

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF ORBCARE INC., AND  
PARISCRIBE INC., CORPORATIONS INCORPORATED  
UNDER THE *CANADA BUSINESS CORPORATIONS ACT*,  
AND ORBCARE US, INC. A CORPORATION  
INCORPORATED UNDER THE LAWS OF THE STATE OF  
DELAWARE IN THE UNITED STATES OF AMERICA**

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**MOTION RECORD  
(Extension of Time to File a Proposal, returnable September 25, 2019)**

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**DATE: September 23, 2019**

**GOLDMAN SLOAN NASH & HABER LLP**

Suite 1600, 480 University Avenue

Toronto (ON) M5G 1V2

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**TO: THE SERVICE LIST**

## INDEX

<b>Tab No.</b>	<b>Description</b>	<b>Motion Record Page No.</b>
1.	Notice of Motion	1-5
2.	Affidavit of Olivier Giner, sworn September 22, 2019	2-12
A.	Exhibit "A" – Certificate of Filing of Notice of Intention for OrbCare Inc.	13-15
B.	Exhibit "B" – Order of Hainey J. dated June 25, 2019	16-24
C.	Exhibit "C" – Certificates of Filing of Notice of Intention for Pariscribe Inc. and OrbCare US, Inc.	25-28
D.	Exhibit "D" – Order of Dietrich J. dated August 1, 2019 re: OrbCare Inc.	29-35
E.	Exhibit "E" – Order of Dietrich J. dated August 1, 2019 re: Pariscribe Inc..	36-44
F.	Exhibit "F" – Order of Dietrich J. dated August 1, 2019 re: OrbCare US, Inc.	45-53
G.	Exhibit "G" – Affidavit of Olivier Giner sworn July 29, 2019 (without exhibits)	54-71
3.	Draft Order	72-75
4.	Service List	76-80

Tab 1

Estate No. 31-2516167

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF ORBCARE INC., AND  
PARISCRIBE INC., CORPORATIONS INCORPORATED  
UNDER THE CANADA BUSINESS CORPORATIONS ACT,  
AND ORBCARE US, INC. A CORPORATION  
INCORPORATED UNDER THE LAWS OF THE STATE OF  
DELAWARE IN THE UNITED STATES OF AMERICA**

**NOTICE OF MOTION  
(returnable September 25, 2019)  
(Extension of Time to File Proposals)**

OrbCare Inc. (“**OrbCare**”), Pariscribe Inc. (“**Pariscribe**”) and OrbCare US, Inc. (“**OrbCare US**”, and together with OrbCare and Pariscribe, the “**Companies**”) will make a motion to a judge of the Commercial List at 330 University Avenue, Toronto, Ontario, on Wednesday, September 25, 2019, at 10:00 a.m. or as soon thereafter as the motion can be heard.

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

**THE MOTION IS FOR AN ORDER** extending from September 26, 2019 to November 12, 2019 the time for MNP Ltd. (“**MNP**”), in its capacity as proposal trustee (the “**Proposal Trustee**”), to file with the official receiver proposals pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) on behalf of each of the Companies.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) On May 28, 2019, OrbCare filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to the BIA to which MNP is the Proposal Trustee.
- (b) On June 25, 2019, the Honourable Justice Hailey granted OrbCare’s motion for orders extending to August 12, 2019 the time for the Proposal Trustee to file a proposal on behalf of OrbCare, authorizing OrbCare to obtain and borrow under a credit facility (the “**Credit**”



- Facility**”) from iGan Partners Inc. (the “**iGan**”), and granting in favour of the DIP Lender a charge (the “**DIP Lender’s Charge**”) on OrbCare’s property.
- (c) On July 26, 2019 and July 29, 2019 respectively, Pariscribe and OrbCare US each filed an NOI to which MNP is the Proposal Trustee.
- (d) On August 1, 2019 the Honourable Justice Dietrich:
- i. granted OrbCare’s motion for orders procedurally consolidating the Companies’ NOI proceedings and approving an amended and restated term sheet with regard to the Credit Facility adding Pariscribe and OrbCare US as borrowers thereunder,
  - ii. granted Pariscribe and OrbCare US’ respective motions for orders authorizing Pariscribe and OrbCare US to borrow under the Credit Facility and extending the DIP Lender’s Charge to attach to Pariscribe and OrbCare US’ property, and
  - iii. granted the Companies’ motion for orders extending the time for the Proposal Trustee to file a proposal on behalf of each of the Companies to September 26, 2019.
- (e) On August 14, 2019 the Honourable Justice Penny granted the Companies’ collective motion for orders approving a “stalking horse” sale process (the “**Sale Process**”) and approving the asset purchase agreement entered into among the Companies and iGan for the purpose of constituting the “stalking horse” bid within the Sale Process.
- (f) The bid deadline under the Sale Process is September 27, 2019.
- (g) The Sale Process was started on August 15, 2019 and is ongoing. The extensions of time sought herein are necessary to provide time for the Sale Process to be completed and for the Companies to bring motions for approval and vesting orders.
- (h) The Companies have acted and continue to act in good faith and with due diligence. They believe they will likely be able to make a viable proposal if the extensions were granted.

[3]

- (i) No creditor would be materially prejudiced if the extensions of time sought herein were granted.
- (j) Section 50.4(9) of the BIA.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) The affidavit of Olivier Giner sworn September 22, 2019;
- (b) The Fourth Report of the Proposal Trustee, to be filed; and
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

**DATE: September 23, 2019**

**GOLDMAN SLOAN NASH & HABER LLP**

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Lawyers for OrbCare Inc., Pariscribe Inc. and  
OrbCare US, Inc.

**TO: THE SERVICE LIST**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF ORBCARE INC. AND PARISCRIBE INC., CORPORATIONS INCORPORATED UNDER THE CANADA BUSINESS CORPORATIONS ACT, AND ORBCARE US, INC. A CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE IN THE UNITED STATES OF AMERICA**

Estate File No. 31-2516167

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceeding commenced in TORONTO**

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**NOTICE OF MOTION  
(returnable September 25, 2019)  
(Extension of Time to File Proposals)**

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**GOLDMAN SLOAN NASH & HABER LLP**  
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Lawyers for OrbCare Inc. Pariscribe Inc. and  
OrbCare US, Inc.

Tab 2

Estate No. 31-2516167

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF ORBCARE INC., AND  
PARISCRIBE INC., CORPORATIONS INCORPORATED  
UNDER THE *CANADA BUSINESS CORPORATIONS ACT*,  
AND ORBCARE US, INC. A CORPORATION  
INCORPORATED UNDER THE LAWS OF THE STATE OF  
DELAWARE IN THE UNITED STATES OF AMERICA**

**AFFIDAVIT OF OLIVIER GINER  
(sworn September 22, 2019)**

I, Olivier Giner, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer and a director of OrbCare Inc. (“**OrbCare**”) and its wholly owned subsidiaries, Pariscribe Inc. (“**Pariscribe**”) and OrbCare US, Inc. (“**OrbCare US**”) (collectively with OrbCare and Pariscribe, the “**Companies**”) and have personal knowledge of the matters deposed to in this affidavit. Where I have relied on other sources of information, I have specifically referred to such sources and verily believe them to be true. In preparing this affidavit, I have consulted with legal, financial and other advisers of the Companies and other members of the management teams of the Companies.
2. I make this affidavit in support of the Companies’ motion for an extension of the time to make a proposal.

**(a) HISTORY OF THESE PROCEEDINGS AND PRIOR STAY EXTENSIONS**

3. On May 28, 2019, OrbCare filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to the *Bankruptcy and Insolvency Act* to which MNP Ltd. is the proposal trustee (the “**Proposal Trustee**”). A copy of that NOI is attached as **Exhibit “A”**.
4. On June 25, 2019, the Honourable Hainey J. granted OrbCare’s motion for orders extending to August 12, 2019 the time for the Proposal Trustee to file a proposal on behalf

of OrbCare, authorizing OrbCare to obtain and borrow under a credit facility (the “**Credit Facility**”) from iGan Partners Inc. (the “**iGan**”), and granting in favour of the DIP Lender a charge (the “**DIP Lender’s Charge**”) on OrbCare’s property. A copy of the June 25, 2019 Order is attached as **Exhibit “B”**.

5. On July 26, 2019 and July 29, 2019, respectively, Pariscribe and OrbCare US each filed an NOI to which MNP is the Proposal Trustee. Copies of their NOIs are attached collectively as **Exhibit “C”**.
6. On August 1, 2019 the Honourable Dietrich J.:
  - a) granted OrbCare’s motion for orders procedurally consolidating the Companies’ NOI proceedings and approving an amended and restated term sheet with regard to the Credit Facility adding Pariscribe and OrbCare US as borrowers thereunder,
  - b) granted Pariscribe and OrbCare US’ respective motions for orders authorizing Pariscribe and OrbCare US to borrow under the Credit Facility and extending the DIP Lender’s Charge to attach to Pariscribe and OrbCare US’ property, and
  - c) granted the Companies’ motion for orders extending to September 26, 2019 the time for the Proposal Trustee to file a proposal on behalf of each of the Companies.
7. Copies of the three Orders dated August 1, 2019 are respectively attached as **Exhibits “D”**, **“E”** and **“F”**.

**(b) SALE PROCESS**

8. On August 14, 2019, the Honourable Penny J. granted the Companies’ collective motion for orders approving a “stalking horse” sale process (the “**Sale Process**”) and approving the asset purchase agreement (the “**Stalking Horse APA**”) entered into among the Companies and iGan for the purpose of constituting the “stalking horse” bid within the Sale Process.
9. The salient terms of the Sale Process are:



- a) **Notice** – within five (5) business days of the granting of the Sale Process Order, the Proposal Trustee will publish notice of the Sale Process in the *Globe and Mail* (National Edition) and distribute teaser letters to potentially interested parties;
  - b) **Data Room** – within five (5) business days of the granting of the Sale Process Order, the Proposal Trustee will begin making a confidential data room available to those parties who have signed confidentiality agreements;
  - c) **Bid Deadline** – bids must be submitted to the Proposal Trustee no later than 5pm (Toronto time) on September 27, 2019 (the “**Bid Deadline**”);
  - d) **Proposal Trustee to Determine Qualified Bids** – among other things, in order for a bid to qualify as a Qualified Bid (as that term is defined in the Sale Process Order), it must be on terms no less favourable than and no more burdensome than the Stalking Horse APA, must not contain any provision for a break fee or expense reimbursement and must contain a purchase price that is at least \$1.2 million plus the \$60,000 Break Fee and an additional increment of \$50,000 (i.e. \$1.31 million). The Proposal Trustee retains sole discretion to determine whether a bid will be considered a Qualified Bid;
  - e) **Auction** – if one or more Qualified Bids are received, the Proposal Trustee will schedule and conduct an auction (the “**Auction**”) no more than five (5) business days after the Bid Deadline. The Proposal Trustee has sole discretion to set the terms of the Auction; and
  - f) **Approval of Sale** – the Companies to seek Court approval of the successful bid within ten (10) business days following the Auction or, if no Qualified Bids are received other than the bid under the Stalking Horse APA, within ten (10) business days of the Bid Deadline.
10. The Sale Process is taking place substantially in accordance with those timelines. The Companies have been working with the Proposal Trustee to populate the data room and to respond to inquiries from potential purchasers. I am advised by the Proposal Trustee that

there are several parties who have executed non-disclosure agreements and who are accessing the data room and may therefore present offers.

11. The current deadline for the Companies to make a proposal is September 26, 2019, which is the day before the bid deadline under the stalking horse process. It will only be after the bid deadline has passed and the Proposal Trustee has either (i) determined that there are no bids other than the Stalking Horse APA, or (ii) conducted an auction, that the Companies will begin to be in a position to determine the contents of any proposal that may be made to creditors. The outcome of the Sale Process will have great influence on what offer can be made in a proposal.

**(c) STEPS TAKEN BY THE COMPANIES SINCE THE LAST EXTENSION**

12. In my affidavit sworn July 29, 2019, I set out the background to the Companies' position as well as the steps taken by the Companies since June 25, 2019. A copy of that affidavit is attached as **Exhibit "G"** (without exhibits).
13. Since my affidavit of July 29, 2019, the Companies have taken the following steps:
  - a) they analyzed the strategic options open to them for restructuring or attempting to sell their businesses as a going concern, and ultimately negotiated and finalized the Stalking Horse APA as a vehicle to do the latter;
  - b) they have worked with the Proposal Trustee to develop lists of possible interested parties to whom teasers for the Sale Process could be sent;
  - c) they have cooperated intensely with the Proposal Trustee to develop and add to the contents of the data room maintained by the Proposal Trustee for the Sale Process;
  - d) they have continued to perform services for customers in the ordinary course, adding engineering resources where necessary to meet client demands and with a goal of maintaining and increasing customer satisfaction, and in doing so have collected \$117,877 in accounts receivable for OrbCare and Pariscribe and USD\$68,422 in accounts receivables for OrbCare US;



[5]

- e) OrbCare signed a reseller and license agreement with Client Outlook Inc., allowing for the Companies to sell and distribute Client Outlook's eUnity viewer to the clients of the Companies, and OrbCare and Pariscribe are working towards the implementation and installation of the eUnity viewer for their Canadian based clients;
- f) OrbCare US completed the long planned migration of client data from servers located in Milwaukee and controlled by a third-party, to new servers located in Chicago and controlled by OrbCare US, effectively providing for better internal controls over client data and also allowing for the implementation of software upgrades, to better serve its US based clients;
- g) they have continued to market their services, including final negotiations with a new potential customer in a potentially important contract economically;
- h) they have entered in discussions with two (2) highly skilled individuals, each with decades of experience in digital health, who have both agreed to join OrbCare as consultants, to provide services in relation with the implementation of enterprise scale projects, and to provide advice on other business and strategic matters;
- i) OrbCare has received a forensics investigation report from MNP LLP with respect to the use of corporate resources of OrbCare and Pariscribe by the former Chief Executive Officer, amongst other matters related to his employment, and following the receipt of that report, and consideration of the conclusions reached therein, OrbCare has terminated his employment without notice and has taken the position that it has just cause for such termination of employment; and

14. In preparation for this motion the Companies are preparing a new 13 week cash flow statement, a copy of which will be attached to the report of the Proposal Trustee to be filed.

**(d) ABILITY TO MAKE A PROPOSAL**


15. My belief that the Companies will be able to make a viable proposal as set out in my affidavit of July 29, 2019 remains the case and for the same reasons, namely:


[6]

- a) the Companies operate in a business (software and health-related IT services) with, typically, healthy profit margins;
- b) the nature of the Companies' business means that they will provide far more value to creditors as a going concern than in a liquidation scenario;
- c) OrbCare and its subsidiaries have paying and satisfied customers. I am confident about the quality of OrbCare's solutions and OrbCare's potential to maintain actual clients and attract new business: as mentioned above, OrbCare has engaged with possible new client opportunities, some of them with substantial revenue potential;
- d) OrbCare's preferred shareholder and current DIP lender has expressed confidence in OrbCare's value by both providing DIP financing and submitting the Stalking Horse APA in the Sale Process; and
- e) iGan has expressed an interest in acting as a plan sponsor for any proposal that OrbCare makes; and
- f) the Companies have received several expressions of interest in either or both of an investment in the Companies or a sale of the Companies' assets, the proceeds of which could fund a viable proposal.

16. I believe that the Companies have acted in good faith and will continue to do so.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario, this  
22<sup>nd</sup> day of September, 2019

  
\_\_\_\_\_  
Commissioner for taking affidavits  
R.B. Bissell

  
\_\_\_\_\_  
Olivier Giner

Tab A

This is **Exhibit "A"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019 .

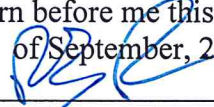
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A Commissioner, etc.



**Tab B**

This is **Exhibit "B"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019



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A Commissioner, etc.

Estate No. 31-2516167

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )

TUESDAY, THE 25<sup>th</sup>

JUSTICE HAINEY )

DAY OF JUNE, 2019



IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF ORBCARE INC., A  
CORPORATION INCORPORATED UNDER THE  
*CANADA BUSINESS CORPORATIONS ACT*

**ORDER**  
**(Extension of Time to File a Proposal and Approval of  
Debtor-in-Possession Financing)**

**THIS MOTION** made by OrbCare Inc. (“**OrbCare**”) for: **(i)** an order extending from June 27, 2019, to August 12, 2019, the time limit for MNP Ltd. in its capacity as proposal trustee (in such capacity, the “**Trustee**”) to file with the official receiver, on behalf of OrbCare, a proposal pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”); and **(ii)** an order authorizing OrbCare to obtain and borrow under a credit facility (the “**Credit Facility**”) from iGan Partners Inc. (the “**DIP Lender**”) on terms set out in the debtor-in-possession financing facility term sheet between OrbCare, the DIP Lender and certain guarantors dated June 11, 2019 (the “**DIP Term Sheet**”) and granting in favour of the DIP Lender a charge (the “**DIP Lender’s Charge**”) on OrbCare’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (“**Property**”); was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Olivier Giner sworn June 23, 2019 and the First Report dated June 24, 2019 (the “**First Report**”) of the Trustee and upon hearing the



submissions of counsel for OrbCare, the Trustee, the DIP Lender, and those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of Brendan Bissell dated June 24, 2019.

#### **NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the First Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which OrbCare may file a proposal be and is hereby extended to August 12, 2019.

#### **DIP FINANCING**

3. **THIS COURT ORDERS** that OrbCare is hereby authorized and empowered to obtain and borrow under the Credit Facility from the DIP Lender on the terms set out in the DIP Term Sheet, provided that borrowings under the Credit Facility shall not exceed the maximum principal amount of \$1,200,000 unless permitted by further Order of this Court.

4. **THIS COURT ORDERS** that OrbCare is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and 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 OrbCare is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, 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.

5. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the DIP Term Sheet and the Definitive Documents, OrbCare shall not be authorized and

empowered to operate any form of draw on the Credit Facility without the written approval of the Trustee, who, in deciding whether to issue its approval, shall have regard to OrbCare's cashflow statement referred to in paragraph 50.4(2)(a) of the BIA;

6. **THIS COURT ORDERS** that pursuant to Section 50.6 of the BIA, the DIP Lender shall be entitled to the benefit of and is hereby granted the DIP Lender's Charge on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made.

7. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order or the provisions of Section 69 of the BIA:

- (a) 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;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender will be entitled to exercise any and all of its rights and remedies against OrbCare or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to OrbCare and set off and/or consolidate any amounts owing by the DIP Lender to OrbCare against the obligations of OrbCare to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against OrbCare and for the appointment of a trustee in bankruptcy of OrbCare; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of OrbCare or the Property.

8. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by OrbCare under the BIA or any plan of arrangement or compromise filed by OrbCare under the *Companies' Creditors Arrangement Act* with respect to any advances made under the Definitive Documents or the Credit Facility.

9. **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 perfect.

10. **THIS COURT ORDERS** that the DIP Lender's Charge shall constitute a charge on the Property and such DIP Lender's Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency, or any other entities (each and any, a "**Person**").

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

12. **THIS COURT ORDERS** that the DIP Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) any deemed or voluntary assignment for the general benefit of creditors pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or

other agreement (each and any, an “**Agreement**”) which binds OrbCare, and notwithstanding any provision to the contrary in any Agreement:

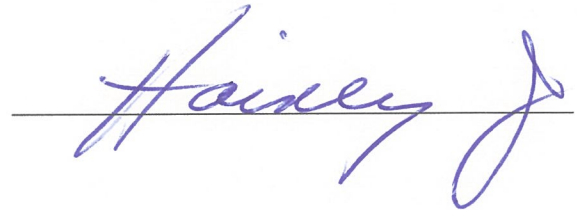
- (a) neither the creation of the DIP Lender’s Charge nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by OrbCare of any Agreement to which it is a party;
- (b) the DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from OrbCare entering into the DIP Term Sheet, the creation of the DIP Lender’s Charge, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by OrbCare pursuant to the DIP Term Sheet or the Definitive Documents, 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.

13. **THIS COURT ORDERS** that the DIP Lender’s Charge created by this Order over leases of real property in Canada shall only be a charge in OrbCare’s interest in such real property leases.

14. **THIS COURT ORDERS THAT** the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at [[www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial)]) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established

in accordance with the Guide with the following URL: [<https://mnpdebt.ca/en/corporate/Engagements/orbcare-inc>].

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

A handwritten signature in blue ink, reading "Hainey J.", is written over a horizontal line. The signature is cursive and includes a large, stylized initial "J" at the end.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF ORBCARE INC., A CORPORATION INCORPORATED  
UNDER THE CANADA BUSINESS CORPORATIONS ACT**

**Estate No. 31-2516167**

<p><b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b> <b>COMMERCIAL LIST</b> <b>Proceeding commenced in TORONTO</b></p>
<p><b>ORDER</b> <b>(Extension of Time to File a Proposal and Approval of DIP Financing)</b></p>
<p><b>GOLDMAN SLOAN NASH &amp; HABER LLP</b> 480 University Avenue, Suite 1600 Toronto (ON) M5G 1V2</p> <p><b>Brendan Bissell</b> (LSUC# 40354v) Tel: 416-597-6489 Email: <a href="mailto:bissell@gsnh.com">bissell@gsnh.com</a></p> <p>Lawyers for OrbCare Inc.</p>

Tab C

This is **Exhibit "C"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019

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A Commissioner, etc.





Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2539066  
Estate No. 31-2539066

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

**Pariscribe Inc.**  
Insolvent Person

**MNP LTD / MNP LTÉE**  
Licensed Insolvency Trustee

---

Date of the Notice of Intention: July 26, 2019

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

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

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

---

Date: July 26, 2019, 14:26

E-File/Dépôt Electronique

Official Receiver

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

**Canada**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2539459  
Estate No. 31-2539459

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

**Orbcare US, Inc.**  
Insolvent Person

**MNP LTD / MNP LTÉE**  
Licensed Insolvency Trustee

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Date of the Notice of Intention: July 29, 2019

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

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

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

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Date: July 29, 2019, 11:54

E-File/Dépôt Electronique

Official Receiver

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

**Canada**

**Tab D**

This is **Exhibit "D"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019



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A Commissioner, etc.

Estate No. 31-2516167

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

THE HONOURABLE	)	THURSDAY, THE 1 <sup>ST</sup>
	)	
JUSTICE DIETRICH	)	DAY OF AUGUST, 2019



**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF ORBCARE INC., A  
CORPORATION INCORPORATED UNDER THE  
CANADA BUSINESS CORPORATIONS ACT**

**ORDER**

**(Extension of Time to File a Proposal, Approval of Amended and Restated DIP  
Term Sheet and Procedural Consolidation)**

**THIS MOTION** made by OrbCare Inc. (“**OrbCare**”) for an order **(i)** extending from August 12, 2019 to September 26, 2019 the time for MNP Ltd. in its capacity as proposal trustee (the “**Trustee**”) to file with the official receiver a proposal pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) on behalf of the OrbCare, and **(ii)** procedurally consolidating the estates of OrbCare with those of Pariscribe Inc. (“**Pariscribe**”) and OrbCare US Inc. (“**OrbCare US**”), was heard this day at 330 University Ave., Toronto..

**ON READING** the affidavit of Olivier Giner sworn July 29, 2019 and the Second Report dated July 29, 2019 (the “**Second Report**”) of the Trustee and upon hearing the submissions of counsel for OrbCare, the Trustee, the DIP Lender, and those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of Joël Turgeon dated July 29, 2019.

**NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the Second Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

**EXTENSION OF TIME TO FILE A PROPOSAL**

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which OrbCare may file a proposal be and is hereby extended to September 26, 2019.

**APPROVAL OF AMENDED AND RESTATED DIP TERM SHEET**

3. **THIS COURT ORDERS** that OrbCare be and hereby is authorized to sign the Amended and Restated DIP Term Sheet between OrbCare, OrbCare US and Pariscribe Inc., as borrowers and guarantors, and iGan Partners Inc., as lender, dated July 29, 2019.

**PROCEDURAL CONSOLIDATION**

4. **THIS COURT ORDERS** that, without prejudice to the right of any party to seek or oppose substantive consolidation in respect of any or all of the following proceedings:

- (a) the present proceeding,
- (b) the matter of the notice of intention to make a proposal of Pariscribe Inc., Estate No. 31-2539066, and
- (c) the matter of the notice of intention to make a proposal of OrbCare US, Inc., Estate No. 31-2539459,

(collectively, the “**NOI Proceedings**”)

the NOI Proceedings shall be procedurally consolidated and the Trustee shall be authorized and directed to administer the NOI Proceedings on a consolidated basis for all

purposes in carrying out its administrative duties and other responsibilities as trustee under the BIA, including, without limitation, the following:

- (d) sending notices to creditors of OrbCare, Pariscribe Inc., and OrbCare US, Inc. (collectively, the “**NOI Companies**”) pursuant to one consolidated notice;
- (e) calling and conducting any meetings of creditors of the NOI Companies pursuant to one combined advertisement and one meeting;
- (f) issuing consolidated reports in respect of the estates of the NOI Companies;
- (g) preparing, filing, advertising and distributing any and all filings and/or notices relating to the administration of the estates of the NOI Companies on a consolidated basis; and
- (h) bring motions to this Honourable Court on a consolidated basis.

5. **THIS COURT ORDERS** that the single court file number of 31-2516167 and the following title of proceeding of shall be assigned to the NOI Proceedings:

“

**IN THE MATTER OF THE NOTICES OF INTENTION  
TO MAKE A PROPOSAL OF ORBCARE INC. AND  
PARISCRIBE INC., CORPORATIONS  
INCORPORATED UNDER THE CANADA *BUSINESS  
CORPORATIONS ACT*, AND ORBCARE US, INC., A  
CORPORATION INCORPORATED UNDER THE  
LAWS OF THE STATE OF DELAWARE IN THE  
UNITED STATES OF AMERICA**

”

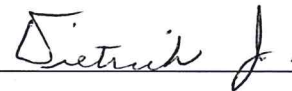


- 4 -

6. **THIS COURT ORDERS** that a copy of this Order shall be filed by the NOI Companies in the court file for each of the NOI Proceedings but that any other document required to be filed in any of the NOI Proceedings shall hereafter only be required to be filed in Court file number 31-2516167.

7. **THIS COURT ORDERS** that the procedural consolidation of the NOI Proceedings shall not:

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

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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF ORBCARE INC., A CORPORATION  
INCORPORATED UNDER THE CANADA BUSINESS  
CORPORATIONS ACT

Estate File No. 31-2516167

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**ORDER**

**(Extension of Time to File a Proposal, Approval of  
Amended and Restated DIP Term Sheet and  
Procedural Consolidation)**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto (ON) M5G 1V2

**R. Brendan Bissell (LSO# 40354V)**  
Tel: 416-597-6489  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for OrbCare Inc., Pariscrite Inc., and  
OrbCare US, Inc.

Tab E

This is **Exhibit "E"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019



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A Commissioner, etc.

31-2539066

Estate No: ~~31-2516167~~

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 1<sup>ST</sup>  
 )  
JUSTICE DIETRICH ) DAY OF AUGUST, 2019



IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF PARISCRIBE INC., A  
CORPORATION INCORPORATED UNDER THE  
*CANADA BUSINESS CORPORATIONS ACT*

**ORDER**  
**(Extension of Time to File a Proposal and Approval of  
Debtor-in-Possession Financing)**

**THIS MOTION** made by Pariscrite Inc. (“**Pariscrite**”) for: (i) an order extending from August 25, 2019 to September 26, 2019 the time limit for MNP Ltd. in its capacity as proposal trustee (in such capacity, the “**Trustee**”) to file with the official receiver, on behalf of Pariscrite, a proposal pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”); and (ii) an order authorizing Pariscrite to obtain and borrow under a credit facility (the “**Credit Facility**”) from iGan Partners Inc. (the “**DIP Lender**”) on terms set out in the Amended and Restated DIP Term Sheet between OrbCare Inc., OrbCare US and Pariscrite Inc., as borrowers and guarantors, and the DIP Lender, as lender, dated July 29, 2019 (the “**DIP Loan Agreement**”) and granting in favour of the DIP Lender a charge (the “**DIP Lender’s Charge**”) on Pariscrite’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (“**Property**”); was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Olivier Giner sworn July 29, 2019 and the Second Report dated July 29, 2019 (the “**Second Report**”) of the Trustee and upon hearing the submissions of counsel for Pariscribe, the Trustee, the DIP Lender, and those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of Joël Turgeon dated July 29, 2019.

#### **NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the Second Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which a proposal may be filed on behalf of Pariscribe be and is hereby extended to September 26, 2019.

#### **DIP FINANCING**

3. **THIS COURT ORDERS** that Pariscribe is hereby authorized and empowered to obtain and borrow under the Credit Facility from the DIP Lender on the terms set out in the DIP Loan Agreement, provided that borrowings under the Credit Facility shall not exceed the maximum principal amount of \$1,200,000 unless permitted by further Order of this Court.
4. **THIS COURT ORDERS** that Pariscribe is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and Pariscribe is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Loan Agreement and the



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

5. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the DIP Loan Agreement and the Definitive Documents, Pariscribe shall not be authorized and empowered to operate any form of draw on the Credit Facility without the written approval of the Trustee, who, in deciding whether to issue its approval, shall consider the best interests of Pariscribe and its stakeholders;

6. **THIS COURT ORDERS** that pursuant to Section 50.6 of the BIA, the DIP Lender shall be entitled to the benefit of and is hereby granted the DIP Lender's Charge on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made.

7. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order or the provisions of Section 69 of the BIA:

- (a) 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;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender will be entitled to exercise any and all of its rights and remedies under or pursuant to the DIP Loan Agreement, the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to Pariscribe and set off and/or consolidate any amounts owing by the DIP Lender to Pariscribe against the obligations of Pariscribe to the DIP Lender under the DIP Loan Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against Pariscribe and for the appointment of a trustee in bankruptcy of Pariscribe; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of Pariscribe or the Property.

8. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by Pariscribe under the BIA or any plan of arrangement or compromise filed by Pariscribe under the *Companies' Creditors Arrangement Act* with respect to any advances made under the Definitive Documents or the Credit Facility.

9. **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 perfect.

10. **THIS COURT ORDERS** that the DIP Lender's Charge shall constitute a charge on the Property and such DIP Lender's Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency, or any other entities (each and any, a "**Person**").

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

12. **THIS COURT ORDERS** that the DIP Loan Agreement, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) any deemed or voluntary


assignment for the general benefit of creditors pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (each and any, an “**Agreement**”) which binds Pariscribe, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the DIP Lender’s Charge nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by Pariscribe of any Agreement to which it is a party;
- (b) the DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from Pariscribe entering into the DIP Loan Agreement, the creation of the DIP Lender’s Charge, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by Pariscribe pursuant to the DIP Loan Agreement or the Definitive Documents, 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.

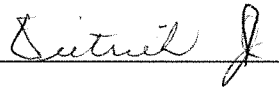
13. **THIS COURT ORDERS** that the DIP Lender’s Charge created by this Order over leases of real property in Canada shall only be a charge in Pariscribe’s interest in such real property leases.

14. **THIS COURT ORDERS THAT** the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at [www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial]) shall be valid and effective service. Subject to Rule 17.05 of the Ontario *Rules of Civil Procedure*, this Order shall constitute an order for substituted



service pursuant to Rule 16.04 of the *Rules*. Subject to Rule 3.01(d) of the *Rules* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: [[https://mnpdebt.ca/en/corporate/Engagements/ orbcase - inc.](https://mnpdebt.ca/en/corporate/Engagements/orbcase-inc) ].

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

  
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IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF PARISCRIE INC., A CORPORATION  
INCORPORATED UNDER THE CANADA BUSINESS  
CORPORATIONS ACT

Estate No. 31-2516167

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**ORDER**

**(Extension of Time to File a Proposal and Approval  
of Debtor-in-Possession Financing)**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto (ON) M5G 1V2

**Brendan Bissell** (LSUC# 40354v)  
Tel: 416-597-6489  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for OrbCare Inc., Pariscrite Inc. and  
OrbCare US, Inc..

Tab F

This is **Exhibit "F"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019



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A Commissioner, etc.

Estate No. 31-2539459

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 1<sup>ST</sup>  
 )  
JUSTICE DIETRICH ) DAY OF AUGUST, 2019



IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF ORBCARE US, INC., A  
CORPORATION INCORPORATED UNDER THE  
DELAWARE *GENERAL CORPORATION LAW*

**ORDER**  
**(Extension of Time to File a Proposal and Approval of  
Debtor-in-Possession Financing)**

**THIS MOTION** made by OrbCare US, Inc. ( "**OrbCare US**") for: (i) an order extending from August 25, 2019 to September 26, 2019 the time limit for MNP Ltd. in its capacity as proposal trustee (in such capacity, the "**Trustee**") to file with the official receiver, on behalf of OrbCare US, a proposal pursuant to the *Bankruptcy and Insolvency Act* (the "**BIA**"); and (ii) an order authorizing OrbCare US to obtain and borrow under a credit facility (the "**Credit Facility**") from iGan Partners Inc. (the "**DIP Lender**") on terms set out in the Amended and Restated DIP Term Sheet between OrbCare Inc., OrbCare US and Pariscribe Inc., as borrowers and guarantors, and the DIP Lender, as lender, dated July 29, 2019 (the "**DIP Loan Agreement**") and granting in favour of the DIP Lender a charge (the "**DIP Lender's Charge**") on OrbCare US's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof ("**Property**"); was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Olivier Giner sworn July 29, 2019 and the Second Report dated July 29, 2019 (the “**Second Report**”) of the Trustee and upon hearing the submissions of counsel for OrbCare US, the Trustee, the DIP Lender, and those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of Joël Turgeon dated July 29, 2019.

#### **NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the Second Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which a proposal may be filed on behalf of OrbCare US be and is hereby extended to September 26, 2019.

#### **DIP FINANCING**

3. **THIS COURT ORDERS** that OrbCare US is hereby authorized and empowered to obtain and borrow under the Credit Facility from the DIP Lender on the terms set out in the DIP Loan Agreement, provided that borrowings under the Credit Facility shall not exceed the maximum principal amount of \$1,200,000 unless permitted by further Order of this Court.

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



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

5. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the DIP Loan Agreement and the Definitive Documents, OrbCare US shall not be authorized and empowered to operate any form of draw on the Credit Facility without the written approval of the Trustee, who, in deciding whether to issue its approval, shall consider the best interests of OrbCare US and its stakeholders;

6. **THIS COURT ORDERS** that pursuant to Section 50.6 of the BIA, the DIP Lender shall be entitled to the benefit of and is hereby granted the DIP Lender's Charge on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made.

7. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order or the provisions of Section 69 of the BIA:

- (a) 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;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender will be entitled to exercise any and all of its rights and remedies under or pursuant to the DIP Loan Agreement, the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to OrbCare US and set off and/or consolidate any amounts owing by the DIP Lender to OrbCare US against the obligations of OrbCare US to the DIP Lender under the DIP Loan Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against OrbCare US and for the appointment of a trustee in bankruptcy of OrbCare US; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of OrbCare US or the Property.

8. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by OrbCare US under the BIA or any plan of arrangement or compromise filed by OrbCare US under the *Companies' Creditors Arrangement Act* with respect to any advances made under the Definitive Documents or the Credit Facility.

9. **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 perfect.

10. **THIS COURT ORDERS** that the DIP Lender's Charge shall constitute a charge on the Property and such DIP Lender's Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency, or any other entities (each and any, a "**Person**").

11. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, OrbCare US shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the DIP Lender's Charge, unless OrbCare US also obtains the prior written consent of the Trustee and the DIP Lender, or further Order of this Court.

12. **THIS COURT ORDERS** that the DIP Loan Agreement, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any



bankruptcy order made pursuant to such applications; (iii) any deemed or voluntary assignment for the general benefit of creditors pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (each and any, an “**Agreement**”) which binds OrbCare US, and notwithstanding any provision to the contrary in any Agreement:

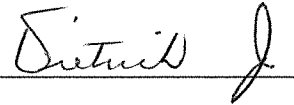
- (a) neither the creation of the DIP Lender’s Charge nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by OrbCare US of any Agreement to which it is a party;
- (b) the DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from OrbCare US entering into the DIP Loan Agreement, the creation of the DIP Lender’s Charge, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by OrbCare US pursuant to the DIP Loan Agreement or the Definitive Documents, 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.

13. **THIS COURT ORDERS** that the DIP Lender’s Charge created by this Order over leases of real property in Canada shall only be a charge in OrbCare US’s interest in such real property leases.

14. **THIS COURT ORDERS THAT** the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at [[www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial](http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial)]) shall be valid and effective service. Subject to Rule 17.05

of the Ontario *Rules of Civil Procedure*, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules*. Subject to Rule 3.01(d) of the *Rules* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: [[https://mnpdebt.ca/en/corporate/Engagements/ orbcare-inc](https://mnpdebt.ca/en/corporate/Engagements/orbcare-inc) ]

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

  
\_\_\_\_\_

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF ORBCARE US, INC., A CORPORATION  
INCORPORATED UNDER THE DELAWARE GENERAL  
CORPORATION LAW

Estate No. 31-2539459

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**ORDER**

**(Extension of Time to File a Proposal and Approval  
of Debtor-in-Possession Financing )**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto (ON) M5G 1V2

**Brendan Bissell** (LSUC# 40354v)  
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Lawyers for OrbCare Inc., Pariscribe Inc. and  
OrbCare US, Inc.

Tab G

This is **Exhibit "G"** to the  
Affidavit of Olivier Giner,  
sworn before me this 22<sup>nd</sup> day  
of September, 2019

---

A Commissioner, etc

Estate No. 31-2516167

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF ORBCARE INC., A  
CORPORATION INCORPORATED UNDER THE *CANADA  
BUSINESS CORPORATIONS ACT*

AFFIDAVIT OF OLIVIER GINER  
(sworn July 29, 2019)

I, Olivier Giner, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. This affidavit is in support of:
  - (i) a motion made by OrbCare Inc. ("**OrbCare**") for an order (i) extending from August 12, 2019 to September 26, 2019 the time for MNP Ltd. in its capacity as proposal trustee ("**MNP**" or the "**Trustee**") to file with the official receiver a proposal pursuant to the *Bankruptcy and Insolvency Act* (the "**BIA**") on behalf of OrbCare,
  - (ii) a motion by OrbCare for an Order procedurally consolidating the proposal proceedings of OrbCare with those of its wholly owned subsidiaries, Pariscribe Inc. ("**Pariscribe**") and OrbCare US, Inc. ("**OrbCare US**") (collectively with OrbCare, the "**Companies**"), and
  - (iii) a motion by Pariscribe and OrbCare US for authorization to borrow funds under a DIP Term Sheet.
2. I am the Chief Executive Officer and a director of each of the Companies and have personal knowledge of the matters deposed to in this affidavit. Where I have relied on other sources of

[2]

information, I have specifically referred to such sources and verily believe them to be true. In preparing this affidavit, I have consulted with legal, financial and other advisers of the Companies and other members of the management teams of the Companies.

3. I became a director of OrbCare on September 13, 2018. On April 9, 2019 I signed an employment contract to become Chief Operating Officer (“COO”) of OrbCare starting on July 1<sup>st</sup>, 2019, and to work primarily in accounting and operations management. Despite the purported effective date of July 1<sup>st</sup>, due to the emergency of certain accounting and operating matters, it was agreed that I would commence working as COO of OrbCare immediately, but as a contractor, from April 9, 2019 to June 30, 2019, inclusively. I was subsequently appointed by the board of directors of OrbCare as Chief Executive Officer (“CEO”) and COO of OrbCare on May 17, 2019. On the same day, I was appointed a director of each of Pariscribe and OrbCare US, and also the CEO of each of Pariscribe and OrbCare US.

4. Before becoming a director of OrbCare, I was an employee (Vice-President and Chief Compliance Officer) of iGan Partners Inc. (“iGan”) and it was as a representative of iGan that I initially became a director of OrbCare on September 13, 2018. On March 10, 2019 I notified iGan that I wished to pursue other interests, which led to my joining OrbCare as COO in April 2019. It was nonetheless agreed that I would continue to serve as the Chief Compliance Officer of iGan, on an interim basis, either until a replacement was found or until August 31, 2019, whichever comes first. That role requires me to ensure compliance for investors providing funds to iGan and does not involve me in any of iGan’s activities or investments, such as with OrbCare.

## **OVERVIEW OF THE COMPANIES**

5. OrbCare has the following wholly owned subsidiary corporations:

- a. Pariscribe, which is incorporated pursuant to the *Canada Business Corporations Act* and which operates in the same business as OrbCare, and has 19 clients (additional to OrbCare’s own clients); and
- b. OrbCare US, which is incorporated pursuant to the *Delaware General Corporation Law* and which also operates in the same business as OrbCare,



[3]

principally in the United States, and has 6 clients (additional to OrbCare's and Pariscribe's own clients).

6. OrbCare, OrbCare US and Pariscribe operate a collective and intertwined business (the "**Business**") which consists primarily in providing a range of software information technology (IT) solutions to clients operating in the healthcare sector in Canada and the United States, including specialty clinics such as radiology clinics, fertility clinics, and mental health clinics.

7. The senior management for all of the Companies is in Toronto. All of the directors of the Companies are Canadians resident in Toronto.

8. In operating the Business, the Companies share from time to time among other things clients, opportunities, suppliers, employees and other assets.

9. Together, the Companies count 37 active clients and employ 25 employees and 2 contractors.

10. Pariscribe has no employees and has no leased premises. It effectively operates using the employees, premises and other overhead of OrbCare. Pariscribe and OrbCare carry on the same business but do so for different clients. This is because there are clients who initially started with Pariscribe and therefore continue to deal with Pariscribe as a legacy issue. There is not presently any cost-sharing mechanism between OrbCare and Pariscribe.

11. OrbCare US does have three employees of its own, located in North Carolina, in the United States. The former President of OrbCare US was based in Colorado and rented part-time premises from a space-sharing company (Regus) in Colorado Springs, Colorado, and that location is still recorded as the head office. Following the departure of the President of OrbCare US in late 2018, the controller for OrbCare opened a post office box in Ogdensburg, New York state and a bank account in Watertown, New York for OrbCare US, as those locations are the nearest to the controller of OrbCare who lives in Ottawa, ON and travels to the US once a month for banking operations. At the time of the sudden departure of the former President of OrbCare US, a decision was made to maintain a US bank account, principally because the payroll service used by OrbCare US (Gusto) would not do business with a Canadian banking institution. The new management of



[4]

OrbCare US has decided to open another bank account for OrbCare US in Toronto, which is being ~~done~~ today (July 29, 2019). OrbCare US has no independent management, accounting or human resources functions, and instead relies upon OrbCare for all of those functions. OrbCare employees in Toronto also provide some services that are part of OrbCare US's core business, including providing some of the help desk functions and the software engineering for American clients. New management of OrbCare US is evaluating how to expand US operations and it is currently planned that Canadian employees will lead business development in the US.

12. OrbCare has no known conventional secured creditors. Aside from trade payables, there are priority payables in favour of Canada Revenue Agency ("CRA") for source deduction arrears in an amount currently estimated as \$511,323 and for unremitted HST in an amount currently estimated at \$84,485.

13. OrbCare US has no known secured creditors.

14. Pariscribe has two registered secured creditors, Emmanuel Abraham (who was formerly a director of Pariscribe) and Dejan Dimitrijevic (who is currently a director of Pariscribe and was formerly a shareholder of Pariscribe), who are employees of OrbCare (and previously of Pariscribe), as indicated in the *Personal Property Security Act* search results, a copy of which are attached as **Exhibit A**. It is unknown if those registrations are still valid or may be legacy issues from a prior structure of OrbCare and Pariscribe. Additionally, Pariscribe has priority payables in favour of CRA for source deduction arrears in an amount currently estimated at \$70,040.

#### **CAUSES OF INSOLVENCY AND GENERAL SITUATION OF ORBCARE: A SUMMARY**

15. I have recounted in detail the facts surrounding the discovery and the causes of OrbCare's insolvency in my affidavit dated June 23, 2019 filed in the present Court file in support of OrbCare's previous Motion for Extension of Time to File a Proposal and Approval of DIP Financing which was granted by order of Justice Hainey of the Ontario Superior Court of Justice on June 25, 2019. A copy of that June 23, 2019 affidavit is communicated herewith for convenience, without the exhibits, as **Exhibit B**. I hereafter provide a summary thereof.

[5]

16. All of the Companies are insolvent and each has filed a notice of intention to make a proposal (an “**NOI**”) under what I understand to be Section 50.4 of the BIA to which the Trustee accepted to act as proposal trustee:

- a. in the case of OrbCare, on May 28, 2019, as appears from a copy of the Certificate of Filing of OrbCare’s NOI attached hereto as **Exhibit C**;
- b. in the case of Pariscribe, on July 26, 2019, as appears from a copy of the Certificate of Filing of Pariscribe’s NOI attached hereto as **Exhibit D**; and
- c. in the case of OrbCare US, on July 29, 2019, as appears from a copy of the Certificate of Filing of OrbCare US’s NOI attached hereto as respectively **E**.

17. Shortly after I started being directly involved in OrbCare as COO in May of 2019 I started an initial review of a selection of OrbCare’s bank account and other financial records, and through conversations with OrbCare’s controller and other employees, I noted that, among other things:

- a. OrbCare may not have had sufficient record keeping or controls on the use or release of company funds;
- b. OrbCare had not prepared any form of financial statements since the filing of its revised annual income tax return filed with the CRA for the year ending December 31, 2017;
- c. OrbCare did not maintain adequate customer records and did not diligently keep track of customer invoicing and accounts receivable. I learned, for example, that certain entities which I had been told were current customers of OrbCare had in fact never been customers, or ceased to be customers of OrbCare or any of its subsidiaries;
- d. OrbCare’s Quickbooks accounting records appeared dated and incomplete, including an apparent backlog of thousands of accounting entries that, to such date, had yet to be entered into its books;

[6]

- e. OrbCare may have been liable for significant payable and unpaid debt towards its creditors, including the CRA; and
- f. OrbCare's accounts payable may have been in excess of its cash reserves such that OrbCare had a much shorter operating runway than expected.

18. On May 17, 2019, the board of directors of OrbCare resolved to make changes in the management of OrbCare, including the removal of the prior Chief Executive Officer and my appointment as Chief Operating Officer of OrbCare and Chief Executive Officer of the Companies, with the intention to attempt to stabilize the operational and cashflow situation of the Companies as well as continue to review the actual financial reality of the Companies.

19. On or around May 23, 2019, I had come to the following factual conclusions:

- a. OrbCare's gross revenue per month was not in the range of \$300,000 as had been previously reported, but was closer to \$150,000 per month (including US operations);
- b. monthly expenses were in the range of \$260,000 per month (including US Operations);
- c. cash balances, which were expected to be substantial after a relatively recent, September 13, 2018 \$2M preferred share financing, were significantly lower than expected;
- d. there were significant amounts owing to the CRA, including an amount in excess of \$500,000 for unpaid payroll source contributions, as well as amounts for HST and corporate tax which remained to be precisely calculated by reason of OrbCare's incomplete record keeping; and
- e. the CRA had previously taken collection steps on account of unpaid amounts due in 2018 through the garnishment of OrbCare's bank accounts;

all of which led me to believe that:



[7]

- f. OrbCare's costs of operation were too high, notably due to an unnecessarily large number of employees;
- g. OrbCare would probably lack liquidity to fund its essential business activities within two months; and
- h. OrbCare was at risk of imminent further CRA collection efforts, which would impair or cease OrbCare's ability to continue as a going concern.

20. On or around May 27, 2019, after obtaining advice from OrbCare's legal counsel and the Trustee, OrbCare's board of directors, including myself, came to the conclusion that by reason of accumulated debt, OrbCare was insolvent and would have to negotiate with its creditors and put forward a proposal to permit maximum recovery and minimum alteration of the creditors' rights while ensuring the continuation of the Business for the benefit of all its stakeholders including its employees, shareholders and creditors.

21. On May 28, 2019, OrbCare accordingly filed an NOI under what I understand to be Section 50.4 of the BIA.

22. Pariscribe and OrbCare US did not initially file NOI's at the same time as OrbCare. This was a conscious decision because it was not known in May of 2019 what the proper financial status of those two companies was due to the gaps in the Companies' accounting practices and records. Since there was at that time no known creditor issue for Pariscribe that could jeopardize operations, the board of Pariscribe decided to defer any decision to file a NOI until a later time. As for Orbcare US, the amounts due to third party suppliers were grossly underestimated at such time, and as the company was looking to attempt to manage its payables, the board of Orbcare US decided to defer the decision to file a NOI as well.

23. Since May, I have determined that each of Pariscribe and OrbCare US have known or potential liabilities that they are not presently able to pay, and which, if subject to action by the creditors in question, could imperil the going concern nature of their businesses.

[8]

24. In particular, it came to my attention for the first time on June 21, 2019 that Pariscribe has been distributing a third party picture archiving and communication system (PACS) known as NILReader, and that Pariscribe may have failed to meet its obligations under a distribution agreement dated November 13, 2014 between Pariscribe and Claron Technology regarding the NILReader (“**Distribution Agreement**”). The imaging technology of Claron Technology (including the NILReader) was sold to Lexmark in 2015, and the technology was later sold to Hyland Corporation in 2017. The obligations of the parties under the Distribution Agreement may have been neglected from both parties to the agreement, as to my knowledge Pariscribe may have failed to pay any amounts to Claron (now Hyland) and Hyland may have also failed to provide the technical and customer support required under the Distribution Agreement. At this point I am unable to quantify the extent of the potential liability from Pariscribe to Hyland. I initiated contact with Hyland on July 26<sup>th</sup>, 2019 in an attempt to clarify the relationship and respective obligations of the parties. The Company has also been in discussions with alternative PACS suppliers in order to potentially replace the NILRead PACS installed with current clients and provide a different solution to new clients.

25. As for OrbCare US, it owes arrears of at least USD \$246,695 to three major suppliers of technology under license and services including computer servers. This amount does not include arrears for the second quarter of 2019 which invoices are expected to be received imminently. Some of these payables are nearly 290 days overdue and the discussions with the suppliers for the collection of these amounts have intensified in recent weeks, and the amounts the suppliers want to be paid exceed by far Orbcare US cash reserves even when including cash flow from near term operations.

#### **EXTENSION OF TIME TO FILE A PROPOSAL AND STEPS UNDERTAKEN BY THE COMPANIES**

26. OrbCare has already sought and received one extension of the time to make a proposal in its motion that was heard on June 25, 2019. A copy of the Order of Mr. Justice Hainey of that date is attached as **Exhibit F**. The current deadline for OrbCare to make a proposal is now August 12, 2019.



[9]

27. OrbCare seeks an extension of a further 45 days for the time for it to make a proposal to September 26, 2019, and Parsicribre and OrbCare US seek lesser extensions to the same date so that further motions regarding the Companies may be done all at the same time and to allow the Companies to consider an appropriate global restructuring strategy.

28. I believe that the Companies have acted in good faith and with due diligence before the filing of their NOI's in order to regularize their financial situation. I believe they have continued to do so since then, as detailed below.

29. Since before the filing of its NOI and thereafter, OrbCare has worked actively with MNP LLP and Vizhenbooks, a service company specialized in assisting other companies regarding bookkeeping, in order to redress the financial reporting for all the Companies and put forward a viable proposal to creditors. This has included the retainer of the forensic accounting services of MNP LLP to assist in the review of the Companies financial data and available records in order to attempt to properly state the financial records and position of the Companies, among other things. At the time of OrbCare's last stay extension motion on June 25, I indicated that work had been completed for the months of September of 2018 to April 2019, and the review for the months of January to August 2018 was still ongoing. The review of the Companies' books and records has now been substantially completed for all of 2018 and 2019 to date, especially from a profit and loss perspective. The Companies are still looking to finalize certain balance sheet items that are dependent on certain December 31, 2017 balances that were not provided with enough details. The ongoing review of the books and records and other financial activities since May 28, 2019 have enabled us to identify additional creditors of OrbCare, which were since given notice of OrbCare's NOI.

30. Since my affidavit in support of the June 25, 2019 extension, the following steps have been taken:

- a. working versions of the financial statements for OrbCare, Pariscrite and OrbCare US have been prepared for the period ending December 31, 2018 (Pariscrite's fiscal year end is October 31) and for the first five months of

[10]

2019 to the end of May, but which remain subject to change as further accounting information is analyzed;

- b. the HST liabilities for OrbCare and Pariscribe have been better quantified;
- c. the payroll source deduction obligations for OrbCare and Pariscribe have been better quantified;
- d. it has been determined that each of OrbCare and Pariscribe has experienced a deficit for its fiscal year ending in 2018, such that no income tax will be payable by either of them for its fiscal year ending in 2018;
- e. accounts receivable in the total amount of \$89,962 have been collected for OrbCare and Pariscribe;
- f. The Companies have engaged with possible new client opportunities, some of them with substantial revenue potential;
- g. one sales employee has been terminated and a new software engineer has been engaged to assist with client issues;
- h. MNP has continued to review OrbCare's procedures and history for the release of company funds, including the handling of funds by the former Chief Executive Officer and transactions between him and the Companies and whether those matters may warrant a request for repayment; and
- i. the CRA issued a review letter on July 17, 2019 regarding OrbCare's entitlement to Scientific Research and Experimental Development ("SR&ED") tax credits for the fiscal years ending 2015 and 2016. The CRA established that the Company was eligible to a total ITC claim of \$2,552 for the years ending December 31, 2015 and 2016. The CRA also established that the Company had total Net Losses in excess of \$175,000 for years ending December 31, 2015 and 2016 – while the findings are disappointing, the Company does not intend to object to the findings by the CRA since the



[11]

records available in support of the SR&ED claims for those years are insufficient, and the Company has dedicated abundant resources already trying to amend previous filings made by previous SR&ED consultants, which contained erroneous descriptions of the activities carried and insufficient supporting data; furthermore, the Company wants to take advantage of the Net Losses in order to offset corporate income taxes due for the year ending December 31, 2017.

31. OrbCare has also prepared an updated 13-week cashflow statement, a copy of which is attached as **Exhibit G**, and which is consolidated with the operations of Pariscribe due to their intertwined nature. A similar cash flow statement for Pariscribe will be filed within the required 10 day period after the filing of its NOI, and a separate cash flow statement is being prepared for OrbCare US to also be filed within the required 10 day period after filing of its NOI

**FURTHER ANTICIPATED STEPS IN THE RESTRUCTURING OF THE COMPANIES AND ABILITY TO MAKE A PROPOSAL**

32. With the growing certainty about the financial position of the Companies, I continue to believe that the Companies will likely be able to make a viable proposal to its creditors for the following reasons:

- a. the Companies operate in a business (software and health-related IT services) with, typically, healthy profit margins;
- b. the nature of the Companies' business means that they will provide far more value to creditors as a going concern than in a liquidation scenario;
- c. OrbCare and its subsidiaries have paying and satisfied customers. I am confident about the quality of OrbCare's solutions and OrbCare's potential to maintain actual clients and attract new business: as mentioned above, OrbCare has engaged with possible new client opportunities, some of them with substantial revenue potential;



[12]

- d. OrbCare's preferred shareholder and current DIP lender, iGan Partners Inc. ("iGan"), has expressed confidence in OrbCare's value and has accordingly offered to advance DIP financing to OrbCare during its restructuring process in order to provide working capital to keep OrbCare as a going concern and to pay restructuring costs;
- e. iGan has expressed an interest in acting as a plan sponsor for any proposal that OrbCare makes; and
- f. the Companies have received several expressions of interest in either or both of an investment in the Companies or a sale of the Companies' assets, the proceeds of which could fund a viable proposal.

33. The Companies have begun the process of considering, with the assistance of counsel and of the Trustee, whether value for creditors and the interests of stakeholders more widely (including customers, suppliers, and employees) might be preserved or enhanced through a sales process to solicit interest in investments and/or purchases of the Companies' assets. The Companies have begun discussions with a potential purchaser of all of their assets who is prepared to act as a stalking horse bidder.

34. The Companies intend to return to Court within the period of the next stay extension to seek authorization for a sale and investment solicitation process, whether through the vehicle of a stalking horse agreement or otherwise.

35. The Companies intend to complete any transaction(s) that may come out of a sales process within the statutory 180 day maximum period for an NOI process after which a proposal to creditors is required.

#### **EXPANSION OF DIP BORROWING TO PARISCRIBE AND ORBCARE US**

36. OrbCare already sought and received Court approval to enter into a credit facility with iGan under a DIP Term Sheet, a copy of which is attached as **Exhibit H**. The Order of Mr. Justice Hainey dated June 25, 2019 granted that approval.

[13]

37. As noted in my prior affidavit, the existing DIP Term Sheet had been reviewed by the Trustee, legal counsel to OrbCare and independent legal counsel to OrbCare's common shareholders. OrbCare's board of directors considered whether to authorize OrbCare to enter into the Credit Facility, including the lack of any known viable alternate lenders, particularly because OrbCare did not have any lenders for either operating expenses or long-term debt. The DIP Term Sheet was the product of negotiation with iGan and its counsel, and OrbCare's board of directors concluded that signing it and seeking the Court's approval for that loan and charge was in the best interests of the company and all of its stakeholders.

38. There have not yet been any draws against that credit facility, but OrbCare needs to borrow funds against that facility imminently in order to pay professional restructuring costs and to ensure that the Companies will be in a position to make payroll for the time following August 1, 2019.

39. The existing DIP Term Sheet required Pariscribe and OrbCare US to be guarantors and to grant security in favour of iGan. At that time those companies had not filed their NOI's.

40. Since Pariscribe and OrbCare US have now filed NOI's, I am advised by counsel for the Companies and the Trustee that it would be more proper for Pariscribe and OrbCare US to use any DIP loan funds as principal borrowers.

41. I am also advised by counsel for the Companies that iGan has requested this before it will be prepared to advance funds under the DIP Term Sheet, and that iGan requires that the Companies cross-guarantee their obligations as a term of the loan.

42. I expect that most of the borrowing will be done by OrbCare, because it provides the head office management and other services to the Companies. I believe that if OrbCare does not have access to DIP lending, then it will be unable to stay in operation, which would effectively mean that Pariscribe and OrbCare US would cease business as well. On that basis, I believe that it is appropriate and in the best interests of the creditors and stakeholders of Pariscribe and OrbCare US that those two companies be guarantors of the debts of OrbCare.

43. Attached as **Exhibit I** is a copy of Amended and Restated DIP Loan Term Sheet that iGan has offered to the Companies.




[14]

44. Messrs. Abraham and Dimitrijevic, who have PPSA registrations against Pariscribe, were aware of OrbCare's execution of the first DIP Term Sheet, including iGan's request that Pariscribe guarantee the obligation of OrbCare under that first version, because Mr. Abraham is a director of OrbCare and Mr. Dimitrijevic also participated in a discussion among management on that topic. Both of them were also given formal notice of OrbCare's request for Court approval for the first DIP Term Sheet as Goodmans LLP, who acted as counsel for the common shareholders of OrbCare who include them, was served. Messrs. Abraham and Dimitrijevic are being served directly with this motion now out of an abundance of caution.

45. The Amended and Restated DIP Loan Term Sheet also has a new provision in it pertaining to an event of default if the Companies do not commence a sale process that is satisfactory to iGan before August 15, 2019. That is a new term that was just received from iGan today, and which the boards of directors of the respective Companies have not yet considered or authorized. There will be a meeting of the boards of directors on the afternoon of Wednesday July 31, 2019 to consider and, if appropriate, agree to that provision as part of the Amended and Restated DIP Loan Term Sheet.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario, this  
29<sup>th</sup> day of July, 2019

  
\_\_\_\_\_  
Commissioner for taking affidavits  
R. B. Bissell

  
\_\_\_\_\_  
Olivier Giner

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF ORBCARE INC., A CORPORATION  
INCORPORATED UNDER THE CANADA BUSINESS  
CORPORATIONS ACT

Estate File No. 31-2516167

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
**Proceeding commenced in TORONTO**

**AFFIDAVIT OF OLIVIER GINER**  
**(sworn July 29, 2019)**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto (ON) M5G 1V2

**R. Brendan Bissell** (LSO# 40354V)  
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Lawyers for OrbCare Inc. , Pariscribe Inc. and  
OrbCare US, Inc.

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL  
OF ORBCARE INC. AND PARISCRIIBE INC., CORPORATIONS  
INCORPORATED UNDER THE CANADA BUSINESS CORPORATIONS ACT, AND  
ORBCARE US, INC. A CORPORATION INCORPORATED UNDER THE LAWS  
OF THE STATE OF DELAWARE IN THE UNITED STATES OF AMERICA

Estate File No. 31-2516167

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**AFFIDAVIT OF OLIVIER GINER**  
(sworn September 22, 2019)

**GOLDMAN SLOAN NASH & HABER LLP**  
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Lawyers for OrbCare Inc. Pariscribe Inc. and  
OrbCare US, Inc.

Tab 3

Estate No. 31-2516167

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

THE HONOURABLE	)	WEDNESDAY, THE 25 <sup>th</sup>
	)	
JUSTICE	)	DAY OF SEPTEMBER, 2019

**IN THE MATTER OF THE NOTICES OF INTENTION  
TO MAKE A PROPOSAL OF ORBCARE INC., AND  
PARISCRIBE INC., CORPORATIONS  
INCORPORATED UNDER THE *CANADA BUSINESS  
CORPORATIONS ACT*, AND ORBCARE US, INC. A  
CORPORATION INCORPORATED UNDER THE  
LAWS OF THE STATE OF DELAWARE IN THE  
UNITED STATES OF AMERICA**

**ORDER  
(Extension of Time to File a Proposal)**

**THIS MOTION** made by OrbCare Inc. (“**OrbCare**”), Pariscribe Inc. (“**Pariscribe**”) and OrbCare US, Inc. (“**OrbCare US**”, and together with OrbCare and Pariscribe, the “**Companies**”) for an order extending from September 26, 2019 to November 12, 2019 the time for MNP Ltd. (“**MNP**”), in its capacity as proposal trustee (the “**Proposal Trustee**”), to file with the official receiver proposals pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) on behalf of each of the Companies was heard this day at 330 University Ave., Toronto.

**ON READING** the affidavit of Olivier Giner sworn September 22, 2019 and the Proposal Trustee’s Fourth Report dated September [x], 2019 (the “**Fourth Report**”) and upon hearing the submissions of counsel for the Companies, the Proposal Trustee, and those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service of • dated September [x], 2019,



**NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Fourth Report as well as the Motion Record in respect of this motion is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

**EXTENSION OF TIME TO FILE PROPOSALS**

2. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which the Proposal Trustee may file with the official receiver proposals pursuant to the BIA on behalf of each of the Companies is extended to November 12, 2019.

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

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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL  
OF ORBCARE INC. AND PARISCRIBE INC., CORPORATIONS  
INCORPORATED UNDER THE CANADA BUSINESS CORPORATIONS ACT, AND  
ORBCARE US, INC. A CORPORATION INCORPORATED UNDER THE LAWS  
OF THE STATE OF DELAWARE IN THE UNITED STATES OF AMERICA**

Estate File No. 31-2516167

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceeding commenced in TORONTO**

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**ORDER  
(Extension of Time to File Proposals)**

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Lawyers for OrbCare Inc. Pariscrite Inc. and  
OrbCare US, Inc.

Tab 4

September 23, 2019

Estates No. 31-2516167

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF ORBCARE INC. AND  
PARISCRIBE INC., CORPORATIONS INCORPORATED  
UNDER THE CANADA *BUSINESS CORPORATIONS ACT*,  
AND ORBCARE US, INC., A CORPORATION  
INCORPORATED UNDER THE LAWS OF THE STATE OF  
DELAWARE IN THE UNITED STATES OF AMERICA**

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**SERVICE LIST**

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- 3 -

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IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF ORBCARE INC., AND PARISCRIBE INC., CORPORATIONS INCORPORATED UNDER THE CANADA BUSINESS CORPORATIONS ACT, AND ORBCARE US, INC. A CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE IN THE UNITED STATES OF AMERICA

Estate File No. 31-2516167

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
**Proceeding commenced in TORONTO**

**MOTION RECORD**  
**(Extension of Time to File a Proposal,**  
**Returnable September 25, 2019)**

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