

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record be and is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF TIME

2. **THIS COURT ORDERS** that the time for the filing of a proposal by the Debtors is hereby extended in accordance with section 50.4(9) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) by a period of forty-five (45) days from August 16, 2022, up to and including September 30, 2022.

DIP FINANCING

3. **THIS COURT ORDERS** that the Debtors are hereby authorized and empowered to obtain and borrow under a credit facility from Hillmount Capital Inc. (the “**DIP Lender**”) provided that borrowings under such credit facility shall not exceed \$250,000 unless permitted by further order of this Court.

4. **THIS COURT ORDERS** that the DIP Facility shall substantially be on terms and subject to conditions set forth in the term sheet between the Debtors and the DIP Lender, accepted on July 29, 2022 (the “**DIP Term Sheet**”), attached as Exhibit “E” to the Silver Affidavit, subject to such minor amendments as may be acceptable to the Debtors and the DIP Lender, and approved by the Proposal Trustee.

5. **THIS COURT ORDERS** that the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, security documents, guarantees, and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, costs, liabilities, and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and

when the same become due and are to be performed, notwithstanding any other provision of this Order.

6. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the property, municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”) as security for the Debtors’ obligations to the DIP Lender under the DIP Term Sheet, which obligations include, without limitation, principal, interest, costs and fees. The DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s charge shall have the priority set out in paragraphs 9 and 11 of this Order.

7. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record, or perfect the DIP Lender’s Charge or any of the Definitive Documents.

8. **THIS COURT ORDER AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by the Debtors under the BIA with respect to any advances made under the Definitive Documents.

9. **THIS COURT ORDERS** that the priorities of the Administration Charge granted by this Court pursuant to the Order of Justice Conway on April 28, 2022 and the DIP Lender’s Charge (together, the “**Charges**”) as among them, shall be as follows:

- (a) First – Administration Charge (up to the maximum of \$125,000); and,
- (b) Second – DIP Lender’s Charge (up to the maximum of \$250,000).

10. **THIS COURT ORDERS** that the filing, registration, or perfection of the DIP Lender’s Charge shall not be required, and that the DIP Lender’s Charge shall be valid and enforceable for all purposes, including as against any right, title, or interest filed, registered, recorded or perfected subsequent to the DIP Lender’s Charge coming into existence, notwithstanding any such failure to file, register, record or project.

11. **THIS COURT ORDERS** that the DIP Lender’s Charge shall, subject to the Administration Charge, constitute a charge on the Property and such DIP Lender’s Charge shall

rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise.

12. **THIS COURT ORDERS** that the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made in these proceedings; (b) any application for a bankruptcy order pursuant to the BIA, or any bankruptcy order made pursuant to such application; (c) the bankruptcy of the Debtors, or any of them; (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 agreements (collectively, an "**Agreement**") which bind the Debtors, or either of them, and notwithstanding any provision to the contrary in any such Agreement:

- (a) the creation of the DIP Lender's Charge shall not create or be deemed to constitute a breach by the Debtors, or either of them, of any Agreement to which they are parties;
- (b) the DIP Lender shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the DIP Lender's Charge;
- (c) the payments made by the Debtors, or either of them, pursuant to this Order, and the granting of the DIP Lender's 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.

APPROVAL OF THIRD REPORT

13. **THIS COURT ORDERS** that the Third Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved, provided, however, that only AGI in its personal capacity and with respect to its personal liability shall be entitled to rely upon or utilize in any way such approval.

GENERAL

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

15. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

Dietrich J.

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

Proceeding commenced at TORONTO

**ORDER
(DIP Approval and Charge)**

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