<sup>53</sup> [Fifth Report](#) at para. 6.2.1.

- (c) **Proportionality:** The benefits of the proposed sealing order greatly exceed any negatives. No party will be prejudiced by the sealing of the commercially sensitive information, and no public interest will be served if it is made public, thereby prejudicing the business's going concern operations in the future.

38. Finally, the proposed sealing order is supported and recommended by the Monitor.<sup>54</sup> CCAA courts have referred to the support of the monitor as a relevant factor in determining whether the *Sherman Estate* test is met.<sup>55</sup>

#### **D. The Monitor Should be Granted Enhanced Powers**

39. The Ancillary Order provides the Monitor with enhanced powers needed to effectively and efficiently administer the Applicants' estate after the Transaction closes, and to complete the CCAA Proceedings and any subsequent proceeding. The Monitor's enhanced powers will authorize, but not require, the Monitor to take actions in the name of the Applicants to facilitate the administration of the Applicants' remaining business, property, operations, affairs, and estates, and to oversee the remaining business and winddown activities of the Applicants.<sup>56</sup>

40. The expanded powers sought by the Monitor are authorized by the CCAA, which provides the Court with broad discretion in respect of the Monitor's functions. Section 23(1)(k) says the Monitor can "carry out any other functions in relation to the [debtor] company that the court may direct," while s. 11 authorizes the Court to make any order that is necessary and appropriate in the circumstances. Granting enhanced powers is appropriate in the circumstances, as the Applicants'

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<sup>54</sup> [Fifth Report](#) at para. 6.2.2.

<sup>55</sup> *Original Traders Energy Ltd. (Re)*, [2023 ONSC 753](#) at paras. 60, 64.

<sup>56</sup> See [Fifth Report](#) at para. 9.0.2 for a detailed summary of the Monitor's enhanced powers.

management will resign after the Transaction closes, and the Applicants will no longer conduct any business, leaving the Monitor best positioned to administer the Applicants' estate.<sup>57</sup>

41. Granting enhanced powers to the Monitor is common. Courts have expanded monitors' powers where the expanded powers are necessary to conduct an orderly winddown and administer CCAA proceedings, including the ability to cause any remaining debtors to perform functions that the Monitor considers necessary to the winding-down of the remaining debtors.<sup>58</sup>

#### **E. The Stay of Proceedings Should be Extended**

42. Pursuant to section 11.02 of the CCAA, the Court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence. There is no statutory time limit on how long a stay of proceedings can be extended.

43. The Stay of Proceedings currently expires on August 31, 2026. The Monitor submits that the Stay of Proceedings be extended to September 18, 2026, for the following reasons:<sup>59</sup>

- (a) the Applicants continue to act in good faith and with due diligence;
- (b) the Cash Flow Forecast reflects that the Applicants are projected to have sufficient liquidity to fund their post-filing obligations during such period (provided that the Transaction is approved);

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<sup>57</sup> [Fifth Report](#) at para. 9.0.3.

<sup>58</sup> *Atlas Global Brands et. al. (Re)*, (October 28, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00722386-00CL ([Endorsement of Justice Steele](#)) at paras. 37-39; *DCL Corporation (Re)*, [2023 ONSC 4475](#) at para. 7.

<sup>59</sup> [Fifth Report](#) at para. 8.0.2.

- (c) the extension will provide sufficient time for the Transaction to close;
- (d) the Monitor does not believe that any creditor will be materially prejudiced if the extension is granted;
- (e) as of the date of the Fifth Report, the Monitor is not aware of any party opposed to the requested extension; and
- (f) the Monitor understands from counsel to the DIP Lender that the DIP Lender is prepared to agree to extend the maturity date under the DIP Facility from August 31, 2026, to September 18, 2026 (which is the outside closing date under the APA).

#### **PART IV - NATURE OF THE ORDER SOUGHT**

44. The Monitor therefore requests that the Court grant the AVO, the CCAA Assignment Order, and the Ancillary Order substantially in the form set out in the Motion Record of the Monitor dated August 21, 2026.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 24<sup>th</sup> day of August, 2026:



**OSLER, HOSKIN & HARCOURT LLP per Mary Paterson**

P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Lawyers for the Monitor

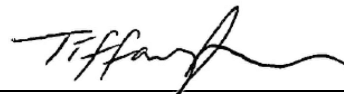
**TO: THE SERVICE LIST**

## SCHEDULE "A": LIST OF AUTHORITIES

1. *Atlas Global Brands et. al. (Re)*, (October 28, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00722386-00CL ([Endorsement of Justice Steele](#))
2. *Calpine Canada Energy Ltd. (Re)*, [2007 ABQB 49](#)
3. *Canwest Publishing Inc./Publications Canwest Inc. (Re)*, [2010 ONSC 2870](#)
4. *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#)
5. *DCL Corporation (Re)*, [2023 ONSC 4475](#)
6. *Original Traders Energy Ltd. (Re)*, [2023 ONSC 753](#)
7. *Paystone Holdings Inc. et. al. (Re)*, (June 24, 2026), Ont S.C.J. [Commercial List], Court File No. CV-26-00000261-00CL ([Endorsement of Justice Myers](#))
8. *Pride Group Holdings Inc. et al.*, [2024 ONSC 5908](#)
9. *Royal Bank v. Soundair Corp.*, [\[1991\] O.J. No. 1137](#) (C.A.)
10. *Sanjel Corporation (Re)*, [2016 ABQB 257](#)
11. *Sherman Estate v. Donovan*, [2021 SCC 25](#)
12. *Target Canada Co. (Re)*, [2015 ONSC 2066](#)
13. *Terrace Bay Pulp Inc. (Re)*, [2012 ONSC 4247](#)
14. *White Birch Paper Holding Co. (Re)*, [2010 QCCS 4915](#)
15. *Yukon (Government of) v. Yukon Zinc Corporation*, [2022 YKSC 2](#)

I certify that I am satisfied as to the authenticity of every authority.

Date August 24, 2026



\_\_\_\_\_  
Signature  
Tiffany Sun

**SCHEDULE “B”**  
**TEXT OF STATUTES, REGULATIONS & BY-LAWS**  
***COMPANIES’ CREDITORS ARRANGEMENT ACT***

R.S.C., 1985, c. C-36, as amended

**General power of court**

**11** Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

[...]

**Stays, etc. — initial application**

**11.02 (1)** A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

- (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**Stays, etc. — other than initial application**

**(2)** A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

### **Burden of proof on application**

**(3)** The court shall not make the order unless

- (a)** the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b)** in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

### **Restriction**

**(4)** Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

[...]

### **Assignment of agreements**

**11.3 (1)** On application by a debtor company and on notice to every party to an agreement and the monitor, the court may make an order assigning the rights and obligations of the company under the agreement to any person who is specified by the court and agrees to the assignment.

### **Exceptions**

**(2)** Subsection (1) does not apply in respect of rights and obligations that are not assignable by reason of their nature or that arise under

- (a)** an agreement entered into on or after the day on which proceedings commence under this Act;
- (b)** an eligible financial contract; or
- (c)** a collective agreement.

### **Factors to be considered**

**(3)** In deciding whether to make the order, the court is to consider, among other things,

- (a)** whether the monitor approved the proposed assignment;
- (b)** whether the person to whom the rights and obligations are to be assigned would be able to perform the obligations; and
- (c)** whether it would be appropriate to assign the rights and obligations to that person.

### **Restriction**

**(4)** The court may not make the order unless it is satisfied that all monetary defaults in relation to the agreement — other than those arising by reason only of the company's insolvency, the

commencement of proceedings under this Act or the company's failure to perform a non-monetary obligation — will be remedied on or before the day fixed by the court.

#### **Copy of order**

(5) The applicant is to send a copy of the order to every party to the agreement.

[...]

#### **Duties and Functions**

**23 (1)** The monitor shall

[...]

(k) carry out any other functions in relation to the company that the court may direct.

[...]

#### **Restriction on disposition of business assets**

**36 (1)** A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

#### **Notice to creditors**

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

#### **Factors to be considered**

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

#### **Additional factors — related persons**

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

#### **Related persons**

(5) For the purpose of subsection (4), a person who is related to the company includes

(a) a director or officer of the company;

(b) a person who has or has had, directly or indirectly, control in fact of the company; and

(c) a person who is related to a person described in paragraph (a) or (b).

#### **Assets may be disposed of free and clear**

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

#### **Restriction — employers**

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

#### **Restriction — intellectual property**

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the

other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

***COURTS OF JUSTICE ACT***

R.S.O., 1990, c. C.43, as amended

**Documents public**

**137 (1)** On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

**Sealing documents**

**(2)** A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYSTONE HOLDINGS INC., PAYSTONE INC., ATOM GROWTH INC., and ATOM GROWTH (USA), INC.

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

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Lawyers for the Monitor