

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF **TRIBALSCALE INC.**

Applicant

MOTION RECORD
(Re: Sanction Order, Returnable January 11, 2021)

January 6, 2021

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TO: THE SERVICE LIST

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TAB 1

Court File No. CV-20-00645116-00CL

ONTARIO
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Applicant

NOTICE OF MOTION
(Re: Sanction Order, Returnable January 11, 2021)

TRIBALSCALE INC. (“**TribalScale**” or the “**Applicant**”) will make a motion to a Judge presiding over the Commercial List on January 11, 2021 at 10:30am or as soon after that time as the motion can be heard by judicial teleconference via Zoom at Toronto, Ontario. Please refer to the conference details attached as Schedule “A” hereto in order to attend the motion and advise if you intend to join the motion by emailing Christel Paul at cpaul@wfkllaw.ca.

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

THE MOTION IS FOR:

1. An Order, substantially in the form attached at **Tab 3** of the Motion Record (the “**Sanction Order**”), among other things:
 - a) Sanctioning a plan of compromise and arrangement of the Applicant dated November 22, 2020 (as amended on January 4, 2021, the “**Plan**”);

- b) Approving the releases contained in the Plan;
- c) Adding a newly incorporated subsidiary company of TribalScale, 2800741 Ontario Inc. (“**Newco**”), as an Applicant in this CCAA Proceeding;
- d) vesting in Newco: (i) all of TribalScale’s unsecured liabilities, and (ii) TribalScale’s claims against Sirius XM Connected Vehicle Services Inc. (“**SiriusXM**”), which include (among other things) any actions, claims, rights or lawsuits of any nature owing to TribalScale by SiriusXM under the SiriusXM Contract (defined below) (the “**SiriusXM Receivable**”); and
- e) Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Background

- 2. TribalScale is a software engineering and development firm that provides digital product strategy, design, and development services to clients located in Canada and in the United States. TribalScale specializes in creating enterprise software solutions for large, institutional clients;
- 3. On May 19, 2020, TribalScale filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended; MNP Ltd. (“**MNP**”), was appointed as the proposal trustee in the NOI proceeding;
- 4. On July 31, 2020, the Honourable Justice Gilmore granted an Order converting the NOI proceeding into a proceeding under the *Companies’ Creditors Arrangement Act*, R.S.C.,

- 1985, c. C-36 (the “**CCAA**”). MNP was appointed as TribalScale’s CCAA monitor (the “**Monitor**”), and the initial stay period covered until and including October 31, 2020;
5. Following the Initial Order under the CCAA, TribalScale finalized a restructuring support agreement (the “**RSA**”) with its largest secured creditor 1924191 Ontario Inc. (“**192**”);
 6. On October 30, 2020, the Honourable Justice Conway granted an Order, among other things, (a) extending the Stay Period until and including January 31, 2021; and (ii) authorizing TribalScale to enter into the RSA;
 7. The RSA contemplates a Transaction (as defined in the RSA) to facilitate the Applicant’s emergence from CCAA protection;
 8. The Transaction is to be effected through the Plan;
 9. On November, 25, 2020, the Honourable Justice Koehnen granted an order (the “**Meeting Order**”) that, among other things, accepted the Plan for filing and authorized the Applicant to hold a meeting of its Affected Secured Creditors to consider and vote on a resolution to approve the Plan;
 10. The Meeting Order states that the Applicant may effect a Plan Modification (as defined in the Meeting Order) prior to or at the Creditors’ Meeting (as defined herein), in which case any such Plan Modification will, for all purposes, be and be deemed to form part of and be incorporated into the Plan;
 11. On January 4, 2020, the Plan was amended into its current state;

12. The amendments do not materially change the Transaction contemplated by the RSA. The main amendments seek to (i) ensure all corporate approvals necessary to effect the Plan are in place (ii) implement the issuance of preferred shares to 192 for tax purposes; (iii) conform the Plan to the terms of the RSA and other pre-existing documents; and (iv) facilitate TribalScale's exit from CCAA protection as soon as possible;
13. On January 5, 2020, a meeting (the "**Creditors' Meeting**") of Affected Secured Creditors was held in accordance with the Meeting Order;
14. The quorum required by the Meeting Order was met and the Chair declared that the Creditors' Meeting was properly constituted. 100% in number and value of secured creditors voted in favour of the Plan;

The Sanction Order Should be Granted

15. The Plan follows a thorough but unsuccessful out-of-court sales process;
16. The Plan represents a fair and reasonable balance of compromise between the Applicant's secured creditors;
17. The Plan only likely means of recovery for unsecured creditors (who are unaffected by the Plan), because it facilitates the pursuit and potential recovery of the SiriusXM Receivable by Newco;
18. The Monitor believes that all stakeholders will benefit more from the implementation of the Plan than from a bankruptcy, and that the Plan is fair and reasonable;

19. The Monitor believes the Applicant has been acting in good faith and with due diligence throughout this CCAA Proceeding;
20. The releases in the Plan should be approved by this Court because: (i) the Released Parties materially contributed to the Applicant's restructuring; (ii) the releases are rationally connected to the purpose of the Plan, which is to allow the Applicant emerge from CCAA protection and make a "fresh start"; (iii) without releases, it is unlikely that all of the Released Parties would have been prepared to support the Plan; (iv) the releases minimize the risk of depletion of the Applicant's assets as a result of third party claims; (v) no party has objected to the releases (as of the date of this notice); and (vi) the Monitor believes that the releases are fair and reasonable;
21. The reverse vesting provisions of the Sanction Order should be granted because: (i) they will facilitate the Applicant's expedient exit from CCAA protection; (ii) they will facilitate the unsecured creditors' only chance for recovery; (iii) they are a condition precedent to the Transaction contemplated by the Plan (and a condition precedent to Plan implementation); (iv) the Monitor supports the requested relief; and (v) they are unopposed (as of the date of this notice);
22. Newco satisfies the statutory requirements for a CCAA Applicant: as a wholly owned subsidiary of the Applicant, it is an "affiliated debtor company", pursuant to subsections 3(2) and (4) of the CCAA, and therefore meets the \$5 million debt threshold; upon issuance of the Sanction Order, Newco will hold all of the claims of the Applicant's General Unsecured Creditors but have no assets and therefore be balance sheet insolvent;

Further Grounds

23. The provisions of the CCAA, including sections 2, 3, 6, 11, and 36;
24. The statutory, inherent, and equitable jurisdiction of this Honourable Court;
25. Rules 1.04, 2.03, 3.02, and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194, as amended; and
26. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

1. The Affidavit of Sheetal Jaitly, affirmed January 6, 2021, with Exhibits attached thereto;
2. The Third Report of the Monitor, to be filed; and,
3. Such further and other evidence as counsel may advise and this Honourable Court may permit.

January 6, 2021

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Lawyers for TribalScale Inc.

TO: **THE SERVICE LIST**

Schedule “A”
Conference Details to join Motion via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/89609518456>

Meeting ID: 896 0951 8456

One tap mobile

+15873281099,,89609518456# Canada

+16473744685,,89609518456# Canada

Dial by your location

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

Meeting ID: 896 0951 8456

Find your local number: <https://us02web.zoom.us/j/89609518456>

TAB 2

Court File No. CV-20-00645116-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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IN THE MATTER OF THE *COMPANIES' CREDITORS
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Applicant

AFFIDAVIT OF SHEETAL JAITLEY
(Sworn January 6, 2021)

I, **SHEETAL JAITLEY**, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am the Chief Executive Officer of TribalScale Inc. (“**TribalScale**” or the “**Applicant**”), the debtor in these proceedings. I am also the sole director of TribalScale. In my capacity as CEO, I am responsible for all day-to-day operations of the Applicant. Accordingly, I have knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and believe it to be true.

2. TribalScale is a software engineering and development firm that provides digital product strategy, design, and development services to clients located in Canada and in the United States. TribalScale specializes in creating enterprise software solutions for large, institutional clients. Examples of past work include a project with the PGA Tour to develop voice user interface-based applications to engage fans through Google Assistant and Amazon Alexa, as well as a project with iHeartRadio to develop an application for the Amazon FireTV service.

3. On May 19, 2020 (the “**NOI Filing Date**”), TribalScale filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”). MNP LTD (“**MNP**”) was appointed as the proposal trustee in TribalScale’s NOI proceeding (the “**NOI Proceeding**”).

4. On July 31, 2020, the Honourable Justice Gilmore granted an Order converting the NOI Proceeding into a proceeding (the “**CCAA Proceeding**”) under the *Companies’ Creditors Arrangement Act*, RSC, 1985, c C-36 (the “**CCAA**”) and provided, among other things:

- (a) a stay of proceedings up to and including October 31, 2020 (the “**Stay Period**”);
- (b) the appointment of MNP as monitor of the Applicant (the “**Monitor**”);
- (c) that during the Stay Period no person will fail to honour a contract including, but not limited to the payment of amounts due under contract;
- (d) the continuation of the administration charge granted in the NOI proceedings up to a maximum amount of \$125,000; and
- (e) the granting of a directors’ and officers’ charge up to the maximum amount of \$125,000.

5. On October 30, 2020, the Honourable Justice Conway granted an order authorizing the Applicant to enter into a restructuring support agreement (the “**RSA**”) between itself and its largest secured creditor, 1924191 Ontario Inc. (“**192**”), and extending the stay of proceedings against the Applicant up to and including January 31, 2021.

6. On November 25, 2020, the Honourable Justice Koehnen granted an order (the “**Meeting Order**”) that, among other things, accepted for filing a plan of compromise and arrangement of the Applicant dated November 22, 2020 (as amended on January 4, 2021, the “**Plan**”); and authorized the Applicant to hold a meeting of its Affected Secured Creditors to consider and vote on a resolution to approve the Plan. A copy of the Meeting Order is appended here as **Exhibit “A”**, without schedules.

7. This affidavit is sworn in support of TribalScale’s January 11, 2021, motion for an Order substantially in the form at **Tab 3** of the Motion Record:

- (a) sanctioning the Plan;
- (b) approving the Releases contained in the Plan;
- (c) adding a newly incorporated subsidiary company of TribalScale, 2800741 Ontario Inc. (“**Newco**”), as an Applicant in these CCAA Proceedings; and
- (d) vesting in Newco: (i) all of TribalScale’s unsecured liabilities, and (ii) TribalScale’s claims against Sirius XM Connected Vehicle Services Inc. (“**SiriusXM**”), which include (among other things) any actions, claims, rights or lawsuits of any nature owing to TribalScale by SiriusXM under the SiriusXM Contract (defined below) (the “**SiriusXM Receivable**”).

I. BACKGROUND

A. Liquidity Issues and Sales Process

8. In early 2019, TribalScale began experiencing liquidity issues principally as a result of the loss of two major customer contracts. However, notwithstanding the loss of these material contracts, TribalScale did not scale back its operations sufficiently in order to offset the decreased revenue. This led to a cash crunch and a breach of its debt facility covenants with its secured lender at the time, Scotiabank.

9. The Scotiabank debt originated as a loan made by Scotiabank to TribalScale. On June 29, 2018, TribalScale entered a commitment letter with Scotiabank pursuant to which Scotiabank granted TribalScale a \$6 million operating credit facility and a \$500,000.00 business credit line (collectively, the “**Scotia Facility**”). The Scotia Facility was secured over all the property, assets and undertakings of TribalScale pursuant to a General Security Agreement dated July 9, 2018.

10. To address the liquidity crisis, TribalScale restructured its operations. It implemented a process to better manage its accounts receivable and accounts payable, reduced its employee headcount, and focused on profitable consumer contracts.

11. Further, in the late summer and fall of 2019, with the support of Scotiabank, TribalScale undertook an extensive sale and investment marketing process with the assistance of BDO Canada Limited (“**BDO Canada**”). At a high level, the process contemplated due diligence leading to an “as is, where is” asset purchase or an investment. BDO advised potential bidders that, depending on the proposed transaction structure, TribalScale would support a Court-supervised transaction to transfer its assets free and clear of all liens and claims, subject to permitted encumbrances.

12. As part of the out-of-court sale and investment process, BDO Canada identified 73 potential strategic and financial partners that could be interested in TribalScale. Of these, BDO was able to establish contact with 68 interested parties, 35 of which elected to receive a “teaser” document outlining the opportunity. Nine parties signed a non-disclosure agreement and received a confidential information memorandum and data room access. Following due diligence, three expressions of interest were received. However, none of these offers provided sufficient recovery for Scotiabank, and therefore none were accepted.

13. Between January and April 2020, TribalScale received and negotiated an offer to purchase its going concern business from a Fortune 500 company, which offer would have paid out Scotiabank. Unfortunately, due to COVID-19’s emergence in North America in the spring of 2020, the potential purchaser opted to not close the transaction. As of the date of this affidavit, the potential purchaser is not interested in purchasing TribalScale.

14. On April 30, 2020, 192 assumed the Scotiabank debt pursuant to an assignment of the debt and security.

15. In or around May 18, 2020, TribalScale’s sub-landlord opted to terminate its sublease with TribalScale, alleging non-payment of rent. As a result, and to avoid further enforcements steps by the sub-landlord, TribalScale commenced the NOI Proceeding.

16. Further background facts can be found in my Affidavit dated July 24, 2020, appended here (with only Exhibits “K” and “L”) as **Exhibit “B”**.

B. Applicant's Post-Filing Activities

17. After converting the NOI Proceeding into the CCAA Proceeding, the Applicant's restructuring efforts focused on: (i) continued discussions with its material secured creditor, 192, including the negotiation of the RSA; (ii) the performance of current customer contracts, (iii) the execution of new customer contracts; (iv) the collection of outstanding receivables; (v) the strategic "right-sizing" of the business with the assistance of the Monitor; and (vi) the development of a restructuring plan.

18. Given the failed sale and investment process, TribalScale and 192 executed an RSA on November 3, 2020. A copy of the RSA is appended here as **Exhibit "C"**. Among other things, the RSA outlines a transaction (the "**Transaction**") that provides for a debt to equity conversion of some of the Applicant's secured indebtedness with 192, its largest secured creditor, and the payment in full of Applicant's secured indebtedness with its only other secured creditor, the Business Development Bank of Canada ("**BDC**").

19. Under the RSA, unsecured creditors will receive any proceeds from the SiriusXM Receivable (less the costs to collect).

20. The main terms of the Transaction are as follows:

- (a) 192 will convert 50 % of its debt (the "**Secured Debt**") into 85% of the equity in the capital of TribalScale on a fully diluted basis;
- (b) the residual 50% of Secured Debt will remain on the balance sheet of TribalScale, with payment of interest accruing on the Secured Debt being deferred until the date that is one year from the closing of the Transaction. 192 will maintain its security over the assets, property and undertaking of TribalScale for all the obligations in respect to the

remaining Secured Debt and for any obligations under the RSA or pursuant to the Transaction;

- (c) Scotiabank will be issued 5% of the equity in the capital of TribalScale, on a fully diluted basis, in full and final satisfaction of the consideration owed to Scotiabank by TribalScale as a result of the assignment of the Secured Debt from Scotiabank to 192;
- (d) I will be issued 10% of the equity in the capital of TribalScale on a fully diluted basis;
- (e) TribalScale will make a cash payment in the amount of the secured indebtedness owing to BDC, in full and final satisfaction of the indebtedness to BDC;
- (f) TribalScale will seek approval an Order “vesting out” all unsecured liabilities of TribalScale to Newco;
- (g) TribalScale, as approved by 192, will continue payment of the following liabilities:
 - (i). all trade obligations incurred by TribalScale towards its suppliers following the filing of the NOI; and
 - (ii). all obligations of TribalScale towards its employees.

21. Following execution of the RSA, the Applicant prepared the Plan. The Plan was filed with the Court in connection with the Applicant’s November 25, 2020, motion for the Meeting Order.

C. Amendments to the Plan

22. The mechanics and effect of the Plan are described in detail at paragraphs 16-17 of my affidavit dated November 22, 2020, a copy of which is appended here (without Exhibits) as **Exhibit “D”**.

23. After the Meeting Order was granted, the Applicant amended the Plan, as described immediately below. A copy of the amended Plan is appended here as **Exhibit “E”**.

24. The amendments do not materially change the Transaction contemplated by the RSA. The main amendments seek to (i) ensure all corporate approvals necessary to effect the Plan are in place (ii) implement the issuance of preferred shares to 192 for tax purposes; (iii) conform the Plan to the terms of the RSA and other pre-existing documents; and (iv) facilitate TribalScale’s exit from CCAA protection as soon as possible. The main amendments are:

(a) **Article 2** – section 2.4 was added to state that all steps under the Plan will be authorized and approved by the involved entities and the Court such that further corporate approvals are not necessary.

(b) **Articles 4, 5 and 7** – were amended to provide for the issuance of Preferred Shares in addition to Common Voting Shares. The effect is that, upon Plan implementation, 192 will receive 89.9% of the Applicant’s Common Voting Shares (instead of 90% under the original Plan) and 100% of the Applicant’s Preferred Shares; I will still receive 10% of Common Voting Shares, and Scotiabank will receive 4.9% of Common Voting Shares (instead of 5% under the original Plan). It is expected that up to 15% of Preferred Shares will be subsequently be issued to employees of the Applicant as part of ordinary course compensation. Further, the amount of the BDC pay-out was clarified to be the lesser of C\$115,300 or the actual amount outstanding to BDC on the Implementation Date.

(c) **Article 6** – the conditions precedent were amended to (i) require the pre-filing of Amended Articles of TribalScale (to take effect on the Implementation Date); (ii) require the reverse vesting of all claims of General Unsecured Creditors to Newco; (iv) require that Newco be

added as an applicant in this CCAA Proceeding; and (v) incorporate into the Plan, without duplication, the conditions precedent listed in Article 6, Article 7, and Article 8 of the RSA. The addition of these conditions precedent were required in order to ensure TribalScale's clean and timely exit from the CCAA proceedings.

(d) Article 9 -- was amended to (i) reflect the delivery of shares under the Preferred Shares structure, as well as the payment to BDC; (ii) address the physical delivery of the New Senior Secured Note and corresponding General Security Agreement (which security was contemplated by the RSA); and (iii) remove the "Newco Note" concept, which provided for the payment of the SiriusXM Receivable by TribalScale to the General Unsecured Creditors, because Newco will now be directly pursuing the SiriusXM Receivable in the CCAA Proceeding.

(e) Article 7 – in addition to amendments to reflect the Preferred Share structure, Article 7 was amended to add that (i) all appeal periods from the Sanction Order will have expired or all appeals finally disposed of as of the Implementation Date; (ii) that all claims held by TribalScale against Sirius will have been assigned to Newco as of the Implementation Date; and (iii) the Monitor will be entitled to benefit from the Administration Charge to the extent not paid by Newco or TribalScale.

(f) Article 10 – was amended to explicitly exclude from the releases, to the extent not already captured in the Plan, claims prohibited from release by operation of subsection 5.1(2) of the CCAA; as well as an amendment to delete a reference to the Newco Note.

(g) Article 11 – was amended to add the following: "Sections 95 to 101 of the BIA and any Applicable Law relating to preferences, settlements, fraudulent conveyances or

transactions at undervalue shall not apply in any respect to this Plan including to any payments or distributions made in connection with the restructuring and recapitalization of the Applicant.”

25. The Plan was also generally amended to correct typographic errors and add procedural references to reflect Newco’s anticipated addition as a CCAA applicant, where appropriate.

26. A blackline comparison showing the changes described in paragraph 23 is appended hereto as **Exhibit “F”**.

27. I am also advised by my legal counsel, Pat Corney of Weisz Fell Kour LLP, that the Voting Package (as defined in the Meeting Order) was delivered to Affected Secured Creditors on December 8, 2020, prior to 4:00pm EST.

28. I am advised by Mr. Corney that the amended Plan was provided to Affected Secured Creditors on January 5, 2021, in advance of the Creditors’ Meeting, and uploaded to the Monitor’s website (the “**Website**”) that same day.

II. RESULTS OF CREDITORS’ MEETING

29. The Creditors’ Meeting was held on January 5th at 4:00pm via Zoom.

30. I am advised by Ms. Corney that the quorum required by the Meeting Order was met and that the Chair declared that the meeting was properly constituted. I am further advised by Mr. Corney that 100% in number and value of Affected Secured Creditors voted in favour of the Plan; 192 voted its entire Proven Claim in favour of the Plan and BDC was deemed – as ordered in the Meeting Order – to have voted its entire Proven Claim in favour of the Plan.

III. RELIEF SOUGHT UNDER THE SACTION ORDER

D. Plan Sanction

31. The Plan is the result of the Applicant's negotiation and consultation with its stakeholders and follows a thorough but unsuccessful sale and investment process conducted by TribalScale with the assistance of BDO Canada.

32. In my view, the Plan represents a fair and reasonable balance of compromise between the two Affected Secured Creditors: 192, the largest secured creditor obtains a super-majority controlling stake in TribalScale in exchange for half of its debt and the other secured creditor, BDC, is entirely repaid the relatively small amount owing to them (\$115,300). Moreover, the Plan is the only likely means of recovery for General Unsecured Creditors (who are unaffected by the Plan), because it facilitates the pursuit and potential recovery of the SiriusXM Receivable by Newco.

33. In my view, the lack of any opposition to the RSA and the Plan illustrates the fairness and reasonableness of the Applicant's desired outcome for this CCAA Proceeding. As a result of the thorough but unsuccessful process run by BDO Canada prior to the COVID-19 pandemic, and the potential buyer's inability to resurrect the transaction, I am confident that the Plan represents the best available value for stakeholders.

34. Moreover, the Applicant's employees are unaffected by the Plan, and the Applicant is current on its source deductions and employee obligations and pays such deductions and obligations in the ordinary course.

35. The Applicant therefore believes that the Plan is fair and reasonable.

36. The Monitor believes that all stakeholders will benefit more from the implementation of the Plan than from a bankruptcy, and that the Plan is fair and reasonable. Moreover, as illustrated in the Monitor's reports to this Court, the Monitor is of the view the Applicant has been acting in good faith and with due diligence throughout this CCAA Proceeding.

E. Reverse Vesting

37. In order to consummate the proposed Transaction, the Plan contemplates that 192 will acquire TribalScale's business, free and clear of all Claims of General Unsecured Creditors; and that Newco will assume these liabilities, as well as all claims of TribalScale relating to a professional services agreement between Tribalscale and Sirius XM Connected Vehicle Services Inc. ("**SiriusXM**") dated April 26, 2019 as further particularized through individual statements of work including the statement of work effective November 23, 2019 (the "**SiriusXM Contract**"); including, without limitation, (i) Tribalscale's right to receive interest, penalties and fees, (ii) any actions, claims, rights or lawsuits of any nature whatsoever, whether against SiriusXM or any other party, arising out of or in connection with SiriusXM Contract (collectively, the "**Claims**"), (iii) all cash, securities, instruments and other property which may be paid or issued by SiriusXM under the SiriusXM Contract or in satisfaction of the Claims, and (iv) all proceeds of the foregoing.

38. The reverse vesting provisions of the Plan and the Sanction Order represent the most efficient means of accomplishing the Transaction. Given the failed sale process and the occurrence of the COVID pandemic, there is no market value for the assets of TribalScale, which are principally its employees. The Monitor has conducted a liquidation analysis that is outlined in the Third Report of the Monitor, and subject to the assumptions and caveats stated therein, provides that the liquidation

value of the assets of TribalScale is less than the total value of the secured indebtedness of 192 and BDC.

39. I am advised by Mr. Corney that the Monitor supports the reverse vesting provisions of the Plan and the Sanction Order.

F. Adding Newco as an Applicant

40. In order to consummate the proposed Transaction, TribalScale is seeking to add Newco as an applicant in the CCAA Proceeding.

41. As described below, this will allow TribalScale to exit CCAA protection as soon as possible. Following the implementation of the Plan, recovery of the SiriusXM Receivable will be the only material step yet to be accomplished in the CCAA Proceeding. By adding Newco as an applicant and transferring the SiriusXM Receivable to Newco, TribalScale will be able to exit the CCAA Proceeding for the benefit of its stakeholders, while Newco continues to pursue the SiriusXM Receivable – which is the most significant receivable owing to TribalScale – for the exclusive benefit of the General Unsecured Creditors. Tribalscale will fund Newco on an as-needed basis.

42. Newco (2800741 Ontario Inc.) is a subsidiary corporation of the Applicant, a CCAA debtor. Immediately upon its incorporation and the vesting of the unsecured liabilities of TribalScale in Newco, Newco will be balance sheet insolvent.

43. I am advised by Mr. Corney that the Monitor supports adding Newco as a CCAA applicant.

G. Releases

44. Article 10 of the Plan contemplates various parties, including third parties, being released from liabilities and claims upon the Implementation Date. However, the releases provided in the Plan do not discharge: (i) Unaffected Claims¹; (ii) TribalScale from its obligations under the Plan, or any order issued by the Court in connection with the Plan; (iii) Newco from its obligations under the Plan; and (iv) a Released Party in such circumstances where that party has been found by the Court to have committed fraud, gross negligence or wilful misconduct; and (v) claims prohibited from release by operation of subsection 5.1(2) of the CCAA.

45. The Released Parties have been essential, and have contributed in tangible and material ways, to the Applicant's restructuring under in the CCAA Proceeding. Moreover, without the granting of the releases as contemplated in the Plan, it is unlikely that 192 would have been prepared to support the Plan. The releases are a significant part of the various compromises required to achieve the Plan. In recognition that the Released Parties are, in my view, a necessary element of the global, consensual resolution of the CCAA Proceeding, I believe that 192's involvement with the Transaction, and the resulting release, were essential to achieving a successful Plan because 192 is the fulcrum creditor in this CCAA Proceeding.

IV. CONCLUSION

46. The Applicant seeks an Order substantially in the form of the draft Sanction Order located at Tab 3 of its Motion Record.

¹ Claims secured by CCAA Charges; claims that cannot be compromised pursuant to subsection 19(2) of the CCAA; Priority Claims; any Claims vested out of TribalScale; and Unaffected Trade Obligations.

SWORN before me by video conference at the
city of Toronto in the Province of Ontario this
6th day of January, 2021:

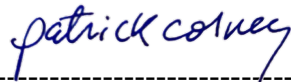
patrick corney

A Commissioner for Taking Affidavits

DocuSigned by:
Sheetal Jaitly
86106E1509E14DB...

SHEETAL JAITLEY

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5th DAY OF JANUARY 2021

A handwritten signature in blue ink, reading "patrick conney", is positioned above a horizontal dashed line.

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-20-00645116-00CL

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

THE HONOURABLE MR.

)

WEDNESDAY, THE 25TH

JUSTICE KOEHNEN

)

DAY OF NOVEMBER, 2020

)



IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC.

Applicant

MEETING ORDER

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "CCAA"), for an order, *inter alia*, (a) if necessary, abridging the time for service of the Notice of Motion and the Motion Record and validating service thereof; (b) accepting the filing of a Plan of Compromise and Arrangement of the Applicant, dated November 22, 2020 (the "**Plan**") pursuant to the CCAA, and attached hereto as **Schedule "A"**; (c) authorizing the Applicant to establish two classes of Affected Secured Creditors (as defined below) for the purpose of considering and voting on a resolution to approve the Plan, (d) authorizing the Applicant to call, hold and conduct a meeting (the "**Creditors' Meeting**") of Affected Secured Creditors (as defined in the Plan) to consider and vote on a resolution to approve the Plan; (e) approving the procedures to be followed with respect to the calling and conduct of the Creditors' Meeting; (f) setting the date for the hearing of the Applicant's

motion seeking an order to sanction the Plan (the “**Sanction Order**”), and (g) approving the second report of the MNP LTD. in its capacity as court appointed monitor (“**Monitor**”) (the “**Second Report**”) and the activities as set out therein, was heard this day via Zoom, due to the COVID-19 pandemic.

ON READING the within Notice of Motion, the Affidavit of Sheetal Jaitly, affirmed on November 22, 2020 including the exhibits thereto, the Second Report, and upon hearing the submissions of counsel for the Applicant and counsel for the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Christel Paul, affirmed November 23, 2020:

SERVICE

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion and the Motion Record herein is hereby validated so that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.
2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Meeting Order will have the meanings ascribed to them in the Plan.

PLAN OF COMPROMISE AND ARRANGEMENT

3. **THIS COURT ORDERS** that the Plan is hereby accepted for filing, and the Applicant is hereby authorized to seek approval of the Plan from the Affected Secured Creditors in the manner set forth herein.
4. **THIS COURT ORDERS** that the Applicant, subject to the provisions of the Plan, be and are hereby authorized to make and to file a modification or restatement of, or amendment

or supplement to, the Plan (each a “**Plan Modification**”) prior to or at the Creditors’ Meeting, in which case any such Plan Modification will, for all purposes, be and be deemed to form part of and be incorporated into the Plan.

5. **THIS COURT ORDERS** that notice of such a Plan Modification will be sufficient at or before the Creditors’ Meeting if, prior to or at the Creditors’ Meeting: (a) the Chair (as defined in this Meeting Order) communicates the details of the Plan Modification to Affected Secured Creditors and other persons present at the Creditors’ Meeting prior to any vote being taken at the Creditors’ Meeting; (b) the Applicant provides notice to the Applicant’s CCAA proceeding service list (as amended from time to time, the “**Service List**”) of any such Plan Modification and files a copy thereof with the Court forthwith and in any event prior to the Court hearing the motion seeking the Sanction Order (the “**Sanction Motion**”); and (c) the Monitor posts an electronic copy of the Plan Modification on the Monitor's website, <https://mnpdebt.ca/en/corporate/corporate-engagements/tribalscale-inc> (the “**Website**”) forthwith and in any event prior to the Court hearing the Sanction Motion.

6. **THIS COURT ORDERS** that after the Creditors’ Meeting (and both prior to and subsequent to the obtaining of any Sanction Order), the Applicant may at any time, subject to the provisions of the Plan, effect a Plan Modification: (a) pursuant to an Order of the Court, or (b) without further Court Order, where such Plan Modification concerns a matter which, in the opinion of the Applicant and the Monitor, is of an administrative nature required to better give effect to the implementation of the Plan or the Sanction Order, or to cure any errors, omissions or ambiguities, and in either circumstance is not materially adverse to the financial or economic interests of the Affected Secured Creditors. The

Monitor will forthwith post on the Website any such Plan Modification, with notice of such posting forthwith provided to the Service List.

FORMS OF DOCUMENTS

7. **THIS COURT ORDERS** that the Notice of Creditors' Meeting and Sanction Hearing substantially in the form attached hereto as **Schedule "B"**, the proxy form substantially in the form attached hereto as **Schedule "C"** (the "**Proxy**"), and the form of voting resolution substantially in the form attached hereto as **Schedule "D"** (the "**Plan Resolution**"), are each hereby approved and the Applicant, with the consent of the Monitor, is authorized to make such changes to such forms of documents as it considers necessary or desirable to conform the content thereof to the terms of the Plan or this Meeting Order.

CLASSIFICATION OF CREDITORS

8. **THIS COURT ORDERS** that for the purposes of considering and voting on the Plan, the Affected Secured Creditors will be classified into two classes: (a) one class of creditors (the "**Converting Secured Creditor Class**") consisting of 1924191 Ontario Inc.; and (b) one class of creditors consisting of the Business Development Bank of Canada ("**BDC**" and the "**Paid-Out Secured Creditor Class**").

NOTICE OF CREDITORS' MEETING

9. **THIS COURT ORDERS** that in order to effect notice of the Creditors' Meeting, the Monitor will cause to be sent by e-mail copies of the Notice of Creditors' Meeting and Sanction Hearing, the Meeting Order, the Plan, and the Proxy (together, the "**Voting Package**") as soon as practicable after the granting of this Meeting Order and, in any event, no later than 4:00pm EST on December 8, 2020, to each Affected Secured Creditor.

10. **THIS COURT ORDERS** that the Monitor will forthwith post an electronic copy of the Voting Package (and any amendments made thereto in accordance with paragraph 7 hereof) on the Website.
11. **THIS COURT ORDERS** that the delivery of the Voting Package in the manner set out in paragraph 9 hereof, and the posting of the Voting Package on the Website in accordance with paragraph 10 hereof, will constitute good and sufficient service of this Meeting Order, the Plan, and good and sufficient notice of the Creditors' Meeting on all persons who may be entitled to receive notice thereof in these proceedings or who may wish to be present in person or by Proxy at the Creditors' Meeting, and no other form of notice or service need be made on such persons.
12. **THIS COURT ORDERS** that no later than one business day before the Creditors' Meeting, the Monitor will serve a report regarding the Plan on the Service List and cause such report to be posted on the Website.

CONDUCT AT THE CREDITORS' MEETING

13. **THIS COURT ORDERS** that the Applicant is hereby authorized to call, hold and conduct the meeting of the Affected Secured Creditors via Zoom (or any other videoconferencing service the Monitor, with the consent of the Applicant, deems appropriate) on December 10, 2020 at 4:00pm EST for the purpose of considering and voting on, with or without variation, the Plan Resolution to approve the Plan.
14. **THIS COURT ORDERS** that a representative of the Monitor, designated by the Monitor, will preside as the chair of the Creditors' Meeting (the "**Chair**") and, subject to any further Order of this Court, will decide all matters relating to the conduct of the Creditors' Meeting.

15. **THIS COURT ORDERS** that the Chair is authorized to accept and rely upon Proxies, or such other forms as may be acceptable to the Chair.
16. **THIS COURT ORDERS** that the quorum required at the Creditors' Meeting will be one (1) representative of the Converting Secured Creditor Class; present at such meeting in person or by Proxy.
17. **THIS COURT ORDERS** that the Monitor may appoint scrutineers for the supervision and tabulation of the attendance at, quorum at, and votes cast at the Creditors' Meeting (the "Scrutineers"). A Person designated by the Monitor will act as secretary at the Creditors' Meeting (the "Secretary").
18. **THIS COURT ORDERS** that if (a) the requisite quorum is not present at the Creditors' Meeting, or (b) the Creditors' Meeting is postponed by the request of the Applicant, then the Creditors' Meeting will be adjourned by the Chair to such time and place as the Chair deems necessary or desirable.
19. **THIS COURT ORDERS** that the Chair, with the consent of the Applicant, is hereby authorized to adjourn, postpone or otherwise reschedule the Creditors' Meeting on one or more occasions to such time(s), date(s) and place(s) as the Chair, with the consent of the Applicant, deems necessary or desirable (without the need to first convene such Creditors' Meeting for the purpose of any adjournment, postponement or other rescheduling thereof). None of the Applicant, the Chair or the Monitor will be required to deliver any notice of the adjournment of the Creditors' Meeting or adjourned Creditors' Meeting, provided that the Monitor will:
 - (a) forthwith post notice of the adjournment on the Website; and

(b) forthwith provide notice of the adjournment to the Service List.

Any Proxies validly delivered in connection with the Creditors' Meeting will be accepted as Proxies in respect of any adjourned Creditors' Meeting.

20. **THIS COURT ORDERS** that the only persons entitled to attend and speak at the Creditors' Meeting are the Affected Secured Creditors (or their respective duly appointed proxyholder), representatives of the Monitor, the Applicant, and all such parties' financial and legal advisors, the Chair, the Secretary and Scrutineers and their respective legal counsel and advisors. Any other person may be admitted to the Creditors' Meeting on invitation of the Applicant or the Chair.

VOTING PROCEDURE AT THE CREDITORS' MEETING

21. **THIS COURT ORDERS** that the Chair and the Monitor be and are hereby authorized to direct a vote by confidential written ballot or by such other means as the Chair or Monitor may consider appropriate, with respect to the Plan Resolution.
22. **THIS COURT ORDERS** that any Proxy for an Affected Secured Creditor must be received by the Monitor by 4:00 pm EST on December 9, 2020, or 24 hours (excluding Saturdays, Sundays and statutory holidays) prior to any adjourned, postponed or rescheduled Creditors' Meeting (the "**Proxy Deadline**").
23. **THIS COURT ORDERS** that, in the absence of instruction to vote for or against the approval of the Plan Resolution in a duly signed and returned Proxy, the Proxy will be deemed to include instructions to vote for the approval of the Plan Resolution, provided the Proxy holder does not otherwise exercise its right to vote at the Creditors' Meeting.

24. **THIS COURT ORDERS** that to the extent that the Monitor is in receipt of more than one Proxy in respect of the same Affected Secured Creditor, the last properly signed and returned Proxy will be deemed to be such Affected Secured Creditor's voting instructions with respect to the Plan Resolution.
25. **THIS COURT ORDERS** that each Affected Secured Creditor will be entitled to one vote equal to the aggregate dollar value of its outstanding debt, which will not include fractional numbers and be rounded down to the nearest whole dollar amount.
26. **THIS COURT ORDERS** that only Affected Secured Creditors will be entitled to vote on the Plan Resolution.

APPROVAL OF THE PLAN

27. **THIS COURT ORDERS** that for the Plan to be approved, the Plan Resolution must receive the affirmative vote of each class of Affected Secured Creditors by the majorities required under section 6(1) of the CCAA.
28. **THIS COURT ORDERS** that BDC shall be deemed to have voted in favour of the Plan such that the required majority vote of the Paid-Out Secured Creditor Class shall have been obtained.
29. **THIS COURT ORDERS** that following the votes at the Creditors' Meeting, the Monitor will tally the votes and determine whether the Plan has been approved in accordance with paragraph 27 hereof.
30. **THIS COURT ORDERS** that the results of and all votes provided at the Creditors Meeting will be binding on all Affected Secured Creditors, whether or not any such Affected Secured Creditor is present or voting at the Creditors' Meeting.

SANCTION HEARING

31. **THIS COURT ORDERS** that in the event the Plan has been approved by the Affected Secured Creditors in accordance with this Meeting Order, the Applicant may bring the Sanction Motion before this Court on December 15, 2020, or such later date as the Applicant or the Monitor may advise the Service List in these proceedings, provided that such later date will be acceptable to the Applicant and the Monitor.
32. **THIS COURT ORDERS** that any person intending to oppose the Sanction Motion will, no later than three (3) calendar days before the Sanction Motion, (a) serve a Notice of Appearance upon the Service List; and (b) serve upon the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the Sanction Motion.
33. **THIS COURT ORDERS** that if the Sanction Motion is adjourned, only those persons appearing on the Service List as of the date of service will be served with notice of the adjourned date.
34. **THIS COURT ORDERS** that, subject to any further Order of the Court, in the event of any conflict, inconsistency, ambiguity or difference between the provisions of the Plan and this Meeting Order, the terms, conditions and provisions of the Plan will govern and be paramount, and any such provision of this Meeting Order will be deemed to be amended to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

MONITOR'S ROLE

35. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the Initial Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Meeting Order.
36. **THIS COURT ORDERS** that: (i) in carrying out the terms of this Meeting Order, the Monitor will have all the protections given to it by the CCAA and the Initial Order, and as an officer of the Court, including the stay of proceedings in its favour; (ii) the Monitor will incur no liability or obligation as a result of carrying out the provisions of this Meeting Order, save and except for any gross negligence or wilful misconduct on its part; (iii) the Monitor will be entitled to rely on the books and records of the Applicant and any information provided by the Applicant and any information acquired by the Monitor as a result of carrying out its duties under this Meeting Order without independent investigation; and (iv) the Monitor will not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

APPROVAL OF ACTIVITIES

37. **THIS COURT ORDERS** that the Second Report and the actions, conduct and activities of the Monitor described therein be and are hereby approved.

GENERAL PROVISIONS

38. **THIS COURT ORDERS** that the Applicant and the Monitor will use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms hereunder are completed and executed and the time in which they are submitted and may

waive strict compliance with the requirements of this Meeting Order including with respect to the completion, execution and time of delivery of required forms.

39. **THIS COURT ORDERS** that the Applicant or the Monitor may, from time to time, apply to this Court to amend, vary, supplement or replace this Meeting Order or for advice and directions concerning the discharge of their respective powers and duties under this Meeting Order or the interpretation or application of this Meeting Order.
40. **THIS COURT ORDERS** that any notice or other communication to be given under this Meeting Order by Affected Secured Creditors to the Monitor or the Applicant will be in writing in substantially the form, if any, provided for in this Meeting Order and will be sufficiently given only if given by prepaid ordinary mail, registered mail, courier, personal delivery or e-mail addressed to:

Weisz Fell Kour LLP

5600-100 King Street West

Toronto, ON M5X 1C9

Attention: Caitlin Fell and Pat Corney

Email: cfell@wfkllaw.ca / pcorney@wfkllaw.ca

Counsel to the Applicant

Borden Ladner Gervais LLP

3400-22 Adelaide St West

Attention: Alex MacFarlane

Toronto, ON M5H 4E3

Email: amacfarlane@blg.com

Counsel to the Monitor

41. **THIS COURT ORDERS** that any notice or other communication delivered under this Meeting Order will be deemed to have been received: (a) if sent by prepaid ordinary mail or registered mail, on the third Business Day after mailing in Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day

after mailing internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email, by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

42. **THIS COURT ORDERS** that if the day on which any notice or communication delivered under this Meeting Order is not a Business Day, then such notice or communication will be required to be delivered on the next Business Day.
43. **THIS COURT ORDERS** that if, during any period during which notices or other communications are being given pursuant to this Meeting Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received will not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or postal work stoppage of general application will only be effective if given by courier, personal delivery or e-mail in accordance with this Meeting Order.
44. **THIS COURT ORDERS** that all references to time in this Meeting Order will mean prevailing local time in Toronto, Ontario and any references to an event occurring on a Business Day will mean prior to 5:00 p.m. on the Business Day unless otherwise indicated.
45. **THIS COURT ORDERS** that references to the singular will include the plural, references to the plural will include the singular and to any gender will include the other gender.
46. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to

give effect to this Meeting Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Meeting Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Meeting Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Meeting Order.

47. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Meeting Order and for assistance in carrying out the terms of this Meeting Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
48. **THIS COURT ORDERS** that this Meeting Order is effective from the date it is made without any need for entry and filing.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
NOV 25 2020

[Handwritten signature]

PER / PAR: *C.D.*

	<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</p> <p><i>Proceedings commenced at Toronto</i></p>
	<p>MEETING ORDER</p>
	<p>WEISZ FELL KOUR LLP 100 King Street West, Suite 5600 Toronto, ON M5X 1C9</p> <p>Caitlin Fell LSO No. 60091H cfell@wfkaw.ca Tel: 416.613.8282</p> <p>Sharon Kour LSO No. 58328D skour@wfkaw.ca Tel: 416.613.8283</p> <p>Pat Corney LSO No. 65462N pcorney@wfkaw.ca Tel: 416.613.8287</p> <p>Fax: 416.613.8290</p> <p>Lawyers for the Applicant, TribalScale Inc.</p>

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5th DAY OF JANUARY 2021

patrick corney

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. 31-2646144
Estate No. 31-2646144

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

IN THE MATTER OF THE *BANKRUPTCY AND*
***INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF TRIBALSCALE INC. OF THE CITY OF TORONTO IN THE
PROVINCE OF ONTARIO

AFFIDAVIT OF SHEETAL JAITLEY
(Sworn July 24, 2020)

I, **SHEETAL JAITLEY**, of the City of Toronto, in the province of Ontario, **MAKE OATH**
AND SAY:

1. I am the Chief Executive Officer of TribalScale Inc. (“**Tribalscale**” or the “**Applicant**”), the debtor in these proceedings. I am also the sole director of Tribalscale. In my capacity as CEO, I am responsible for all day-to-day operations of the Applicant. Accordingly, I have knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. On May 19, 2020 (the “**NOI Filing Date**”), TribalScale filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”). MNP LTD (“**MNP**”), was appointed as the proposal trustee in the NOI proceedings.

3. On June 17, 2020, the Honourable Madam Justice Gilmore granted an Order extending the time for TribalScale to make a proposal under the BIA up to July 31, 2020 and approving an

administration charge over the assets, property and undertakings of the company up to a maximum amount of \$125,000 (generally, the “**NOI Stay Extension Order**”).

4. This affidavit is sworn in support of TribalScale’s application for an Order (the “**Initial Order**”), among other things, continuing the NOI proceedings under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “**CCAA**”), and appointing MNP as the court-appointed monitor of the Applicant (in such capacity, the “**Proposed Monitor**”) in the CCAA proceedings, to facilitate the restructuring and recapitalization of the Applicant for the benefit of its stakeholders.

5. All references to currency in this affidavit are references to Canadian dollars unless otherwise indicated.

I. OVERVIEW OF THE APPLICANT

A. The Business of the Applicant

6. TribalScale was incorporated on August 18, 2015 under the Ontario *Business Corporation Act*, with head offices at 1410 – 8 King Street East, Toronto, Ontario, M5C 1B6.

7. The company is a software engineering and development firm that provides services to companies located in Canada and in the United States of America on digital product strategy, design, and development for web, mobile, and emerging technologies.

8. TribalScale specializes in creating bespoke enterprise software solutions for large, institutional clients. Examples of past work include a project with the PGA Tour to develop voice user interface-based applications to engage fans through Google Assistant and Amazon Alexa, as well as a project with iHeartRadio to develop an application for the Amazon FireTV service.

9. I am one of the founders and shareholders of TribalScale and have acted as the sole director of the company since its incorporation. A corporate profile report is attached hereto as **Exhibit “A”**.

10. TribalScale has a subsidiary corporation in the United States in order to facilitate its US customer relations. This entity, TribalScale US Inc. (“**TribalScale US**”), is a wholly owned subsidiary of TribalScale and was incorporated in the State of New York. TribalScale US has no significant assets. The primary purpose of TribalScale US is to facilitate relationships with the Applicant’s American customers. For this purpose, TribalScale US currently employs one employee – a full-time software developer engaged on a project in Chicago, Illinois.

11. Until the recent onset of the COVID-19 public health crisis, all of TribalScale’s substantive business operations were conducted from its leased offices located at Suite 800, 200 Wellington Street, Toronto (the “**Toronto Office**”). As of the date of this Affidavit, the Applicant’s operations have entirely transitioned to remote work-from-home procedures in accordance with Provincial public health guidelines. The Applicant’s computer and office equipment has been moved to off-site storage (described in greater detail below).

B. Employees & Pension Plans

12. TribalScale has significantly scaled-down its workforce since the NOI filing and currently employs approximately 30 full-time employees; TribalScale US also employs one employee based in Chicago, as previously mentioned. The Applicant also contracts with four consultants: 3 consultants through Xxact Inc., who provide back office support for the company, as well as an American sales consultant retained on a limited-term contractual basis out of New York City. Aside from the employee in Chicago, all of TribalScale’s employees are based in Toronto.

13. TribalScale does not have any employees that are unionized or otherwise party to a collective agreement in connection with their employment with TribalScale.

14. The Applicant does not sponsor, administer, or otherwise have a registered or unregistered pension plan for its employees. TribalScale sponsors a group benefits plan for its employees provided through Benecaid Health Benefits Solutions Inc.

C. Cash Management

15. The Applicant has as total of four bank accounts. Two of the accounts are with the Bank of Nova Scotia and two are with CIBC – one Canadian checking account and one US checking account with each bank. The Scotiabank accounts are TribalScale’s main operating accounts used to address the day-to-day cash management requirements of the company and to deposit receipts from Canadian and US clients.

16. TribalScale also has a corporate credit card with the American Express Bank of Canada with a credit limit of \$17,000 (the “**AMEX Card**”). The AMEX Card is primarily used to pay monthly subscription fees for professional enterprise software programs – for example, Slack and Mailchimp. As at the date of this affidavit, a balance of \$11,753.91 has accrued under the AMEX Card.

D. Related Party Transactions

17. All of the substantive business of TribalScale and TribalScale US (as well as any other wholly owned subsidiaries that have operated from time-to-time) is conducted directly through TribalScale as the main operating entity. TribalScale incurs all of the operating liabilities and collects all revenue. To the extent that either entity has required a transfer of funds, such funding is recorded in TribalScale’s

consolidated financial statements. There is no material intercompany debt between TribalScale and TribalScale US.

II. ASSETS AND LIABILITIES

18. Attached hereto as **Exhibits “B”** through **“D”** are copies of TribalScale’s consolidated, (i) audited year-end financial statements for 2018, (ii) unaudited year-end financial statements for 2019, and, (iii) work-in-progress financial statements for the period of October 2019 – May 2020. Given TribalScale’s liquidity crisis, no audited financial statements have been prepared since the 2018 fiscal year end.

A. Assets

19. As a technology service company, TribalScale’s enterprise value is primarily derived from its going concern business, namely its revenue stream and customer contracts. Given the nature of the Applicant’s business, its value lies principally in its employees, customer contracts, intellectual property, goodwill, and accounts receivable.

20. TribalScale also possesses a significant volume of computer hardware and office equipment. However, due to the rapid depreciation and obsolescence of such items, as well as the fact that TribalScale requires much of this equipment to maintain its going-concern operations, the potential realizable value of these assets is likely nominal.

B. Secured Obligations of the Applicant

(i). 1924191 Ontario Inc.

21. TribalScale's only material secured creditor is 1924191 Ontario Inc. ("**192**"), pursuant to an assignment of the debt and security dated April 30, 2020 (the "**Assignment Agreement**") between Scotiabank and 192.

22. As of the date of this Affidavit, TribalScale owes 192 \$2.465 million plus accrued interest and costs.

23. The debt assigned to 192 originated as a loan made by Scotiabank to TribalScale. On June 29, 2018, TribalScale entered a commitment letter with Scotiabank pursuant to which Scotiabank granted TribalScale a \$6 million operating credit facility and a \$500,000.00 business credit line (collectively, the "**Scotia Facility**"). The Scotia Facility was secured over all of the property, assets and undertakings of TribalScale pursuant to a General Security Agreement ("**GSA**") dated July 9, 2018. Copies of the Scotia Facility documents are attached hereto as **Exhibit "E"**.

24. As a result of severe liquidity issues and the breach by TribalScale of several covenants under the Scotia Facility, in and around July 2019, TribalScale commenced discussions with Scotiabank to restructure its operations and the Scotia Facility. The restructuring involved the scaling down of TribalScale's workforce as well as implementation of a sales and investment solicitation process conducted between September 2019 and January 2020. As a result of failed sale process, and just after the COVID pandemic mandated business shutdown, Scotiabank agreed to the Assignment Agreement, transferring TribalScale's indebtedness and security to 192 (hereinafter, the "**192 Indebtedness**"). A copy of the Assignment Agreement is attached hereto as **Exhibit "F"**.

25. The 192 Indebtedness is secured by the following documents (the “**192 Security**”):

- (a) a GSA from TribalScale, granted in favour of Scotiabank and assigned to 192, creating a security interest in all present and after-acquired property of TribalScale, a copy of which is appended as **Exhibit “G”**;
- (b) a guarantee from TribalScale US to TribalScale in respect of all indebtedness to Scotiabank, as assigned to 192. A copy of this guarantee is appended as **Exhibit “H”**; and,
- (c) a GSA from TribalScale US, granted in favour of Scotiabank and assigned to 192, creating a security interest in all present and after-acquired property of TribalScale, a copy of which is appended as **Exhibit “I”**.

(ii). PPSA Registrations

26. Based on searches conducted in the Personal Property Security Registration System, in addition to the security interest of Scotiabank assigned to 192, the following entities have security interest registrations in respect of TribalScale:

- (a) FundThrough, in respect of a discretionary factoring facility to finance certain credit-approved customers accounts with TribalScale for services rendered (the “**FundThrough Facility**”);
- (b) Roynat Capital Inc., in respect of a \$4 Million term facility, dated April 16, 2018 (the “**Roynat Facility**”); and,

- (c) the Business Development Bank of Canada (“**BDC**”), in respect of a lease-loan agreement for certain leasehold improvements, dated April 27, 2017 (the “**BDC Loan**”)

27. As at the date of this Affidavit, approximately \$112,320.00 is outstanding under the BDC Loan. The FundThrough Facility and Roynat Facility have both been paid in full and no further amounts are outstanding.

28. The results of a search of the Personal Property Security Registration System Registry in the Province of Ontario as at June 29, 2020 are attached hereto as **Exhibit “J”**.

C. Unsecured Obligations of the Applicant

29. TribalScale has approximately \$3.3 million in unsecured liabilities.

30. The Applicant’s significant unsecured creditors include Zayo Canada Inc., previously operating under the name Allstream Business Inc. (“**Zayo**”). Zayo was the landlord of TribalScale pursuant to a sublease in respect of TribalScale’s Toronto offices. The sublease was terminated by Zayo prior to the filing of the NOI as a result of non-payment of rent by TribalScale during the COVID crisis.

31. TribalScale is up to date on remittances of HST and source deductions.

D. Contingent Liabilities of the Applicant

32. The Applicant has a share-based option plan for employees and directors (the “**Stock Option Plan**”). Generally, options granted expire ten years from the date of the grant. One quarter of the options granted vest and become exercisable 12 months after the grant date; the remaining options vest

and become exercisable on a pro-rata basis each month, for a period of 36 months, following the first vesting date.

33. The Stock Option Plan limits the maximum number of options outstanding to 44,500,000 options. As at September 30, 2018, the reported number of options outstanding was 33,775,623, with a further 16,192,901 options vested and exercisable.

E. Continuing and Ordinary Course Obligations

(i). Vendors and Suppliers

34. TribalScale relies on a number of vendors and third-party service providers to operate its business. The bulk of trade expenses stem from business software or service subscriptions, as well as to retain third-party professional services to outsource limited enterprise functions – for instance, Xxact Inc. is retained to assist with certain back office tasks.

35. With the breathing room provided by the continued stay of proceedings under the Initial Order, TribalScale will be able to make payments to its suppliers and vendors for post-filing services.

(ii). Employee Obligations

36. As at the date of this Affidavit, TribalScale employs 30 employees who are paid biweekly in the normal course. TribalScale is current on all employee payments.

F. Leases

37. As described above, prior to the NOI filing, TribalScale conducted all of its business operations in the Toronto Office at 200 Wellington Street, under sublease from Zayo. The sublandlord terminated the sublease as the result of non-payment of rent. As a result of the NOI filing, Zayo was stayed from exercising rights of re-entry or distraint.

38. While these insolvency proceedings were ongoing, Zayo demanded that TribalScale vacate the Toronto Office. TribalScale has since moved the entire contents of the Toronto Office, including computer hardware and office equipment, to a warehouse located at 1501 Hopkins St, Whitby, ON L1N 2C2 (the “**Storage Warehouse**”).

39. After being removed by Zayo, TribalScale transitioned to entirely work-from-home operations (“**WFH**”) in accordance the recommendations of public health authorities during the COVID-19 crisis.

40. The company recently secured a new office lease at 207 Queens Quay W Suite 420, Toronto, ON M5J 1A7. TribalScale has negotiated such that it is permitted to occupy this space rent free for one year. The new space offers limited seating and is primarily used to house computer equipment. All surplus computer and office equipment has been moved to the Storage Warehouse and operations are still primarily being conducted as WFH.

41. The Applicants have no other significant leasing obligations.

III. CASH FLOW FORECAST

42. TribalScale has prepared a projected cash flow forecast of the Applicant for the initial period of the CCAA filing with the assistance of MNP in its capacity as Proposal Trustee and as Proposed Monitor (the “**Cash Flow Forecast**”). The Cash Flow Forecast will be provided with the Report of the Proposal Trustee, to be filed, prior to the return date of the herein motion.

43. The Cash Flow Forecast demonstrates that if the relief requested is granted, on the terms described herein, TribalScale will have sufficient liquidity to meet its obligations during the initial period of the CCAA filing without the need for debtor in possession financing.

IV. INSOLVENCY

44. Prior to June 2019, TribalScale began experiencing liquidity issues principally as a result of the loss of two major customer contracts.

45. Prior to losing these contracts, TribalScale had significantly expanded and scaled up its operations following its financial success in the first three years of business. Notwithstanding the loss of these customer contracts and its associated revenue, TribalScale did not go through the much-needed process of scaling back down its operations, including by reducing its head count, to deal with the drops in revenue. This led to a breach by TribalScale of its debt facilities with Scotiabank and a significant cash crunch on the business.

46. To address these issues, since July 2019, TribalScale undertook various steps to restructure its business operations. Namely, TribalScale, with the assistance of its financial advisor at the time, implemented a process to better manage its accounts receivable and accounts payable, reduced its employee headcount, as well as a refocused emphasis on profitable customer contracts.

47. In addition to the above, TribalScale, with the support of Scotiabank, conducted a comprehensive sale and investment marketing process to seek potential investors and purchasers for the business.

48. Between the summer of 2019 through to December 2019, the company was in discussions with various potential purchasers. However, no submitted bid offered recovery sufficient for Scotiabank, the principal secured lender at the time.

49. In January 2020, TribalScale obtained a bid to sell the going concern business to a significant customer of TribalScale. Unfortunately, due to the COVID-19 crisis in the spring of 2020, the potential purchaser opted to not close the transaction.

50. TribalScale's business has also been significantly impacted by the COVID-19 emergency measures imposed by the provincial government. When COVID-19 emergency measures were imposed, TribalScale further reduced its employee headcount and implemented a work-from-home policy to comply with provincial government directives and ensure safety of its staff.

51. On or around May 18, 2020, and notwithstanding that TribalScale was suffering as a result of loss of revenue during the pandemic, TribalScale's landlord, Zayo opted to terminate its sublease with TribalScale, alleging non-payment of rent. As a result, and to avoid further enforcement steps by the sublandlord, TribalScale opted to file for protection under the BIA.

52. Since the NOI Filing on May 19, 2020, TribalScale has continued operating its business at a reduced level. While TribalScale is continuing to service customers and execute new customer contracts and has been able to obtain relief through government subsidies, its revenues have decreased since 2019.

V. OBJECTIVES OF CCAA FILING

Continuation of NOI Proceedings Under the CCAA

53. TribalScale is insolvent and seeks to continue the restructuring efforts initiated through these NOI proceedings under the CCAA, pursuant to section 11.6 of the statute.

54. Thus far, the Applicant's restructuring efforts have focused on: (i) discussions with its material secured creditor, 192; (ii) the performance of current customer contracts, (ii) the execution of new

customer contracts; (iii) the collection of outstanding receivables; and (iv) the strategic “right-sizing” of the business with the assistance of MNP.

55. At the time of this Affidavit, the Applicant’s immediate objectives are to: (i) resolve a dispute with a customer, Sirius XM Connected Vehicle Services (“**Sirius**”), which may require further attendance and recourse to this Court; and, (ii) to implement a transaction with 192, its senior secured creditor (each of these issues are detailed below).

56. I am advised by counsel, and do believe, that the CCAA is the best forum for these insolvency proceedings. I understand that the CCAA provides a court-supervised process to resolve disputes with creditors, including readily available recourse to this Court. Furthermore, I understand that the CCAA is more conducive to negotiating complex commercial agreements, as this process is not subject to the strict procedural requirements applicable under the BIA proposal process, which risk compelling the Applicant into bankruptcy if a material deal falls through when, at this juncture, it is likely that there will not be recovery to unsecured creditors. In addition, the CCAA will allow TribalScale additional breathing room beyond limited 45 day stay extensions. This will assist in conserving cash.

57. As the primary value in TribalScale is its going concern operations, a straight bankruptcy and liquidation is unlikely to maximize value, especially when the value of TribalScale is likely only within the amount outstanding in respect to its secured indebtedness. Accordingly, I believe that the CCAA is the appropriate platform for TribalScale to proceed under in order to maximize value.

(i). Outstanding Receivable Issue

58. As TribalScale reported at its previous attendance before this Court, its most significant outstanding receivable is owed by Sirius under a Professional Services Agreement (“**PSA**”), executed

in April 2019 and further particularized through individual Statements of Work (“**SOWs**”), whereby TribalScale was engaged to develop an in-vehicle e-commerce program (generally, the “**Sirius Project**”). The PSA is appended hereto as **Exhibit “K”**. The relevant SOW that describes the services and outstanding fees is appended hereto as **Exhibit “L”**.

Overview of Dispute Concerning Development Process

59. The Sirius Project contemplated that TribalScale and Sirius would utilize an “Agile Development Process” as described under the PSA and SOW. This Process required ongoing collaboration between TribalScale and Sirius. Significantly, the completion deadline for the software project was estimated within the SOW, though the ultimate deadline for the deliverables was subject to acceptance testing performed solely by Sirius, as stipulated under s. 1.2 of the PSA.

60. TribalScale has fulfilled its obligations under the PSA and SOW in a good workmanlike manner. The project was completed and finalized once Sirius approved the deliverables in February of 2020. Sirius accepted all deliverables completed within each cycle and Sirius did not raise any concerns at any point during the final reporting cycle.

61. TribalScale rendered invoices numbered 2061, 2076, and 2102 for the Project during the period January through to March (the “**Outstanding Invoices**”) in the total amount of \$504,182.77 USD. Copies of these invoices are appended hereto as **Exhibit “M”**.

62. On April 23, 2020, TribalScale provided Sirius with a document titled, “SiriusXM & TribalScale Project Issues” which memorialized the various impediments caused by Sirius through its failure to collaborate with TribalScale as required pursuant to Section 5 of the SOW. A copy of the April 23, 2020 document is appended hereto as **Exhibit “N”**.

63. On May 26, 2020 TribalScale's restructuring counsel wrote to Sirius to demand payment of the Outstanding Invoices. A copy of the letter from Caitlin Fell to John Swanagon dated May 26, 2020 is appended hereto as **Exhibit "O"**.

64. On June 1, 2020, Sirius' general counsel responded to TribalScale's counsel alleging that it was no longer required to pay TribalScale as the result of numerous purported deficiencies in the deliverables under the PSA and SOWs. A copy of Sirius' June 1st letter is appended hereto as **Exhibit "P"**.

65. TribalScale's counsel responded to Sirius on June 9, 2020 stating that Sirius could not now rely on alleged deficiencies to refuse payment, as Sirius had not raised any of the issues during the agreed reporting cycle. In the context of an iterative development process, Sirius was required to raise any issues in a timely manner to ensure issues could be fixed in real time. The failure to raise any material concerns with the work product on any of the reporting dates was tantamount to acceptance of the delivered product. A copy of this letter is attached hereto as **Exhibit "Q"**.

Recent Developments

66. To date, Sirius has not communicated to TribalScale the alleged problems with the software, nor has it described what aspect of the deliverables was unsatisfactory.

67. Since TribalScale's previous attendance before this Court on June 17th, the Applicant has continued discussions with Sirius with a view to resolution of the dispute. No material developments have resulted thus far. Accordingly, it is increasingly likely that TribalScale will bring a motion to compel Sirius to comply with the terms of the PSA and SOWs.

(ii). Proposed CCAA Transaction

68. The Applicant is in the process of negotiating a transaction to resolve the secured indebtedness with 192. This transaction will likely take the form of a conversion of the secured debt of 192 into equity and provide for cash payment to BDC.

69. The main terms proposed transaction may be summarized as follows:

- (a) 192 will acquire substantially all of the property, assets, and undertakings of the Applicant, through a conversion of all of its secured debt into acquisition of 100% of the shares in the capital of TribalScale;
- (b) TribalScale will pay out through a cash payment, the amount of the secured indebtedness owing to BDC;
- (c) TribalScale will look to incorporate a new company (“**Newco**”) and will look to obtain approval from the Court of a “vesting out” of all unsecured liabilities to Newco;
- (d) TribalScale will offer to unsecured creditors of Newco a promissory note based on proceeds received from the recovery of the Sirius outstanding receivable;
- (e) TribalScale, as approved by 192, will continue payment of the following liabilities (hereinafter, collectively the “**Assumed Liabilities**”):
 - (i). all trade obligations incurred by TribalScale towards its suppliers both prior to and following the filing of the NOI; and,
 - (ii). all obligations of TribalScale towards its employees;

- (f) The proposed transaction would be conditional upon, *inter alia*, approval by this Honourable Court at a subsequent attendance.

70. The proposed CCAA transaction is intended to maintain TribalScale as a going-concern in order to preserve the revenue-generating capabilities of the company for the benefit of all stakeholders. I believe that the proposed transaction will achieve these goals, without having an undue and interruptive effect on TribalScale's operations.

71. It is likely that the parties will be in a position to finalize the transaction contemplated under the Proposed SPA within the initial 13-week period of the CCAA, following the granting of the Initial Order and TribalScale will return to this Court to seek approval of such transaction.

VI. RELIEF BEING SOUGHT

A. Continued Stay of Proceedings

72. In order to permit TribalScale to continue operating as a going-concern breathing while it pursues a restructuring, the Applicant is seeking a continuation of the NOI stay of proceedings under the CCAA. The requested stay will provide management with the breathing space it needs continue an orderly restructuring of the business with minimal interruptions to current business operations.

73. Considering that the Applicant is a technology services company with minimal realizable capital assets, the potential for straight-liquidation scenario in a bankruptcy as a result of a failed proposal will be detrimental to the Applicant's fulcrum secured creditors and broader stakeholders. Conversely, a continuation of the stay of proceedings under the CCAA will help to protect the interests of TribalScale's broader stakeholder group, including employees, suppliers, customers (who often require ongoing technology support), and lenders.

B. Continued Administration Charge

74. In connection with the NOI Stay Extension Order of June 17, 2020, Gilmore J. granted an administration charge over the assets, property and undertakings of TribalScale up to a maximum amount of \$125,000 (the “**Administration Charge**”). The Applicant is seeking to continue the Administration charge under these CCAA proceedings. It is proposed that the Administration Charge will retain the first priority ranking over all other charges, as previously granted pursuant to the NOI Stay Extension Order.

75. It is contemplated that the Proposed Monitor, along with its counsel and the Applicants counsel, previously secured by the Administration Charge, will have extensive involvement during the CCAA proceedings. These parties have contributed and will continue to contribute to the restructuring of the Applicants and no unnecessary duplication of roles has been identified to date.

76. I am advised by legal counsel that the Proposed Monitor believes that the proposed quantum of the Administration Charge is reasonable and appropriate in light of the Applicants’ CCAA proceedings, the services provided, and the services to be provided by the beneficiaries of the Administration Charge.

C. The Monitor

77. MNP has consented to act as the Court-appointed Monitor of the Applicants, subject to Court approval. A copy of MNP’s consent is attached hereto as **Exhibit “R”**. I am advised by external counsel that MNP is a trustee within the meaning of section 2 of the BIA, and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA.

D. D&O Charge

78. I am advised by counsel, and believe that, in certain circumstances, directors and officers can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid accrued wages and unpaid accrued vacation, pay, together with unremitted excise, sales, goods and services, and harmonized sales taxes.

79. Despite the fact that TribalScale is current on all employee payments and tax liabilities, there is concern that certain directors and officers of the Applicant may discontinue their services during this restructuring unless the Initial Order grants a Directors' Charge (as defined below) to secure the indemnification of directors and officers for potential personal statutory liabilities that may arise post-filing.

80. As TribalScale is primarily in the business of creating and providing ongoing support to proprietary software applications, the current directors and officers' knowledge of the Applicant's business is truly unique. In order to effectively restructure as a going-concern, the Applicant requires the continued participation of their directors and officers who manage TribalScale's business and commercial activities.

81. The Applicants maintain directors' and officers' liability insurance (the "**D&O Insurance**") for their directors and officers. The current D&O Insurance policy is with Beazly Canada Ltd. This policy is valid until December 21, 2020 and provides a total of \$5,000,000 in coverage.

82. The proposed Initial Order contemplates the establishment of a super-priority charge on the Property in the amount of \$125,000 (the "**D&O Charge**") to protect the directors and officers against obligations and liabilities they may incur as directors and officers of the Applicants after the

commencement of the CCAA proceedings, except to the extent that the obligation or liability is incurred as a result of the directors' or officers' gross negligence or wilful misconduct.

83. The Applicants worked with the Proposed Monitor in determining the proposed quantum of the Directors' Charge and believe that the Directors' Charge is reasonable and appropriate in the circumstances. The Directors' Charge is proposed to rank behind the Administration Charge, but ahead of any existing security granted by the Applicants in favour of their secured creditors. I have been advised by counsel that the Proposed Monitor is of the view that the Directors' Charge is reasonable and appropriate in the circumstances.

84. Although the D&O Insurance is available, the directors and officers of the Applicants do not know whether the insurance providers will seek to deny any coverage. The Applicants may not have sufficient funds to satisfy any contractual indemnities to the directors and officers should the directors or officers need to call upon those indemnities. It is proposed that the Directors' Charge will only be engaged if the D&O Insurance fails to respond to a claim.

E. Proposed Ranking of Court-Ordered Charges

85. To summarize, the proposed ranking of the Administration and D&O Charges (collectively, the "**Super-Priority Charges**") is as follows:


- (a) First, the Administration Charge in the maximum amount of \$125,000; and,
- (b) Second, the D&O Charge in the maximum amount of \$125,000.

VII. CONCLUSION

86. TribalScale seeks an Initial Order under the CCAA substantially similar to the form of the Model Initial Order adopted for proceedings commenced in Toronto, subject to certain limited changes, in the proposed form of order in the Applicant's Motion Record.

87. TribalScale requires the protections provided by the CCAA to develop a viable restructuring transaction with its creditors. As the primary value in TribalScale is its going concern operations, continuing these restructuring proceedings under the CCAA is likely to result in greater value to stakeholders than would a bankruptcy and liquidation.

SWORN before me by video conference at the city of Toronto in the Province of Ontario this 25th day of July, 2020:



A Commissioner for Taking Affidavits
Name:



SHEETAL JAITLEY

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THIS IS **EXHIBIT “K”** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 24TH DAY OF JULY, 2020



A COMMISSIONER FOR TAKING AFFIDAVITS

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this “Agreement”), effective as of April 26th, 2019 (the “Effective Date”), is made by and between Sirius XM Connected Vehicle Services Inc., a Texas corporation with its principal business offices located at 8550 Freeport Parkway, Irving, Texas 75063 USA (“SXMCV” or “Sirius XM”), which expression includes its parent and subsidiary entities, and their respective successors and permitted assigns) and TribalScale Inc., an Ontario, Canada corporation with its principal business offices at 200 Wellington Street West, Suite 900, Toronto, ON Canada M5V 3C7 (“Contractor”). SXMCV and Contractor are collectively referred to herein as “Parties” and individually as “Party.”

1. SCOPE OF WORK.

- 1.1 Services. In consideration of SXMCV’s payments under this Agreement, Contractor shall provide, in accordance with the terms of this Agreement, the services and/or deliverables (collectively, the “Services”) described in any statement of work (the “Statement of Work” or “SOW”). When providing Services according to any Statement of Work, Contractor shall devote such amount of Contractor’s time as shall be required for Contractor to perform the Services promptly, efficiently and professionally. Notwithstanding any other provision of this Agreement, Contractor understands and agrees that nothing contained herein shall require SXMCV to engage Contractor for a minimum number of hours or be deemed to be a guarantee to Contractor of a minimum number of hours of engagement by SXMCV. Contractor covenants and agrees that Contractor shall not, directly or indirectly, engage or participate in any activities at any time during the term of this Agreement in conflict with the best interests of SXMCV. Contractor will ensure that its employees and agents will, whenever on SXMCV’s premises, obey all reasonable instructions and directions issued by SXMCV.
- 1.2 Acceptance. Acceptance of the Services will occur upon the date on which Contractor demonstrates to SXMCV, by the successful completion of acceptance tests identified by SXMCV, that the Services have been performed in accordance with the applicable Statement of Work and meet any acceptance criteria or specifications set forth therein. If SXMCV conditions its acceptance on the subsequent correction of any non-conformance with the Statement of Work, Contractor will use prompt, diligent efforts to correct any such non-conformance.
- 1.3 Service Levels. Contractor shall perform the Services in accordance with the applicable Statement of Work and shall meet or exceed the Service Levels set forth therein. If SXMCV or Contractor discovers any non-conformance with the Statement of Work or Service Levels, Contractor will use prompt, diligent efforts to correct any such non-conformance at no charge to SXMCV.
- 1.4 Change Control.
 - (a) SXMCV may request a change to the Services by providing written notice to Contractor. Within ten (10) working days of receiving such request from SXMCV, Contractor shall review such request and report to SXMCV in writing (i) whether such change is technically feasible and if technically feasible; (ii) the reasonable impact on the delivery schedule; and (iii) any necessary revision to the Services, deliverables, Contractor obligations, and Fees, as appropriate (“Change Order”).
 - (b) Contractor may request a change to the Services by submitting a Change Order to SXMCV.
 - (c) If SXMCV does not accept or reject the Change Order in writing within thirty (30) days of receipt, then SXMCV shall be deemed to have rejected the Change Order. SXMCV shall be under no obligation to accept any Change Order and Contractor shall be under no obligation to perform any requested change. If the terms of a Change Order are agreed and

signed by the Parties, such Change Order shall be incorporated into the applicable Statement of Work and form part of this Agreement.

2. TERM AND TERMINATION.

2.1 Term. The term of this Agreement shall commence on the Effective Date and shall remain in effect for twenty-four (24) months from such date (the "Initial Term") unless earlier terminated as provided herein. Thereafter, SXMCV may elect to renew the Agreement for additional one (1) year renewal terms (each, a "Renewal Term") by giving Contractor written notice at least forty-five (45) days prior to the end of the Initial Term or of any renewal period. The Initial Term and any Renewal Terms are collectively referred to in this Agreement as the "Term".

2.2 Termination.

(a) SXMCV may terminate this Agreement or any Statement of Work hereunder at any time upon thirty (30) days written notice to the other Party, unless otherwise specified in a SOW.

(b) Either Party may terminate this Agreement or any Statement of Work if the other Party materially breaches the terms of such Agreement or Statement of Work and fails to cure such breach within thirty (30) days from its receipt from the other Party of written notice of such breach. All licenses to use Services and Pre-Existing Works granted under this Agreement shall continue according to their terms following termination of this Agreement or the applicable Statement of Work.

(c) Commencing upon any notice of termination of this Agreement or any Statement of Work, Contractor shall close out any existing activities and provide to SXMCV the reasonable termination assistance requested by SXMCV to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to SXMCV or its alternate Contractor. Such post-termination services will be provided at the rates set forth in the Statement of Work or if none, the rates consistent with the Fees paid for the Services. SXMCV's maximum obligations for all Fees hereunder shall be solely for the Services properly performed under the applicable Statement of Work and any such post-termination services. Contractor will render a final bill to SXMCV within thirty (30) days of completion of the last Service performed.

3. CONTRACTOR'S FEE.

3.1 Fees. In consideration of Contractor's performance of the Services in accordance with this Agreement, SXMCV shall pay Contractor a fee in U.S. Dollars (the "Fee") determined in accordance with and payable as provided in the applicable Statement of Work. Such compensation constitutes all of the fees and charges for the performance of the Services and will not be increased unless the Parties agree thereto in writing. Contractor represents that the price stated for the Services is at least as favorable as that charged by Contractor to any other customer for the same or similar services.

4. TAXES.

4.1 Each Party shall be responsible for any personal property taxes on property it owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

4.2 The Fees include all national, regional and local taxes, duties, customs and similar liabilities (including VAT where applicable), however designated. Contractor shall be responsible for any sales, use, excise, gross receipts, value-added, services, consumption, and other taxes and duties payable by Contractor on any goods or services used or consumed by Contractor in providing the Services where the tax is imposed on Contractor's acquisition or use of such goods or services and the amount of tax is measured by Contractor's costs in acquiring such goods or services.

- 4.3 The Parties agree to cooperate with each other to enable each to more accurately determine its own tax liability and to minimize such liability to the extent legally permissible. Contractor's invoices shall separately state the amounts of any taxes.

5. CONTRACTOR PERSONNEL.

- 5.1 Contractor shall set forth in each Statement of Work: (i) the names of key personnel performing services under that Statement of Work including the Product Manager and Anchor Engineer, (ii) job role, (iii) the percentage of time each person is dedicated to the applicable project, and (iv) the work location of each such person. Except as may be provided in the applicable SOW, all Contractor personnel shall be based in the United States or Canada.
- 5.2 All Contractor personnel will be properly educated, trained and fully qualified for the services they are to perform. Contractor will ensure appropriate training is in place to meet training requirements of its personnel. Contractor has obtained and will maintain all certifications and licenses required to perform the Services.
- 5.3 Upon SXMCV request, at Contractor's expense, Contractor shall perform background checks which are permitted by applicable law on all personnel providing Services to SXMCV under this Agreement, including without limitation a check of the applicant's criminal history for the previous seven (7) years. Contractor shall not place or retain any personnel for the performance of Services hereunder found to have committed theft, fraud, identity theft, an invasion of privacy, or any crime of fraud or deception, howsoever called.
- 5.4 Contractor shall have full liability for all personnel employed or engaged by Contractor (including any subcontractors) to perform the Services, including liability for personal injury, death and property damage caused by the acts and omissions of such personnel.
- 5.5 Prior to assignment of Contractor personnel to any Services, Contractor shall provide SXMCV with the names of each Contractor program manager, employee and any permitted subcontractors. If SXMCV in good faith objects in writing to a proposed assignment, the Parties shall attempt to resolve SXMCV's concerns on a mutually agreeable basis. If the Parties are not able to resolve SXMCV's concerns within five (5) business days, Contractor shall: (i) not assign the individual to that position; and (ii) propose to SXMCV the assignment of another individual of suitable ability and qualifications.
- 5.6 If the performance of any Contractor personnel is unacceptable to SXMCV, SXMCV may notify Contractor, in writing, of such fact (without waiving any other rights or remedies it may have hereunder) and, if so requested by SXMCV, Contractor shall promptly remove said personnel from performing services under that Statement of Work and provide a qualified replacement, at the same or a lower rate.
- 5.7 Contractor agrees to use reasonable efforts to ensure the continuity of Contractor personnel assigned to perform services under any Statement of Work. Any reassignment by Contractor of those personnel assigned to perform services under any Statement of Work must be with SXMCV's prior written notification no later than one (1) week in advance. If Contractor reassigns any of its personnel assigned to perform services under any Statement of Work, Contractor will promptly provide a replacement acceptable to SXMCV. Contractor shall not remove original personnel until a suitable replacement has been approved by SXMCV and the replacement is fully familiarized with the applicable project and his or her responsibilities.
- 5.8 Except as SXMCV may agree otherwise in writing, Contractor shall not subcontract its obligations under this Agreement.
- 5.9 Non-Compete, Non-Solicitation. Each Party agrees that during the Term of the Agreement and for a period of one (1) year after its termination or expiration, it shall not, without the other Party's

prior written consent, (i) recruit, solicit, or hire, in any capacity whatsoever, any person who during the period of twelve (12) months immediately preceding such time had been employed by the other Party, (ii) interfere with, or attempt to interfere with, the relations between and its resources/subcontractors. Public postings of vacant positions shall not be deemed a violation of this Section 5.9.

6. REIMBURSABLES.

- 6.1 In addition to the Fee, SXMCV shall reimburse Contractor for reasonable and necessary direct expenses to the extent provided in the applicable Statement of Work (such as travel, meal and lodging expenses, with supporting evidence), which have been approved in writing by a SXMCV authorized employee and incurred by Contractor in the performance of the Services (“Reimbursables”). Except as may be provided in the applicable SOW, Reimbursables will be paid only in accordance with SXMCV’s policy for the payment of travel and other expenses to its own employees, a copy of which will be provided to Contractor upon request.

7. INVOICES AND PAYMENT.

- 7.1 Contractor shall invoice SXMCV for sums payable under this Agreement as set forth in the Statement of Work. SXMCV shall pay such invoices net forty-five (45) days from the date the invoice is received by SXMCV. Contractor shall submit invoices for Services monthly in arrears in accordance with the instructions set forth in Section 7.2. Contractor shall provide SXMCV with service reports completed and Reimbursables incurred each month. SXMCV shall reimburse Contractor monthly in arrears. Contractor shall not invoice SXMCV for Services until they are complete and have been accepted in writing by SXMCV.
- 7.2 Contractor will adhere to the following invoicing procedures:
- Contractor shall email all invoices to: [SXMradio.image@send2image.com](mailto: SXMradio.image@send2image.com).
 - The attachments **must** be in PDF format. Compressed.zip files are not accepted and will not be processed. Embedded documents are not processed. Text in the e-mail body will not be scanned or acknowledged.
 - ***The invoice attachment must contain the name of the internal SXMCV Manager (or such other individual as SXMCV shall designate to Contractor in writing) on the front page of the invoice document.***
 - Each attachment must contain only one invoice/credit/etc. All supporting documentation must be within the same PDF file (Ex: Invoice/Timesheet)
 - Multiple PDF attachments may be attached to a single e-mail message and each PDF attachment is treated as a separate document.
- 7.3 SXMCV shall promptly review Contractor’s invoice and approve for payment such amounts as SXMCV reasonably determines to be properly due under the Agreement.

8. INDEPENDENT CONTRACTOR RELATIONSHIP.

- 8.1 The Parties intend that an independent contractor relationship will be created by this Agreement. Contractor shall have full responsibility for the payment of all federal, state, and local taxes and contributions, including penalties and interest, imposed pursuant to unemployment insurance, social security, income tax, workers’ compensation or any other similar statute. Personnel supplied by Contractor hereunder are not SXMCV’s personnel or agents, and Contractor assumes full responsibility for their acts. Contractor shall be solely responsible for the payment of compensation of Contractor personnel and such personnel shall be informed that they are not entitled to the provision of any SXMCV employee benefits. SXMCV shall not be responsible for payment of

workers' compensation, disability benefits, unemployment insurance and/or for any U.S. or foreign withholding income taxes and social security for any of Contractor personnel. If any federal, national, state, provincial or local government agency or any other applicable any U.S. or foreign entity determines that the personnel provided by Contractor under any Statement of Work are employees of SXMCV for the purpose of withholding tax liability, Contractor agrees to indemnify SXMCV, its affiliates and their respective employees, officers, and directors (collectively, the "SXMCV Indemnitees") against and release the SXMCV Indemnitees from all liabilities, costs, and expenses (including, but not limited to, attorneys' fees) associated with the defense of such claim.

9. CONFIDENTIALITY.

- 9.1 Contractor's Obligation. Contractor acknowledges that, in and as a result of Contractor's engagement by SXMCV, Contractor shall or may be making use of, acquiring and adding to SXMCV's Confidential Information (as defined below). As a material inducement to SXMCV to engage (and to continue to engage) Contractor and to pay to Contractor compensation for the Services, Contractor covenants and agrees that Contractor shall not, directly or indirectly, disclose, divulge, reveal, report, publish, transfer or use, for any purpose whatsoever, any of the Confidential Information obtained by or disclosed to Contractor as a result of Contractor's engagement by SXMCV. Disclosure of any such information of SXMCV shall not be prohibited if such disclosure is directly pursuant to a valid and existing order of a court or other governmental body or agency within the United States; provided, however, that (i) Contractor shall first have given prompt notice to SXMCV of any such possible or prospective order (or proceeding pursuant to which any such order may result) and (ii) SXMCV shall have been afforded a reasonable opportunity to prevent or limit any such disclosure.
- 9.2 Definition of Confidential Information. "Confidential Information" means all of the following information (whether or not reduced to writing, marked as proprietary or confidential, and whether or not patentable or protectable by copyright) which Contractor receives, receives access to, conceives, creates or develops or has received, received access to, conceived, created or developed, in whole or in part, directly or indirectly, in connection with Contractor's engagement by SXMCV or in the course of Contractor's engagement by SXMCV (in any capacity whatsoever) or through the use of any of SXMCV's facilities or resources:
- (a) Application, operating system, data base, communication and other computer software, whether now or hereafter existing, developed for use on any operating system, all modifications, enhancements and versions and all options available with respect thereto, and all future products developed or derived therefrom;
 - (b) Employee data, manuals, reports and other materials or information relating to SXMCV's business and activities and the manner in which SXMCV does business;
 - (c) Any other materials or information related to the business or activities of SXMCV which are not generally known to others engaged in similar businesses or activities or are proprietary to SXMCV; and
 - (d) Any information and materials received by SXMCV from third parties in confidence (or subject to non-disclosure or similar covenants).
- 9.3 Exceptions. For purposes of this Agreement, the term "Confidential Information" shall not include information which is or becomes publicly available without breach of (i) this Agreement, (ii) any other agreement or instrument to which SXMCV is a party or a beneficiary or (iii) any duty owed to SXMCV by Contractor or any third party; provided, however, that Contractor hereby acknowledges and agrees that, if Contractor shall seek to disclose, divulge, reveal, report, publish, transfer or use, for any purpose whatsoever, any Confidential Information, Contractor shall bear

the burden of proving that any such information shall have become publicly available without any such breach. The exceptions set forth in this Section 9.3 shall not apply to PCI or PII under any circumstance.

10. INTELLECTUAL PROPERTY OWNERSHIP.

Unless otherwise agreed in a Statement of Work, the following provisions shall apply to all Services, deliverables and work product, collectively (the “Work Product”) provided by Contractor under this Agreement:

- 10.1 Ownership by SXMCV. Contractor covenants and agrees that all right, title and interest in any Work Product shall be and shall remain the exclusive property of SXMCV. Contractor agrees immediately to disclose to SXMCV all Work Product developed in whole or in part by Contractor for or on behalf of SXMCV, and Contractor hereby assigns to SXMCV any right, title or interest Contractor may have in such Work Product. Contractor agrees to execute any instruments and to do all other things reasonably requested by SXMCV (both during and after Contractor's engagement by SXMCV) in order to vest more fully in SXMCV all ownership rights in those items hereby transferred or required to be transferred by Contractor to SXMCV. This excludes Contractor's current proprietary products.
- 10.2 Works for Hire. Contractor and SXMCV hereby agree that the Work Product of Contractor resulting from the Services is one or more “works made for hire” within such definition in 17 U.S.C. §101, the copyright of which shall be owned solely, completely and exclusively by SXMCV. If any such Work Product is protectable by copyright and is not considered to be included in the categories of works covered by such definition, ownership of and copyrights to such items shall be deemed to be assigned and transferred completely and exclusively to SXMCV by virtue of the execution of this Agreement.
- 10.3 Materials. All notes, data, tapes, reference items, sketches, drawings, memoranda, records, files and other materials in any way relating to any of the Work Product or otherwise to SXMCV's business shall belong exclusively to SXMCV and Contractor agrees to turn over to SXMCV all copies of such materials in Contractor's possession or under Contractor's control at the request of SXMCV or, in the absence of such a request, upon the termination of Contractor's engagement with SXMCV.
- 10.4 Pre-Existing Works. Contractor shall notify SXMCV in writing of the incorporation of any Pre-Existing Work in any Work Product or deliverables. To the extent any pre-existing work of Contractor or the work of any third party (collectively, “Pre-Existing Work”) is incorporated in or otherwise required for the proper performance of any Services, Contractor hereby grants to SXMCV a perpetual, worldwide, fully paid-up, nonexclusive license to use, copy, maintain, modify, enhance and create derivative works of such Pre-Existing Work (including source code, programmer interfaces, available documentation, manuals and other materials necessary for the use thereof).
- 10.5 Open Source Code. Contractor represents that it will not incorporate into any Work Product source code licensed from GNU Public License, the free Software Foundation, or similar public license (collectively, “Open Source Software”) without SXMCV's express written approval. To the extent that Open Source Software is utilized by Contractor with SXMCV's approval, Contractor represents, warrants and covenants that Contractor will at all times implement or use any such Open Source Software in compliance with contributor's use requirements and in a manner that will not subject any unrelated software to the requirements of any Open Source Software licenses.

11. WARRANTIES.

- 11.1 Mutual Warranties. Each Party represents and warrants that: (i) it has the full right, power and authority to enter this Agreement and to perform its obligations hereunder; (ii) this Agreement constitutes its valid and binding obligation; (iii) its execution or performance of this Agreement does not and will not conflict with any other agreement, order or stipulation to which it is a party or by which its property is bound; and (iv) it shall at all times comply with its obligations under this Agreement, and with all applicable laws.
- 11.2 Contractor Warranties. Contractor represents and warrants to SXMCV that (a) each of its personnel assigned to perform services under any Statement of Work shall have the proper skill, training and experience to perform in a competent and professional manner and that all work will be performed in accordance with the applicable Statement of Work; (b) Contractor shall render all Services with promptness and diligence and in a workmanlike manner in accordance with high professional standards; (c) unless expressly specified in any Statement of Work, SXMCV shall receive free, good and clear title to all Services arising therefrom; (d) neither the Services performed pursuant to this Agreement nor any deliverables produced or supplied by Contractor under this Agreement nor SXMCV's use thereof will infringe any patent or copyright or any proprietary rights of any third party or constitute a misuse or misappropriation of a trade secret; (e) each and every deliverable specified in a Statement of Work shall conform in all material respects to the specifications as set forth in the Statement of Work (or if none, to the manufacturer's specifications and warranties) and shall be free from material defects; (f) Contractor shall, at no additional charge, correct any material defects in any deliverables for a period of sixty (60) days from acceptance by SXMCV based on the acceptance criteria set forth in each Statement of Work and shall provide a reasonable period of support thereafter as set forth in the applicable Statement of Work; (g) at the time of delivery, no Services or deliverable shall contain any computer virus nor any codes or instructions that may be used to modify, delete, damage or disable the deliverable or any of SXMCV's property or facilities and Contractor shall exert its best efforts to ensure that no such virus, code or instruction is subsequently introduced; (h) Contractor will not install or bring any hazardous materials or substances to any SXMCV facility and will promptly report the discovery of any such material to SXMCV; (i) Contractor will diligently perform its assigned duties under this Agreement in a cost effective manner consistent with the required level of quality and performance; and (j) Contractor shall comply with all laws, rule and regulations in all jurisdictions in which Services are provided.
- 11.3 Exclusive Warranties. THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES REGARDING THE SERVICES DESCRIBED HEREIN, INCLUDING ANY WARRANTY FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. NO INFRINGEMENT.

- 12.1 Contractor warrants that neither the Services performed pursuant to this Agreement nor any materials produced or supplied by Contractor under this Agreement will infringe any patent, trademark, copyright or any proprietary rights of a third party or constitute a misuse or misappropriation of a trade secret. SXMCV shall notify Contractor promptly in writing of any action brought against SXMCV based on an allegation that SXMCV's use of any materials or the Services infringes any patent, trademark, copyright, or infringes any right of a third party, or constitutes misuse or misappropriation of a trade secret (an "Infringement"). Contractor will defend, indemnify and hold the SXMCV Indemnitees harmless from any such action at Contractor's sole expense and will pay any costs incurred by the SXMCV Indemnitees, including attorneys' fees, and the costs and damages awarded in such action or the cost of settling such action (collectively, "Losses"), provided that Contractor shall have the sole control of the defense of any such action, all negotiations and/or its settlement, and SXMCV cooperates with Contractor in such

defense. In the event that a final injunction is obtained against SXMCV's use of the Services or the Confidential Information by reason of an Infringement, Contractor shall at its option and expense within sixty (60) days either (a) procure for SXMCV the right to continue to use the Confidential Information or Services that are infringing, or (b) replace or modify the Confidential Information or Services to make its use non-infringing while being capable of performing the same function. If neither option is available to Contractor, then SXMCV, at SXMCV's option, may terminate this Agreement and Contractor shall refund to SXMCV any amounts paid by SXMCV pursuant to this Agreement, plus any loss or damages incurred by SXMCV, including costs and attorneys' fees.

13. OTHER INDEMNIFICATIONS.

- 13.1 SXMCV agrees to indemnify, defend and hold harmless Contractor from any and all Losses to the extent directly arising from any of the following: (a) the death or bodily injury caused by the tortious conduct of SXMCV; or (b) the damage, loss or destruction of any real or tangible personal property caused by the tortious conduct of SXMCV. Contractor shall indemnify, defend and hold harmless the SXMCV Indemnitees from any and all Losses to the extent directly arising from any of the following: (i) the death or bodily injury caused by the tortious conduct of Contractor; (ii) the damage, loss or destruction of any real or tangible personal property caused by the tortious conduct of Contractor, or (iii) Contractor's breach of this Agreement.

14. LIMITATION OF LIABILITY.

- 14.1 OTHER THAN AS SET FORTH IN SECTIONS 12 AND 13, IN NO EVENT SHALL A PARTY BE LIABLE TO THE OTHER, FOR SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

15. LICENSES AND EXPORT.

- 15.1 Unless expressly specified in any Statement of Work, as part of the Services, Contractor will be responsible for obtaining and paying for all applicable licenses, authorizations, and permits required of Contractor in connection with the performance of the Services and to otherwise carry out Contractor's obligations under each Statement of Work.
- 15.2 The Parties acknowledge that Services may be subject to export controls under the laws and regulations of the United States and other countries. Neither Party shall export or re-export any such Services or any direct product thereof in violation of any such laws or regulations.

16. SECURITY REQUIREMENTS.

- 16.1 Contractor shall maintain technical, organizational, administrative, and human resource security measures which conform to ISO 27001 and 27002, and SXMCV information security policies. Contractor and Contractor personnel will comply with SXMCV's security policies and procedures that are in effect for SXMCV's facilities. Contractor and Contractor personnel will observe the working hours, working rules, and holiday schedules of SXMCV while working on SXMCV's premises.
- 16.2 PCI/PII. The Parties anticipate that Contractor will not have access to payment card data ("PCI") or SXMCV data which may be used to identify an individual ("PII"), as well as SXMCV networks carrying PCI and PII or used to access PCI and PII (collectively, "PII Networks"). Unless

otherwise provided in a written agreement between the Parties which expressly amends this Subsection 16.2, Contractor shall not access PCI, PII, and PII Networks.

- 16.3 Secure Software Development. Contractor shall develop code in a manner consistent with secure software development practices including the most current Open Web Application Security Project (OWASP) Top Ten Vulnerabilities and the OWASP Top 10 Proactive Controls (available as of execution at: https://www.owasp.org/index.php/OWASP_Proactive_Controls).

17. INSURANCE.

- 17.1 During the term of this Agreement, Contractor and any subcontractors hired, engaged or supervised by Contractor shall have and maintain in force the following insurance coverage with an Insurer with an A.M. Best Rating of A- or better:

- (a) Worker's Compensation Insurance, including occupational illness or disease coverage, or other similar social insurance in accordance with the laws of the country, state, or territory exercising jurisdiction over the employee and Employer's Liability Insurance with a minimum limit of \$1,000,000 per occurrence.
- (b) Commercial General Liability Insurance, including Products, Completed Operations Liability and Personal Injury, and Contractual Liability coverage for damages to any property with a minimum combined single limit of \$2,000,000 per occurrence, \$4,000,000 in the aggregate.
- (c) Umbrella Liability Insurance (with following form primary commercial liability and auto liability, or broader) with a minimum limit of \$5,000,000 in excess of the insurance under policies indicated in Sections 17.1(a), 17.1(b), and 17.1(d).
- (d) Automobile Liability Insurance covering use of all owned, non-owned, and hired automobiles with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage liability.
- (e) Errors and Omissions/Professional Liability Insurance covering the liability for financial loss due to error, omission, negligent acts, unauthorized access, unauthorized use, breach of duty, virus transmission and machine malfunction in the performance of services or the failure of technology products to perform as intended. Such policy shall be in an amount of not less than \$5,000,000 per claim. Coverage shall include any subcontractors or temporary employees of Contractor.
- (f) Employee Dishonesty and Computer Fraud coverage for loss arising out of or in connection with any fraudulent or dishonest acts committed by the employees or contractors of Contractor, acting alone or in collusion with others, including the property and fund of SXMCV in their care, custody or control, in a minimum amount of \$1,000,000. This policy shall be endorsed to name SXMCV as a loss payee.
- (a) All Risk (Special Form) Insurance on equipment, data, media and valuable papers, including extra expense coverage for the property in which SXMCV has an interest for the full value of that property at replacement cost new, with a minimum amount of \$2,000,000. This policy shall be endorsed to name SXMCV as a loss payee as its interests may appear.

- 17.2 The policies described in Sections 17.1(b), 17.1(c) and 17.1(d) shall be endorsed to name SXMCV, its affiliates and subsidiaries, and the directors, officers, employees and successors and assigns of each, as additional insureds. The foregoing insurance coverage shall be primary and non-contributing with respect to any other insurance or self-insurance that SXMCV may maintain. Contractor shall cause its insurers to issue certificates of insurance evidencing that the coverage and policy endorsements required under the Agreement are maintained in force and that not less

than thirty (30) days written notice shall be given to SXMCV prior to any material modification, cancellation or non-renewal of the policies.

18. AUDIT AND COMPLIANCE.

- 18.1 SXMCV and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial, security, and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Agreement kept by or under the control of Contractor including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, security certifications, written policies and procedures; subcontract files, invoices; and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.
- 18.2 Contractor shall ensure that all contractual obligations between Contractor and SXMCV are supplied to and enforced by all Contractor subcontractors. Contractor shall monitor and assess subcontractor compliance with these provisions.

19. DATA BREACH.

- 19.1 Contractor shall immediately notify SXMCV, and in no event take longer than two (2) hours to do so, by telephone with an immediate confirmation in writing of the facts of the call, if Contractor becomes aware of any actual, suspected or alleged unauthorized access to, use, or disclosure of SXMCV Confidential Information either alone or with other information, including a notification of loss or suspected loss of data whether or not such data has been encrypted. Contractor shall cooperate with SXMCV in any manner reasonably requested by SXMCV and in accordance with applicable law and regulations, including: conducting the investigation; cooperating with authorities; and notifying affected persons, credit bureaus, or other persons or entities deemed appropriate by SXMCV. Such cooperation shall include without limitation: (i) Providing SXMCV access to relevant Contractor records and facilities; (ii) Providing all relevant data and reports to SXMCV; and (iii) Providing SXMCV the right to review and approve the content and form of any notifications to impacted individuals and any press releases.

Sirius XM contacts: Mr. Patrick Donnelly, General Counsel, (212) 584-5180;
 Ms. Patricia Edfors, Vice President, Information Security, Privacy and
 Compliance, (202) 380-1297;

or as otherwise updated by Sirius XM in writing.

20. MISCELLANEOUS.

- 20.1 Section Headings. All section headings and captions used in this Agreement are purely for convenience and shall not affect the interpretation of this Agreement.
- 20.2 Statements of Work. All Statements of Work and other documents expressly referenced herein Agreement shall be deemed to be incorporated in and made a part of this Agreement, except that if there are any inconsistencies between this Agreement and the provisions of any Statement of Work, the provisions of the Agreement shall control. Terms used in a Statement of Work and also used in this Agreement shall have the same meaning in the Statement of Work as in this Agreement.
- 20.3 Applicable Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas, USA without regard to or application of any conflict of law principles. Each Party hereby submits to the exclusive jurisdiction of courts located in Dallas County, Texas USA. Each Party waives any right to trial by jury with respect to any dispute arising out of this Agreement.

- 20.4 Modification. Except as otherwise provided, this Agreement shall not be modified except by written agreement signed on behalf of SXMCV and Contractor by their respective authorized officers.
- 20.5 Exclusive Agreement. This Agreement supersedes all prior understandings, representations, negotiations and correspondence between the Parties, constitutes the entire agreement between them with respect to the matters described, and shall not be modified or affected by any course of dealing, course of performance or usage of trade.
- 20.6 Assignment or Delegation. Contractor may not assign or delegate this Agreement or any of its rights, duties or obligations thereunder to any other person without prior written consent of SXMCV.
- 20.7 Language and Communications. All data, documents, descriptions, studies and reports provided by Contractor will be written in English. This Agreement and all documentation and communications required hereunder, will be in the English language.
- 20.8 Public Release of Information. Neither Party shall make or release any public announcement of any kind, including, without limitation, news releases, articles, brochures, advertisements, prepared speeches, external company reports and other information releases in which the other Party is named concerning the work performed under this Agreement, without the other Party's prior written consent.
- 20.9 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired.
- 20.10 Waiver. The failure of either Party at any time to require performance by the other of any provision of this Agreement shall in no way affect that Party's right to enforce such provision, nor shall the waiver by either Party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision or any other provision.
- 20.11 Survival. The provisions of this Agreement, which by their nature extend beyond the expiration or earlier termination of the Agreement will survive and remain in effect until all obligations are satisfied.
- 20.12 Further Assurances. Each Party agrees that it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party during the term of this Agreement.
- 20.13 Counterparts. This Agreement may be executed in any number of counterparts and each fully executed counterpart shall be deemed an original.
- 20.14 Notices. All notices, approvals, requests, consents and other communications given pursuant to this Agreement shall be in writing and shall be effective when received if hand-delivered, sent by a national overnight courier service (with means of tracking) or sent by United States certified or registered mail, addressed as follows:

If to Contractor: TribalScale Inc.
Attn: Jerry Lin
200 Wellington Street West, Suite 900
Toronto, ON Canada M5V3C7

If to SXMCV: Sirius XM Connected Vehicle Services Inc.
Attn: Legal Department
8550 Freeport Parkway
Irving, TX USA 75063

with a copy to: Sirius XM Radio Inc.
 Attn: General Counsel
 1290 Avenue of the Americas, 11th Fl.
 New York, NY USA 10104

If the Parties so specify in an applicable Statement of Work, notice may be provided by email.

20.15 Compliance with the Foreign Corrupt Practices Act. Each Party agrees at all times to comply with applicable laws and regulations in its performance of this Agreement, including, without limitation, the provisions of the United States' Foreign Corrupt Practices Act ("FCPA").

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement effective as of the Effective Date.

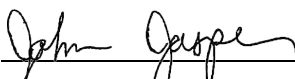
("Contractor")
TRIBALSCALE INC.

By:  _____

Name: Sheetal Jaitly

Title: CEO

("SXMCV")
SIRIUS XM CONNECTED VEHICLE SERVICES INC.

By:  _____

Name: John Jasper

Title: Sr. Vice President

THIS IS **EXHIBIT "L"** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 24TH DAY OF JULY, 2020



A COMMISSIONER FOR TAKING AFFIDAVITS

STATEMENT OF WORK #2

This Statement of Work ("Statement of Work" or "SOW") is entered into pursuant to the Professional Services Agreement dated April 26th, 2019 (the "Agreement") between TribalScale Inc. ("Contractor") and Sirius XM Connected Vehicle Services Inc. ("Sirius XM"), which expression includes its parent and subsidiary entities, and their respective successors and permitted assigns. Except as expressly set forth in this Statement of Work, the terms and conditions set forth in the Agreement shall govern the performance of the services described in this Statement of Work. This Statement of Work is effective as of date of signature (the "Effective Date"). All capitalized terms not defined herein will have the meanings given them in the Agreement.

1. TERM

The term of this Statement of Work will commence on the Effective Date and, unless sooner terminated pursuant to the terms and conditions of the Agreement, will continue to remain in full force and effect until terminated according to the terms of the Agreement or all Services to be performed under this Statement of Work have been successfully completed.

2. PERSONNEL

Project Managers:

Sirius XM: Paul Doucette
Telephone number: (847) 275-5226
Email: Paul.Doucette@siriusxm.com

Contractor: Trevor Buckerfield
Telephone number: 416-797-6493
Email: tbuckerfield@tribalscale.com

The Project Managers will be the focal point for communications relative to Services under this Statement of Work. Any changes in Project Manager personnel will be communicated in writing by each respective party.

3. SERVICES

3.1. Description of Services.

Sirius XM desires to engage an expert development team to build an in-vehicle E-Commerce solution, (the "Project"). Contractor will provide Product Management, Engineering, Design, and QA resources for the Project.

Contractor will perform the tasks and responsibilities described below and all associated Contractor obligations set forth in the Agreement.

Contractor will deliver software to Sirius XM according to the requirements set forth in Section 3.2, 3.3, and the timeline set forth in Section 4.1.

3.2. Deliverables and Requirements

The scope of the Services under this SOW is as per the epics listed below. Any changes to the scope/epics shall be managed as described in Section 3.6. It is the responsibility of the joint Sirius XM and Contractor team to prioritize this scope appropriately in the backlog in order to meet certain product milestones.

- Product Epics
 - Onboarding
 - User profile rapid registration, including integration with Sirius XM IDM
 - Integration of token provider widget to capture and tokenize payment method
 - Integration with Wallet system to store generated tokens or token mapping
 - Profile/Role Management

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- Ability for users to manage and change their profile data.
- Ability for users to invite other users, associate them with their primary account, and assign them permissions for what services they can use through Constellation in their car.
- Wallet
 - Token data store, and Merchant-Token mapping
 - APIs to add, retrieve, update, delete one or more tokens to the wallet
 - APIs to generate cryptogram per transaction for a specific token to be able to process a payment
 - Integration with SiriusXM selected Token Management Service (TMS)/Token Gateway (TG)/Token Service Provider (TSP) APIs for token lifecycle management
 - Integration with P97 wallet and payments, as an intermediate solution.
 - Frontend interfaces for users to manage their wallet
- User Preferences
 - User preference data store
 - APIs to add, retrieve, update, delete user preferences
 - Frontend interfaces for users to manage their preferences
 - Update the search API to flag locations matching the user's preferences in the returned result set
 - Update the UI client to display user preferred locations differently, as well as integrate the ability to save a location to user preferences, and to view a list of their preferences
- Loyalty Programs
 - Loyalty program data store
 - APIs to add, retrieve, update, delete user's loyalty programs
 - Frontend interfaces for users to link their loyalty accounts to their Sirius XM Constellation account, and manage their loyalty programs
 - Update the E-Commerce Order process to include loyalty account data when placing orders
- Service Integrations
 - Continue Arrive integration for Parking to cover placing orders to book parking spots.
 - Integrate TravelLink/Infotainment API into search process, to cover more locations for Gas and Parking.
 - Integrate PayTollo service into Constellation platform for toll gate payments.

Contractor shall build all relevant frontend interfaces, referenced in the epics above, as progressive web apps.

Contractor shall follow best practices for AWS architecture in developing the deliverables as further detailed in **Appendix A**. Contractor will also provide production-ready APIs and backend infrastructure.

Contractor will provide scripts/process at the end of each Sprint to allow Sirius XM to build the same environment in its VPC.

Key Assumptions and Risks:

- **Onboarding**
 - Sirius XM's IDM solution should be designed and developed in tandem and delivered by mutually agreed upon schedule in order to enable constellation™ onboarding, user profile management and API authentication.
 - A third party Token Management Service (TMS)/Token Gateway (TG) & Token Service Provider (TSP) solution, that offers a payment method capture widget and provides generated tokens back, will be selected and in place for the onboarding integration.
 - Frontend interfaces will be built as a web application.

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- A single user account per user, without primary account linking or managed roles and permissions within this scope.
- Sirius XM Constellation is not a white-labelled solution, so users will be onboarded as Sirius XM users, into the Sirius XM IDM, and not into an OEM user system.
- **Wallet**
 - The selected third party TG & TSP provider will expose a set of APIs to allow for the generation of cryptograms required to process payments, payment method metadata (e.g. last 4 digits, card art, ...etc.) and for all needed lifecycle management purposes.
 - Frontend interfaces for wallet management will be built as a web application.
- **User Preferences**
 - Data analytics to infer user preferences from their usage patterns will not be covered as part of this scope.
 - Users will add preferences by 'favoriting' locations during the search process.
 - Users will add preferences through a frontend preference management interface.
 - Frontend interfaces for user preference management will be built as a web application.
- **Loyalty Programs**
 - Agreements with the loyalty program(s) to be integrated are in place for the integration.
 - Integration of loyalty programs will happen through verification of a user's mobile number or through logging in to partner accounts.
 - Integration of TWO loyalty programs covered in this scope.
 - Frontend interfaces to manage (link/de-link) loyalty programs will be built as a web application.
- **Service Integrations**
 - Arrive APIs will accept payment tokens and other transaction-required payment attributes from selected TMS/TG/TSP token provider to process payment for parking orders.
 - Arrive APIs will accept transactions for non Arrive/Parkwhiz users.
 - TravelLink/Infotainment APIs will not have integrations with data from the external partners (e.g. P97) yet, so Contractor will aggregate and deduplicate data by excluding partner locations from the TravelLink result set.
 - Sirius XM IDM will provide publicly accessible endpoints that allow the generation of JWT tokens that can be used to authenticate the user with the E-Commerce platform and partner integrations.
 - At this stage, there is no direct integration with VISA; the integration would happen through an intermediary TMS/TG/TSP token provider.
- **Other Assumptions**
 - The application used for the car's Head Unit (e.g. SDL, Android Auto, CarPlay), including the voice interface and navigation, is not part of this scope.

The Parties acknowledge that certain Sirius XM and/or third party application programming interfaces ("APIs") have been or will be provided to Contractor in connection with the Project, and that these APIs as well as any third party content ("Content") that is accessible via these APIs, is Confidential Information.

With respect to the APIs and Content, Contractor will:

- (a) Only use them for the purposes specified by Sirius XM;
- (b) Not pass them to any other third party without the prior written permission of Sirius XM;
- (c) Not use them for commercial purposes;
- (d) Destroy the Content or its derivatives in Contractor's possession
 - a. upon termination or expiration of this SOW, or
 - b. notwithstanding the continuation of this SOW, once development activity utilizing it is complete, or
 - c. if a period of sixty (60) days has elapsed in which Contractor has not needed to access the Content,
 and certify the same to Sirius XM within five (5) business days.

Acceptance of the deliverables shall be in accordance with Section 1.2 of the Agreement. Acceptance criteria shall be mutually agreed no later than two (2) weeks prior to the delivery date. The foregoing is in

addition to, and not a limitation on, Sirius XM's rights of termination under Section 2.2 of the Agreement. The Parties may mutually agree to partial functionality of applications at various stages to satisfy the required timeline and budgetary constraints.

3.3. Development and Validation Process

3.3.1. Agile Development

The following is a description of the Agile development process methodology to be generally followed by the Parties in respect of this SOW, and is not a description of the Services to be provided under this SOW. The product backlog is a list of all the features, tasks and bugs for the application being produced pursuant to a SOW. It is maintained in a strict, linear priority; no two items are equal, as one is before the other. Sirius XM maintains the contents and their priority. Contractor provides estimates for the effort to complete each item. Contractor's Developers also update the status of an item. Each backlog item goes through a basic workflow: unstarted, started, finished, and delivered (made available for review) and then either accepted or rejected by Sirius XM. If the item is rejected, it can be re-prioritized by Sirius XM. All work on the Application is to be done in a mutually agreeable cadence of either 1 or 2 weeks. The basic iteration workflow has a planning meeting at the start of the sprint, when the product backlog is reviewed. In the planning meeting, the focus is the current iteration of work. Questions and discussions about items take place and the intent is for all to have a similar understanding of the week's work. As Contractor's Developers work during the iteration, they make the Application regularly available for review by Sirius XM. These updates range from daily to a few times a week. The entire process is collaborative and Contractor expects the full involvement and engagement of Sirius XM. Sirius XM is obligated to regularly review work and maintain the product backlog. The process also provides significant visibility into the current status and progress of the Application.

3.3.2. Scope of Work to be Performed

The Work Product will be designed pursuant to the Agile development process and is limited to delivery of the functionality agreed by the Parties and includes quality assurance and related project management activities. The Services to be provided pursuant to this SOW are only those that have been agreed upon by both Parties in Pivotal Tracker.

3.3.3. Description of Resources

Sirius XM shall have access to the Contractor resources listed in 4.1 and to Pivotal Tracker for one (1) year from the execution date of this SOW, subject to any applicable terms of use thereof, for the estimated timeline contained herein, and shall direct such Contractor resources to perform Services in accordance with Agile development process.

3.3.4. Open Source Software

The following Open Source Software may be used in connection with the work product. Contractor must receive written authorization from Sirius XM before including any OSS in the work product.

- Artistic License (all versions)
- Apache License (all versions)
- Boost Software License
- BSD
- Common Development and Distribution License (CDDL)
- Common Public License (CPL) or IBM
- Eclipse Public License (EPL)
- FLTK License PSA
- General Public License (GPL)
- Lesser General Public License (LGPL)
- Massachusetts Institute of Technology (MIT)
- Mozilla (MPL) (all versions)
- Open LDAP License
- OpenSSL
- Public Domain

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- Python Software Foundation License
- Rdoc
- MySQL2 gem
- SSLeay
- zlib/libpng License

3.4. Defect Management

Contractor's QA process works in tandem with Contractor's engineering team to implement manual and automated test scenarios based on acceptance criteria from the user stories. All bugs reported by Contractor's QA will be resolved by Contractor's engineering team. At the end of each iteration, Sirius XM's approval on the stories will be required to sign off and 'accept' the stories as delivered. Contractor will work with Sirius XM's PMs to ensure the correct acceptance criteria. A final Contractor QA check will be conducted before delivery of major versions, including final release. Any bugs escaping this process into final SOW deliverable caught after final release will be addressed as per the Agreement.

3.5. Release Management

Delivery and validation of code will be released at completion of each iteration. Contractor will coordinate with Sirius XM to ensure timely integration into Sirius XM's Continuous Integration Continuous Deployment (CICD) pipeline. Artifacts to be delivered at end of SOW will include:

- AWS infrastructure that was set up to run the platform
- Git repositories with the code written for the platform
- Infrastructure as code templates
- Any other tools or libraries which may have been used to develop the product.

3.6. Change Management

Any changes to the scope of the SOW shall be done pursuant to the Agile Development Process outlined in Section 3.3.1. herein. Any material changes to the scope of the SOW shall follow the procedures set forth in Section 1.4 of the Agreement.

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4. FEES**4.1. Summary.**

Services will be performed at the rates specified below on a time and material basis for actual time reported against the Project. Sirius XM will be billed for actual time reported against the Project.

Contractor's Fees under the Statement of Work shall not exceed **\$1,824,020** without the prior written consent of Sirius XM. The maximum Contractor Fees under this SOW will not exceed **\$1,864,020**.

Any materials or out-of-pocket expenses provided by Contractor under this Statement of Work shall pass through to Sirius XM without any markup and must be pre-approved by the Sirius XM Project Manager. Email approval will suffice.

Travel Expenses for Contractor personnel under this Statement of Work shall not exceed **\$40,000**. All travel expenses must be pre-approved by Sirius XM and comply with Sirius XM's T&E policy.

No expenses related to Contractor's VPC/AWS development environment will be the responsibility of Sirius XM.

Any other expenses must be pre-approved by an SVP (or higher) at Sirius XM. Email approval will suffice.

The estimated project duration is approximately **26 weeks**.

The resource allocation and estimated cost for a 26-week effort are summarized below:

Resource Role	Quantity	Skill Set	Rate/hr	Total Estimated Hours	Total Estimated Cost
Product Manager	1	Product Management	\$200	936	\$187,200
Project Manager	1	Project Management	\$200	572	\$114,400
Discount - TribalScale to provide a reduced rate for Project Management			(\$100)	572	(\$57,200)
Architect	1	System Architect	\$200	704	\$140,800
Discount - TribalScale to provide System Architecture support at no additional cost			(\$200)	704	(\$140,800)
Engineering Lead	1	Senior Architect/Anchor (Full stack – JavaScript, Node, React, AWS)	\$200	964	\$192,800
Engineer	6	Senior Engineer (Full Stack - JavaScript, Node, React, AWS)	\$180	5621	\$1,011,780
Engineer	2	Intermediate Engineer (Backend - JavaScript, Node, AWS)	\$170	1024	\$174,080
Designer	1	Service Design, Frontend	\$160	312	\$49,920
QA Analyst	3	Testing (Frontend, Backend)	\$160	944	\$151,040
Resource Costs Sub-Total					\$1,824,020
Estimated Travel Expenses*					\$40,000
TOTAL					\$1,864,020

*This is an estimate and Contractor will bill Sirius XM for actual costs incurred for Travel and Expenses. All planned travel will be pre-approved by the Sirius XM Project Manager and any required travel above and beyond the estimate will require written approval from Sirius XM. There is an expectation that the Contractor and Sirius XM teams will work closely together during this engagement to ensure the highest

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level of success and that includes working co-located from time to time. At a minimum, the Parties anticipate six week-long trips for the Contractor team to Sirius XM offices in Dallas.

Contractor shall provide Sirius XM with a weekly report detailing the work completed and actual hours by resource.

4.2. Reimbursables.

Contractor will be paid for Reimbursables according to the terms set forth in Section 6 of the Agreement.

4.3. Invoices.

Upon Sirius XM's acceptance of the deliverables, Contractor will provide Sirius XM with an invoice according to the terms set forth in Section 7 of the Agreement, and any such documents and information as Sirius XM may reasonably request to verify any invoice submitted by Contractor.

5. SIRIUS XM OBLIGATIONS

Sirius XM shall pay Contractor's invoices according to Section 7 of the Agreement.

Sirius XM shall provide the following:


- Weekly touch points to review progress
- Knowledgeable Sirius XM team members available to answer questions as needed
- Timely meetings with key stakeholders (including Sirius XM/third party agencies), delivery of necessary content, assets and instructions, and timely feedback to any outstanding questions
- Necessary equipment and documentation, such as pertinent API specifications, etc.
- Access to necessary project systems, as required to meet the obligations of the SOW
- Sirius XM's Project Manager will be responsible for interfacing with the Contractor team and also responsible for accepting completed stories

6. CONFLICT


In the event of any conflict between the terms of this Statement of Work and the Agreement, the terms of this Statement of Work shall control.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Statement of Work effective as of the Effective Date.

("Contractor")
TRIBALSCALE INC.

DocuSigned by:

By: _____
Name: Sheetal Jaitly
Title: CEO
Date: 11/23/2019

("Sirius XM")
SIRIUS XM CONNECTED VEHICLE SERVICES INC.


By: _____
Name: JOSEPH A. VERISWAGE
Title: PRESIDENT
Date: 11/12/19

APPENDIX A

CLOUD ARCHITECTURE TECHNICAL REQUIREMENTS

Below is a high-level description of Contractor's proposed approach and best practices for the Services to be provided under SOW #2 which may be subject to change pursuant to the Agile development process and requirements of the Project.

Security

- The proposed architecture shall have the platform running on serverless products, built on top of AWS managed services.
- AWS services come with the standard plan of AWS Shield, for protection against common DDoS attacks. This can be upgraded to the Advanced plan if required.

Frontend

- The currently proposed architecture hosts the frontend app in S3 and serves it out to the user's device through CloudFront. Access to the frontend app files would be restricted as read-only, and only to be served through CloudFront, not directly.

Backend

- The proposed architecture is focused around an event-driven flow, triggered by API calls to an API Gateway that fields incoming requests and then passes them on to be processed by a set of serverless functions. Only requests coming through the API Gateway will be able to trigger the execution of functions.
- The API Gateway endpoints will be secured to only accept specific types of requests over https, from logged-in Sirius XM users, with the calls using valid API keys.
- Access to the DynamoDB database would be locked down to only the lambda functions that require access to it.

High Availability / Scale

Availability Zones

- The core AWS products included in the initially proposed architecture are ones that AWS runs across multiple availability zones within a given region by default, ensuring a higher level of availability.
- These products also automatically scale up and down based on usage to handle the varying number of requests to the service.
- Contractor will adapt the architecture to meet the required availability specified by Sirius XM

Multiple Regions

- For higher availability and/or disaster recovery purposes, the platform can be spun up and ready to use in one or more other AWS regions.
- Most of the core products being used are billed based on usage and would only start incurring cost when requests are actually sent through to them.
- **DynamoDB:** Use of Global Tables provides the ability to run the database across multiple regions, with fully managed replication between them.

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- **API Gateway:** Use of regional API endpoints, combined with Route 53, can enable handling either active-active setups or failover between regions.

Disaster Recovery**Failover**

- Having the platform set up in at least one other region, as per the Multiple Regions section above, can help provide the ability to failover quickly to the backup region.

Backups

- **Database:** As per the Multiple Regions section above, the data within the database would be replicated across multiple regions. Continuous Backup and Point-in-time-recovery can also be enabled for the DynamoDB database.

Infrastructure as Code

- The infrastructure required to run the platform will be codified in templates that will enable more efficient and predictable deployments, and decreased recovery times.

Operating Costs*

As previously mentioned, most of the products in the proposed architecture are billed based on usage and will scale up and down, based on the volume of requests.

With the platform running at a scale of 1,000,000 user sessions per day, running out of one region only, and excluding voice services, the rough estimate is that it would be running at around \$7500 per month. Many variables affect this though, and the decisions taken while building the system, as well as the actual usage patterns, will give more clarity around what the actual numbers would be.

Spinning the platform up in another region would add some cost for the database replication and storage, but would only start incurring costs for other services if requests are routed to it.

Contractor will adapt the architecture as required to best meet the required operating budget of Sirius XM.

For voice services:

- **Google Dialogflow**, which would be used to handle voice requests; 10,000 requests would cost \$65 (\$0.0065 per request); but once the application scales up to millions of requests per day, the costs would climb, and it might make sense to look at licensing another solution to run internally.
- **Google TTS**, which would be used to handle voice responses to the user; costs can be controlled through standardizing and storing certain messages, that don't require customization for the user's context (e.g. prompts regarding gas pump number, or period of time parking is required for.)
Otherwise, the cost is \$4.00 per 1 million characters.

*Please note that Operating Costs are projections made by Contractor to help Sirius XM with budgeting for infrastructure. The pricing stated is based on the AWS pricing guide and the user quantities are assumptions. Sirius XM will interface directly with AWS for any/all pricing or billing related discussions.

THIS IS **EXHIBIT “C”** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5th DAY OF JANUARY 2021

patrick coney

A COMMISSIONER FOR TAKING AFFIDAVITS

RESTRUCTURING SUPPORT AGREEMENT

This Restructuring Support Agreement (as amended, supplemented or otherwise modified from time to time, referred to as this “**Agreement**”) dated as of November 3, 2020 (the “**Agreement Date**”) among TribalScale Inc. (the “**Company**”), 1924191 Ontario Inc. (“**192**” or the “**Supporting Creditor**”) describes and addresses the restructuring transaction agreed to by the Company and the Supporting Creditor as described fully in Section 1 hereof (the “**Transaction**”). The Supporting Creditor holds the debt and first priority security over all of the assets, property and undertaking of the Company in the amount of \$2,648,000 million as of the date hereof (the “**Secured Debt**”). The Transaction is to be effected pursuant to a plan of compromise or arrangement (the “**Plan**”) under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”), and, if determined necessary or advisable by the Company in conjunction with the Plan, the *Canada Business Corporations Act*, RSC, 1985, c. C-44 to restructure the Secured Debt in accordance with the terms of the Transaction or as such Transaction may be amended in a manner acceptable to the Supporting Creditor and the Company, each acting reasonably.

The Supporting Creditor and the Company are referred to herein as a “**Party**” and, collectively, as the “**Parties**”.

1. Transaction

The principal Transaction terms (which are subject to the other terms and conditions of this Agreement) are as follows:

- (a) the Supporting Creditor will convert 50 % of the Secured Debt into 85% of the equity in the capital of the Company on a fully diluted basis;
- (b) the remaining 50% of Secured Debt will remain on the balance sheet of the Company, with payment of interest accruing on the Secured Debt being deferred until the date that is one year from the closing of the Transaction. The Supporting Creditor will maintain its security over the assets, property and undertaking of the Company for all of the obligations in respect to the remaining Secured Debt and for any obligations under this Agreement or resulting from the Transaction;
- (c) the Bank of Nova Scotia (“**BNS**”) shall be issued 5% of the equity in the capital of the Company on a fully diluted basis in full and final satisfaction of the consideration owed to BNS by the Company as a result of the assignment of the Secured Debt from BNS to 192;
- (d) in consideration of Sheetal Jaitley’s continuing ongoing involvement with the Company:
 - (i) Sheetal Jaitly shall be issued 10% of the equity in the capital of the Company on a fully diluted basis: and

- (ii) the Company shall make a cash payment in the amount the secured indebtedness owing to the Business Development Bank of Canada (“**BDC**”) in respect of a lease-loan agreement, dated April 27, 2017, notwithstanding BDC is second in priority to the indebtedness of the Supporting Creditor;
- (e) a new company (“**Newco**”) will be established by the Company and incorporated as a private company under the Provincial laws of Ontario organized in a manner acceptable to the Supporting Creditor, and satisfactory to the Company, acting reasonably;
- (f) the Company will obtain an Order from the Ontario Superior Court of Justice (the “**Court**”) transferring and vesting out absolutely all unsecured liabilities (the “**Unsecured Liabilities**”) of the Company to Newco and Newco shall file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act*, RSC, 1985, c B-3, as amended (the “**BIA**”);
- (g) the Company will issue a promissory note to the unsecured creditors of Newco in the amount of the receivable owing by Sirius XM Connected Vehicle Services Inc. (“**Sirius XM**”) to the Company, less the fees and costs incurred to collect or enforce on such receivable (the “**Sirius Receivable**”), which promissory note shall be payable on a pro rata basis to unsecured creditors of Newco upon receipt of the Sirius Receivable or upon determination or settlement of the claim of the Company against Sirius XM in respect to the Sirius Receivable;
- (h) the Company, as approved by the Supporting Creditor, will continue payment of the following liabilities in the ordinary course:
 - (i) all trade obligations incurred by the Company towards its suppliers following May 19, 2020, being the date, the Company filed a Notice of Intention to Make a Proposal pursuant to section 50.4(1) of the BIA; and
 - (ii) all outstanding and continuing obligations of the Company towards its employees; and
- (i) implementation of the Transaction will be conditional upon approval of the Court.

2. The Supporting Creditor’s Representations, Warranties and Acknowledgements

The Supporting Creditor hereby represents and warrants to the Company as of the Agreement Date (and acknowledges that the Company is relying upon such representations and warranties) that:

- (a) the Supporting Creditor:
 - (i) is the sole beneficial owner of the principal amount of the Secured Debt detailed in **SCHEDULE “A”** hereto;
 - (ii) has full power and authority to act on behalf of, vote on and consent to matters concerning such Secured Debt, as applicable, and to dispose of, exchange, assign and transfer such Secured Debt, as applicable; and

- (iii) holds no other unsecured or secured debt in the Company;
 - (A) there is no proceeding, claim or investigation pending before any court, regulatory body, tribunal, agency, government or legislative body, or threatened against it that, individually or in the aggregate, would reasonably be expected to impair the Supporting Creditor's ability to execute and deliver this Agreement and to comply with its terms.
 - (B) the Supporting Creditor has not created nor suffered to be created any liens, charges, encumbrances, obligations or other restrictions that would reasonably be expected to adversely affect the Supporting Creditor's ability to perform its obligations under this Agreement;
 - (C) the Supporting Creditor has not assigned any of its Secured Debt that would, in any manner, restrict the ability of the Supporting Creditor to comply with its obligations under this Agreement;
 - (D) the Supporting Creditor:
- (iv) is a sophisticated party with sufficient knowledge and experience to properly evaluate the terms and conditions of this Agreement;
- (v) has conducted its own analysis and made its own decision, in the exercise of its independent judgment, to enter into this Agreement; and
- (vi) has not relied on the analysis or the decision of any Person other than its own members, employees, representatives or independent advisors;
- (vii) the execution, delivery and performance by the Supporting Creditor of its obligations under this Agreement:
 - (A) are within its corporate power, as applicable;
 - (B) have been duly authorized, by all necessary corporate action, as applicable, including all necessary consents of the holders of its equity or other participating interests where required; and
 - (C) do not:
 - (1) contravene its certificate of incorporation, articles, by-laws or other constating documents, as applicable,
 - (2) violate any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to it or any of its assets, or
 - (3) conflict with or result in the breach of, or constitute a default under, or require a consent under, any contract material to the Supporting Creditor;

- (b) this Agreement constitutes a valid and binding obligation of the Supporting Creditor enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity, whether asserted in a proceeding in equity or law;
- (c) the Supporting Creditor is an "accredited investor", as such term is defined in National Instrument 45-106 – *Prospectus and Registration Exemptions* of the Canadian Securities Administrators ("NI 45-106") and it was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of "accredited investor" in NI 45-106; and
- (d) the Supporting Creditor is a resident in the Province of Ontario, Canada.

3. The Company's Representations, Warranties and Acknowledgements

The Company hereby represents and warrants to the Supporting Creditor (and the Company acknowledges that the Supporting Creditor is relying upon such representations and warranties) that:

- (a) there is no proceeding, claim or investigation pending before any court, regulatory body, tribunal, agency, government or legislative body, or threatened against it that, individually or in the aggregate, would reasonably be expected to impair the ability of the Company to execute and deliver this Agreement and to comply with its terms, or which, if the Transaction was consummated, would result in a material adverse effect;
- (b) the execution, delivery and performance by the Company of this Agreement:
 - (i) are within its corporate, partnership, limited partnership or similar power, as applicable;
 - (ii) have been duly authorized by all necessary corporate, partnership, limited partnership or similar action, as applicable, including all necessary consents of the holders of its equity or other participating interests, where required; and
 - (iii) do not
 - (A) contravene its certificate of incorporation, articles of amalgamation, by-laws or other constating documents, as applicable,
 - (B) violate any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to it or any of its properties or assets, or
 - (C) result in the creation or imposition of any lien or encumbrance upon any of the property of the Company.
- (c) the agreements and security comprising the Secured Debt (the "**Credit Documents**") are valid and enforceable in accordance with their terms;

- (d) the Company acknowledges that:
 - (i) there are continuing Events of Default under the Credit Documents;
 - (ii) the Secured Debt is due, owing, and payable pursuant to the Credit Documents; and
 - (iii) but for these proceedings and this Agreement, the Supporting Creditor would be entitled to exercise such rights and remedies as may be provided for at law, equity and pursuant to the Credit Documents to recover the Secured Debt.
- (e) this Agreement constitutes a valid and binding obligation of the Company enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity, whether asserted in a proceeding in equity or law.
- (f) the Company does not have any material liability for borrowed money other than pursuant to those banking and other lending agreements that are disclosed on the Monitor's Website.
- (g) the board of directors of the Company has:
 - (i) reviewed the Transaction terms as described in Section 1 hereof;
 - (ii) determined, in its business judgment, that the transactions contemplated by the Transaction terms are in the best interests of the Company;
 - (iii) resolved to recommend approval of this Agreement and the transactions and agreements contemplated hereby to the Supporting Creditor and all other affected creditors; and
 - (iv) approved this Agreement and the implementation of the Transaction;
- (h) other than pursuant to this Agreement, there are no agreements between the Company and any other secured creditor with respect to any restructuring or recapitalization matters.

4. The Supporting Creditor's Covenants and Consents

Subject to the terms of this Agreement, and such Orders of the Court as may have been made in these proceedings with the consent of the Supporting Creditor, the Supporting Creditor covenants and agrees as follows:

- (a) the Supporting Creditor consents and agrees to the terms and conditions of, and the Transaction contemplated by, this Agreement;
- (b) the Supporting Creditor agrees to:
 - (i) vote (or cause to be voted) all of the Secured Debt, in all votes and in each vote, in favour of the approval, consent, ratification and adoption of the Plan and the Transaction contemplated thereby, as the case may be (and any actions required in furtherance of the foregoing);
 - (ii) support the approval of the Plan as promptly as practicable by the Court; and
 - (iii) instruct its legal counsel to support the making of an Order of the Court approving the Plan and Transaction, and any other matters relating thereto, and all other motions filed by the Company in furtherance of the matters contemplated by this Agreement; provided in each case, that such orders and motions are in form and substance satisfactory to the Supporting Creditor;
- (c) the Supporting Creditor agrees not to assign or transfer the Secured Debt in any manner that would restrict its ability to comply with its obligations under this Agreement;
- (d) the Supporting Creditor agrees that it shall:
 - (i) not accelerate or enforce or take any action or initiate any proceeding to accelerate or enforce the payment or repayment of any of its debt against the Company or any of its property;
 - (ii) execute any and all documents and perform any and all commercially reasonable acts required by this Agreement to satisfy its obligations hereunder including any consent, approval or waiver requested by the Company, acting reasonably;
 - (iii) forbear from exercising, any default- related rights, remedies, powers or privileges, or from instituting any enforcement actions or collection actions with respect to any obligations against the Company or any of its property;
 - (iv) not object to, delay, impede or take any other action to interfere with the acceptance or implementation of the Transaction;

- (v) not propose, file, support or vote (or cause to vote) any of the Secured Debt in favour of any alternative offer, restructuring, liquidation, workout or plan of compromise or arrangement or reorganization of the Company that is inconsistent with the Plan or this Agreement;
- (vi) vote (or cause to vote) any of the Secured Debt against and oppose any proceeding under the CCAA or any other legislation in Canada or elsewhere, or any alternative offer, restructuring, liquidation, workout or plan of compromise or arrangement or reorganization of or for the Company, in each case that is inconsistent with the Plan or this Agreement; or
- (vii) not take, or omit to take, any action, directly or indirectly, that is materially inconsistent with, or is intended or is likely to interfere with the consummation of, the Transaction, except as and only to the extent required by applicable law, by any other regulatory authority having jurisdiction over the Supporting Creditor or by any court of competent jurisdiction.

5. The Company's Covenants and Consents

The Company covenants and agrees as follows:

- (a) the Company consents and agrees to the terms and conditions of, and the transactions contemplated by, this Agreement.
- (b) The Company shall pursue the completion of the Transaction in good faith by way of the Plan, in accordance with the Transaction terms, and shall use commercially reasonable efforts (including recommending to any person entitled to vote on the Plan that they vote to approve the Plan) to achieve the following timeline (which may be amended by the Company with the consent of the Supporting Creditor, each acting reasonably):
 - (i) filing of the Plan by no later than November 11, 2020
 - (ii) meeting of the secured creditors being compromised under the Plan by no later than November 13, 2020
 - (iii) sanction of the Plan by the Court by no later than November 20, 2020; and
 - (iv) implementation of the Plan by no later than November 27, 2020
- (c) The Company shall not during the term of this Agreement:
 - (i) prepay, redeem prior to maturity, defease, repurchase or make other prepayments in respect of any indebtedness other than payments permitted or as required hereby;

- (ii) directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any indebtedness of any kind whatsoever (except for indebtedness that is incurred in the ordinary course and that is not material);
 - (iii) create, incur, assume or otherwise cause or suffer to exist or become effective any lien, charge, mortgage, hypothec or security interest of any kind whatsoever on, over or against any of its assets or property (except for any lien, charge, mortgage, hypothec or security interest that is incurred in the ordinary course and that is not material);
 - (iv) issue, grant, sell, pledge or otherwise encumber or agree to issue, grant, sell, pledge or otherwise encumber any securities of the Company, or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, securities of the Company, except in the ordinary course; or
 - (v) enter into any new secured or unsecured lending or credit facilities of any kind, without the consent of the Supporting Creditor.
- (d) other than as contemplated and permitted by this Agreement, the Company shall not, outside of the ordinary course, sell, transfer, lease, license or otherwise dispose of all or any part of its property, assets or undertaking (including, without limitation, by way of any loan transaction) during the term of this Agreement, except on terms acceptable to the Supporting Creditor;
- (e) the Company shall not do or cause to be done and transaction which have the effect or may have the effect of causing harm to the Supporting Creditor in any manner; and
- (f) the Company shall make commercially reasonable efforts to collect all accounts receivable and shall keep the Supporting Creditor informed of their efforts and status regarding same.

6. Mutual Conditions Precedent for the Consummation of the Transaction

- (a) The Transaction shall be subject to the reasonable satisfaction of the following conditions prior to or at the time the Transaction is implemented (the “**Effective Time**”), each of which, if not satisfied on or prior to the Effective Time, can only be waived by both the Company and the Supporting Creditor:
- (i) the Plan shall have been approved by the Supporting Creditor in a form consistent with this Agreement or otherwise acceptable to the Company and the Supporting Creditor, each acting reasonably;
 - (ii) the Court shall have approved the Plan and the Transactions contemplated therein (the “**Plan Approval Order**”) and the Plan Approval Order shall have been entered by the Court in a form consistent with this Agreement or otherwise acceptable to the Company and the Supporting Creditor, each acting reasonably;

- (iii) the Plan Approval Order shall not have been dismissed, reversed, vacated, stayed or be subject to appeal;
- (iv) the constating documents of Newco, to be formed in connection with the Transaction, and all definitive legal documentation in connection with the foregoing, shall be in form and substance reasonably satisfactory to the Company and the Supporting Creditor;
- (v) all Material filings under applicable laws that are required in connection with the Transaction shall have been made and any material regulatory consents or approvals that are required in connection with the Transaction shall have been obtained (including, without limitation, any required consent(s) of the Ontario Securities Commission) and, in the case of waiting or suspensory periods, such waiting or suspensory periods shall have expired or been terminated;
- (vi) there shall not be in effect any preliminary or final decision, order or decree by a governmental entity, and no action shall have been announced, threatened or commenced by any governmental entity, in consequence of or in connection with the Transaction that restrains or impedes, or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit) the Transaction or any material part thereof or requires or purports to require a material variation of the Transaction;
- (vii) there shall not exist or have occurred any material adverse effect;
- (viii) all securities of the Company, Newco and any affiliated or related entities that are formed in connection with the Transaction, when issued and delivered, shall be duly authorized, validly issued and fully paid and non- assessable and the issuance thereof shall be exempt from all prospectus and registration requirements and resale restrictions of applicable securities legislation;
- (ix) BDC shall have received the consideration described in the Transaction terms on the Plan Implementation Date (as defined in section 11 hereto);
- (x) all existing shares and equity interests in the Company, including all existing options, warrants, deferred share units and restricted share units held by current directors and officers or other third parties, and all equity claims shall have been cancelled or extinguished or otherwise dealt with to the satisfaction of the Supporting Creditor, acting reasonably to ensure that no rights in respect thereof attach to the assets and property conveyed to the Supporting Creditor pursuant to the Transaction;
- (xi) the Unsecured Liabilities of the Company shall have been transferred and vested to Newco such that the Unsecured Liabilities shall no longer constitute liabilities of the Company;

- (xii) the Supporting Creditor, acting reasonably, shall be satisfied with the use of proceeds and payments relating to all aspects of the Transaction, including, without limitation, any change of control payments, consent fees, transaction fees or third party fees, payable by the Company to any person (other than a Governmental Entity) in respect of or in connection with the Transaction, including without limitation, pursuant to any employment agreement or incentive plan of the Company; and
- (xiii) the Parties shall have complied in all material respects with each covenant in this Agreement that is to be performed on or before the Effective Time.

7. Conditions Precedent to the Supporting Creditor's Support Obligations for the Transaction

- (a) The obligation of the Supporting Creditor to vote in favour of the Plan and consummate the Transaction shall be subject to the reasonable satisfaction of the following conditions, each of which can only be waived by the Supporting Creditor:
 - (i) the Plan, and all other material filings by or on behalf of the Company, or Orders entered by the Court, in the CCAA proceedings to date, shall have been filed, and the Orders shall have been entered, in form and substance acceptable to the Supporting Creditor, acting reasonably;
 - (ii) the terms and conditions of the Plan shall be consistent with this Agreement or otherwise acceptable to the Supporting Creditor, acting reasonably;
 - (iii) the Company shall have complied in all material respects with each covenant in this Agreement;
 - (iv) Sheetal Jaitly shall have confirmed that he intends to remain with the Company in the post Transaction period in a manner satisfactory to the Supporting Creditor and to devote his undivided time and attention to the management and growth of the Company's business;
 - (v) the representations and warranties of the Company set forth in this Agreement shall be true and correct in all material respects, in each case except:
 - (A) as such representations and warranties may be affected by the occurrence of events or transactions contemplated by this Agreement, and
 - (B) where the failure of such representations and warranties to be so true and correct, individually or in the aggregate, would not reasonably be expected to have a material adverse effect;
 - (vi) the Company shall have paid all reasonable professional fees, costs and expenses of the Supporting Creditor;

- (vii) the Supporting Creditor shall be satisfied that all steps taken in this Transaction shall have no adverse effects, or consequences on the priority, enforceability, and eligibility of the Secured Debt, or in any manner adversely affect the Supporting Creditor except as specifically contemplated in the Transaction or any amendments thereto that have specifically agreed to by the Supporting Creditor; and

8. Conditions Precedent to Company's Obligations to consummate the Transaction

- (a) The obligations of the Company under this Agreement shall be subject to the reasonable satisfaction of the following conditions, each of which, if not satisfied, can only be waived by the Company:
 - (i) the Supporting Creditor shall have complied in all material respects with each of their covenants in this Agreement that is to be performed on or before the Effective Time; and
 - (ii) the representations and warranties of the Supporting Creditor set forth in this Agreement shall be true and correct in all material respects as of the Effective Time, with the same force and effect as if made at and as of such time, except that representations and warranties that are given as of a specified date shall be true and correct in all material respects as of such date.

9. Consenting Party Termination Events

This Agreement may be terminated with respect to the obligations of the Supporting Creditor by the delivery to the Company of a written notice by any such Supporting Creditor in the exercise of its sole discretion, upon the occurrence and, if applicable, continuation of any of the following events:

- (a) the Company takes any action inconsistent with this Agreement or fails to comply with, or defaults in the performance or observance of, any material term, condition, covenant or agreement set forth in this Agreement, which, if capable of being cured, is not cured within ten (10) Business Days after the receipt of written notice of such failure;
- (b) any representation, warranty or acknowledgement of the Company made in this Agreement shall prove untrue in any material respect as of the date when made;
- (c) the Company takes any action inconsistent with this Agreement or fails to comply with, or defaults in the performance or observance of, any material term, condition, covenant or agreement set forth in this Agreement, which, if capable of being cured, is not cured within ten (10) Business Days after the receipt of written notice of such failure or default;
- (d) the amendment, modification or filing of a pleading by the Company seeking to amend or modify the Transaction Terms or the Plan, or any material document or order relating thereto, if such amendment or modification is not acceptable to the Supporting Creditor, acting in a manner consistent with the terms of this Agreement;

- (e) the conditions set forth in Sections 6 and 7 are not satisfied or waived or the Supporting Creditor determines that there is no reasonable prospect that the conditions set forth in Section 6 and 7 will be satisfied or waived.

10. Company Termination Events

This Agreement may be terminated by the delivery to the Supporting Creditor of a written notice by the Company, in the exercise of its sole discretion, upon the occurrence and continuation of any of the following events:

- (a) the Supporting Creditor takes any action inconsistent with this Agreement or fails to comply with, or defaults in the performance or observance of, any material term, condition, covenant or agreement set forth in this Agreement, which, if capable of being cured, is not cured within ten (10) Business Days after the receipt of written notice of such failure or default;
- (b) any representation, warranty or acknowledgement of any of the Supporting Creditor made in this Agreement shall prove untrue in any material respect as of the date when made;
- (c) the amendment, modification or filing of a pleading by any Supporting Creditor seeking to amend or modify Transaction or the Plan, or any material document or order relating thereto, if such amendment or modification is not acceptable to the Company, acting in a manner consistent with the terms of this Agreement;
- (d) if this Agreement is amended, modified or supplemented or any matter herein is approved, consented to or waived such that the Outside Date is extended, or the effect of any such amendment materially adversely changes the fundamental terms of the Transaction as they relate to the Company, in each case without the Company's consent; and
- (e) the conditions set forth in Sections 6 and 8 are not satisfied or waived or the Company determines that there is no reasonable prospect that the conditions set forth in Sections 6 and 8 will be satisfied or waived.

11. Automatic and Mutual Termination Events

- (a) This Agreement shall automatically terminate as to all Parties, without any further required action or notice by any Party, immediately upon the occurrence of any of the following events:
 - (i) the Court denies the Plan Approval Order or if the Plan Approval Order is approved then such Plan Approval Order is subsequently reversed, vacated or otherwise materially modified in a manner inconsistent with this Agreement;
 - (ii) the CCAA Proceedings are dismissed or a receiver, interim receiver, receiver and manager, trustee in bankruptcy, liquidator or administrator is appointed in respect of the Company; and

- (iii) the closing of the Transaction (the “**Plan Implementation Date**”).
- (b) this Agreement, and the obligations of all Parties hereunder, may be terminated by mutual agreement in writing among the Parties.

12. Effect of Termination

- (a) Upon termination of this Agreement, this Agreement shall be of no further force and effect and each Party hereto shall be automatically and simultaneously released from its commitments, undertakings, and agreements under or related to this Agreement, provided, however, that such termination shall not relieve any Party of its breach or non-performance of its obligations hereunder prior to the date of such termination. Upon the occurrence of any termination of this Agreement, each Party shall have the rights and remedies that it would have had it not entered into this Agreement and shall, subject to the CCAA proceedings and the terms of any Court Orders made therein, be entitled to take all actions, whether with respect to the Transaction or otherwise, that it would have been entitled to take had it not entered into this Agreement.
- (b) Upon the occurrence of any termination of this Agreement, any and all consents, votes or support tendered prior to such termination by the Supporting Creditor shall be deemed, for all purposes, null and void from the first instance and shall not be considered or otherwise used in any manner by the Parties in connection with the Transaction, this Agreement, the CCAA proceedings or otherwise.

13. Further Assurances

Each Party shall do all such things in its control, take all such actions as are commercially reasonable, deliver to the other Parties such further information and documents and execute and deliver to the other Parties such further instruments and agreements as another Party shall reasonably request to consummate or confirm the transactions provided for in this Agreement, to accomplish the purpose of this Agreement or to assure to the other Party the benefits of this Agreement.

14. Amendment, Waivers

- (a) This Agreement may not be modified, amended, or supplemented except in writing signed by the Company and the Supporting Creditor.
- (b) The Company shall be permitted to rely upon any written confirmations (including by e-mail).

15. Miscellaneous

- (a) Notwithstanding anything herein to the contrary, this Agreement applies only to the Supporting Creditor with respect to its legal and/or beneficial ownership of, or its investment and voting discretion over the Secured Debt.
- (b) The headings of the Sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

- (c) Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing any gender shall include all genders.
- (d) Unless otherwise specifically indicated, all sums of money referred to in this Agreement are expressed in Canadian Dollars (\$CAD).
- (e) This Agreement, and any other agreements contemplated by or entered into pursuant to this Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter hereof.
- (f) Any Person signing this Agreement in a representative capacity (i) represents and warrants that he/she is authorized to sign this Agreement on behalf of the Party he/she represents and that his/her signature upon this Agreement will bind the represented Party to the terms hereof, and (ii) acknowledges that the other Parties hereto have relied upon such representation and warranty.
- (g) Time is of the essence in the performance of the Parties' respective obligations. Any date, time or period referred to in this Agreement shall be of the essence, except to the extent to which the Parties agree in writing to vary any date, time or period, in which event the varied date, time or period shall be of the essence.
- (h) All notices and other communications which may be or are required to be given pursuant to any provision of this Agreement shall be given or made in writing and shall be deemed to be validly given if served personally or by facsimile transmission, in each case addressed to the particular Party:

- (i) if to the Company:

TribalScale Inc.
420 - 207 Queens Quay West
Toronto, ON M5J 1A7

Attention: Mr. Sheetal Jaitly
Chief Executive Officer
Email: sheetal@tribalscale.com

with a copy by email or fax (which shall not be deemed notice) to:

Weisz Fell Kour LLP
5600-100 King Street West
Toronto, ON M5X 1C9

Attention: Caitlin Fell
Partner
Email: cfell@wfkllaw.ca
Fax: 416-613-8290

- (ii) if to the Supporting Creditor:

1924191 Ontario Inc.
390 Midwest Rd.
Scarborough, ON M1P 3B5

Attention: Brij Sharma
Email: brij.sharma@bdsfleet.com

with a copy by email or fax (which shall not be deemed notice) to:

Goldman, Sloan, Nash and Haber LLP

480 University Ave
Toronto, ON M5G 1V2

Attention: Mario Forte
Email: forte@gsnh.com
Fax: 416.597.3370

- (iii) or at such other address of which any Party may, from time to time, advise the other Parties by notice in writing, given in accordance with the foregoing. The date of receipt of any such notice shall be deemed to be the date of delivery or transmission thereof.
- (i) If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the terms of this Agreement remain as originally contemplated to the fullest extent possible.
- (j) This Agreement shall be binding upon and endure to the benefit of the Parties hereto and each of their respective successors, assigns, heirs and personal representatives, provided that no Party may assign, delegate or otherwise transfer any of its rights, interests or obligations under this Agreement without the prior written consent of the other Parties hereto.
- (k) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to principles of conflicts of law. Each Party submits to the jurisdiction of the courts of the Province of Ontario in any action or proceeding arising out of or relating to this Agreement.

- (l) No director, officer or employee of the Company or any of its legal, financial or other advisors shall have any personal liability to the Supporting Creditor under this Agreement. Similarly, no director, officer or employee of the Supporting Creditor or any or any of its legal, financial or other advisors shall have any personal liability to the Company under this Agreement.
- (m) Where any representation or warranty of the Company contained in this Agreement is expressly qualified by reference to the knowledge of the Company, it refers to the actual knowledge, after due inquiry, of the Chief Executive Officer of the Company, and does not include the knowledge or awareness of any other individual or any constructive, implied, or imputed knowledge.
- (n) Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties, and no other person or entity shall be a third-party beneficiary hereof.
- (o) This Agreement may be signed in counterparts, each of which, when taken together, shall be deemed an original. Execution of this Agreement is effective if a signature is delivered by facsimile transmission or electronic (e.g., pdf) transmission.

[Remainder of this page intentionally left blank; next page is signature page]

This Agreement has been agreed and accepted on the date first written above.

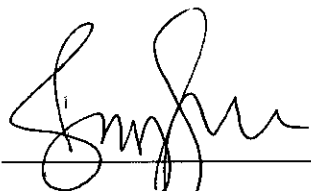
TRIBALSCALE INC.

By:  _____

Name: Sheetal Jaitly

Title: Director

1924191 ONTARIO INC.

By:  _____

Name: Brij Sharma

Title: President

SCHEDULE “A”

Principal and interest accrued to date:

\$2,648,000 CAD

LOAN DOCUMENTS/SECURITY

1. The Letter Agreement;
2. Scotiabank Visa Business Card Agreement dated July 5, 2018;
3. Scotiabank Visa Business Card Agreement – US\$ dated August 1, 2018;
4. General Security Agreement dated July 9, 2018;
5. Priority Agreement between Business Development Bank of Canada, The Bank of Nova Scotia and Tribalscale Inc. dated July 11, 2018;
6. Scotia Leasing Progress Payment Agreement, LID #001-0068567-000 dated November 21, 2018;
7. Scotia Leasing Payment Authorization, LID#: 001-0068567-000 dated November 21, 2018;
8. Scotia Leasing Payment Authorization, LID# 001-0068567-000 dated December 20, 2018;
9. Scotia Leasing Payment Authorization LID #001-0068567-000 dated January 3, 2019.

00023249

Final Audit Report

2020-11-12

Created:	2020-11-12
By:	Connie Deng (cdeng@wflaw.ca)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxTucHEAE5XKQ3WPjqUy9D9iZEInZUOgc

"00023249" History

-  Document created by Connie Deng (cdeng@wflaw.ca)
2020-11-12 - 4:03:02 PM GMT- IP address: 38.113.173.169
-  Document emailed to Sheetal Jaitly (sheetal@tribalscale.com) for signature
2020-11-12 - 4:03:33 PM GMT
-  Email viewed by Sheetal Jaitly (sheetal@tribalscale.com)
2020-11-12 - 4:13:55 PM GMT- IP address: 64.233.172.35
-  Document e-signed by Sheetal Jaitly (sheetal@tribalscale.com)
Signature Date: 2020-11-12 - 4:14:42 PM GMT - Time Source: server- IP address: 99.225.85.149
-  Agreement completed.
2020-11-12 - 4:14:42 PM GMT

THIS IS **EXHIBIT “D”** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5th DAY OF JANUARY 2021

patrick corney

A COMMISSIONER FOR TAKING AFFIDAVITS

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF **TRIBALSCALE INC.**

Applicant

AFFIDAVIT OF SHEETAL JAITLEY
(Sworn November 22, 2020)

I, **SHEETAL JAITLEY**, of the City of Toronto, in the province of Ontario, **MAKE OATH
AND SAY:**

1. I am the Chief Executive Officer of TribalScale Inc. (“**TribalScale**” or the “**Applicant**”), the debtor in these proceedings. I am also the sole director of TribalScale. In my capacity as CEO, I am responsible for all day-to-day operations of the Applicant. Accordingly, I have knowledge of the matters set out below. Where I have relied on information from others, I state the source of such information and verily believe it to be true.

2. TribalScale is a software engineering and development firm that provides digital product strategy, design, and development services to clients located in Canada and in the United States. TribalScale specializes in creating enterprise software solutions for large, institutional clients. Examples of past work include a project with the PGA Tour to develop voice user interface-based applications to engage fans through Google Assistant and Amazon Alexa, as well as a project with iHeartRadio to develop an application for the Amazon FireTV service.

3. On May 19, 2020 (the “**NOI Filing Date**”), TribalScale filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”). MNP LTD (“**MNP**”) was appointed as the proposal trustee in the NOI proceedings.

4. On July 31, 2020, the Honourable Justice Gilmore granted an Order converting the NOI proceedings into proceedings under the *Companies’ Creditors Arrangement Act*, RSC, 1985, c C-36 (the “**CCAA**”) and provided for, among other things:

- (a) a stay of proceedings up to and including October 31, 2020 (the “**Stay Period**”);
- (b) the appointment of MNP as monitor of the Applicant (the “**Monitor**”);
- (c) that during the Stay Period no person will fail to honour a contract including, but not limited to the payment of amounts due under contract;
- (d) the continuation of the administration charge granted in the NOI proceedings up to a maximum amount of \$125,000; and
- (e) the granting a directors’ and officers’ charge up to the maximum amount of \$125,000.

5. Following the Initial Order under the CCAA, TribalScale finalized a restructuring support agreement (the “**RSA**”) with its largest secured creditor 1924191 Ontario Inc. (“**192**”).

6. The RSA contemplates a Transaction (as defined in the RSA) to facilitate the Applicant’s emergence from CCAA protection; the Transaction is to be effected through a Plan of Compromise and Arrangement in respect of the Applicant (the “**Plan**”).

7. On October 30, 2020, the Honourable Justice Conway granted an Order, among other things, (a) extending the Stay Period until and including January 31, 2021; and (ii) authorizing TribalScale to enter into the RSA.

8. Once TribalScale was authorized to enter into the RSA, it was executed by the parties thereto. A copy of the RSA is appended here as **Exhibit “A”**.

9. From October 30 to November 22, 2020, the Applicant, with the assistance of its legal counsel drafted the Plan, which Plan is in accordance and consistent with, the RSA. A copy of the Plan is appended here as **Exhibit “B”**.

10. This affidavit is sworn in support of TribalScale’s motion for an Order (the “**Meeting Order**”), among other things:

- (a) abridging the time for service of the Notice of Motion and the Motion Record and, if necessary, validating service thereof;
- (b) accepting the filing of the Plan;
- (c) authorizing the Applicant to establish two classes of Affected Secured Creditors (defined below) for the purpose of considering and voting on the Plan Resolution (defined below):
- (d) authorizing the Applicants to call, hold and conduct a meeting of the Affected Secured Creditors (the “**Creditors’ Meeting**”) to consider and vote on a resolution to approve the Plan (the “**Plan Resolution**”), and approving the procedures to be followed with respect to the Creditors’ Meeting;

- (e) approving the procedures to be followed with respect to the calling and conduct of the Creditors' Meeting;
- (f) setting the date for the hearing of the Applicants' motion seeking an order to sanction the Plan (the "**Sanction Order**"), should the Plan be approved by the required majorities of Affected Secured Creditors at the Creditors' Meetings; and
- (g) approving the second report of MNP Ltd. in its capacity as court appointed monitor ("**Monitor**") (the "**Second Report**") and the activities as set out therein.

I. OVERVIEW OF THE PLAN

11. The Plan is consistent with the terms of the RSA. The RSA contemplates a Transaction to be effected through the Plan. The main terms of the Transaction have not changed since the date of my last affidavit.

12. In short, the Transaction addresses all of the Applicant's secured debt:

- (a) the Applicant's secured indebtedness with 192 will be restructured and the Applicant's secured indebtedness with the Business Development Bank of Canada ("**BDC**" and, together with 192, the "**Affected Secured Creditors**") will be repaid in full;
- (b) the Applicant's unsecured debt will be vested out, by way of a reverse vesting order, to a newly incorporated company; and
- (c) unsecured creditors will receive the proceeds, if any, of an outstanding receivable (the "**Outstanding Amount**") owed to the Applicant by Sirius XM Connected Vehicle Services ("**Sirius**") (less the fees and costs incurred to collect).

13. The main terms of the Transaction are as follows:

- (a) 192 will convert 50 % of its debt (the “**Secured Debt**”) into 90% of the equity in the capital of TribalScale on a fully diluted basis;
- (b) the residual 50% of the Secured Debt will remain on the balance sheet of TribalScale, with payment of interest accruing on the Secured Debt being deferred until the date that is one year from the closing of the Transaction. 192 will maintain its security over the assets, property and undertaking of TribalScale for all of the obligations in respect to the remaining Secured Debt and for any obligations under the RSA or the Transaction;
- (c) Scotiabank will be issued 5% of the equity in the capital of TribalScale, on a fully diluted basis, in full and final satisfaction of the consideration owed to Scotiabank by TribalScale as a result of the assignment of the Secured Debt from Scotiabank to 192;
- (d) I, as CEO, will be issued 10% of the equity in the capital of TribalScale on a fully diluted basis;
- (e) TribalScale will make a cash payment in the amount of the secured indebtedness owing to BDC, in full and final satisfaction of the indebtedness to BDC;
- (f) TribalScale will incorporate a new company (“**Newco**”) and seek approval from the Court for an Order “vesting out” all unsecured liabilities to Newco;
- (g) TribalScale will issue a promissory note to the unsecured creditors of Newco in the amount of the Sirius receivable, less the fees and costs incurred to collect the receivable; and

(h) TribalScale, as approved by 192, will pay (1) all post-filing trade obligations incurred by TribalScale; and (2) all employee obligations.

14. Under the RSA, 192 has agreed to vote all the Secured Debt in favour of the Plan. Implementation of the Transaction is conditional upon Court sanction of the Plan.

15. If approved, sanctioned, and implemented, the Plan will, among other things, (a) implement the Transaction; (b) allow the Applicant to emerge from CCAA protection as a viable going-concern; and (c) allow TribalScale to focus on pursuing the Sirius receivable.

16. Article 4 of the Plan describes how claims will be dealt with. In summary, on the Implementation Date and in accordance with the RSA¹:

- (a) the Converting Creditor will exchange its interest in its Affected Secured Claim for 90% of the New Common Shares of the Applicant and the New Senior Secured Note;
- (b) the Converting Creditor will assign such number of New Common Shares that it holds in the capital of the Applicant to Scotiabank, such that Scotiabank will hold 5% of the Applicant's New Common Shares;
- (c) the Converting Creditor and Scotiabank shall become party to the Shareholders Agreement;
- (d) BDC's Affected Secured Claim will be repaid in full;
- (e) all Equity Claims, and all Claims that are based on or related to Equity Claims, shall and shall be deemed to be fully, finally and irrevocably and forever compromised; and

¹ Capitalized but undefined terms have the meaning given to them in the Plan.

(f) all Released Claims will be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Secured Claims and the Released Claims, as applicable.

17. Article 7 of the Plan describes the steps that are to occur on the Implementation Date in order to effect the Transaction. In addition to the steps necessary to deal with claims as described in Article 4, Article 7 states that on the Implementation Date the Reverse Vesting Order will become effective and all unsecured claims will be transferred to Newco.

II. PROPOSED MEETING ORDER

18. Capitalized but undefined terms used below have the meaning given to them in the proposed Meeting Order.

19. The Meeting Order authorizes the Applicant to convene a meeting of 192 and BDC (together, the “**Affected Secured Creditors**”), who will each vote in their own class.

20. The Applicant proposes that the Creditors’ Meeting be held via Zoom, due to the COVID-19 pandemic, on November 27, 2020 at 4:00pm EST.

Notification

21. The Meeting Order provides for comprehensive notification of the Creditors’ Meeting to the Affected Secured Creditors. It is proposed that the Monitor will:

(a) provide an electronic copy of Notice of Meeting, the Plan, the Meeting Order, and the Proxy (the “**Voting Package**”) to each Affected Secured Creditor; and

(b) forthwith post an electronic copy of the Voting Package to the Monitor's Website.

22. No later than one Business Day before the Creditors' Meeting, the Monitor will also serve a report regarding the Plan on the Service List and cause such report to be posted on the Website.

Conduct of the Creditors' Meeting

23. The Meeting Order provides that a representative of the Monitor will preside as the Chair of the Creditors' Meeting and, subject to any further Order of the Court, will decide all matters relating to the conduct of the Creditors' Meeting. The Monitor may appoint Scrutineers for the supervision and tabulation of the attendance at, quorum at, and votes cast at the Creditors' Meeting. A person designated by the Monitor will act as Secretary at the Creditors' Meeting.

24. The only persons entitled to attend and speak at the Creditors' Meeting are the Affected Secured Creditors, the Monitor, the Applicant, and their respective legal counsel and advisors, the Chair, Secretary, and Scrutineer. Any other person may be admitted to the Creditors' Meeting on invitation of the Chair.

Voting for Affected Secured Creditors

25. The voting procedures for the Creditors' Meeting are straightforward. The Meeting Order and the Plan provide, among other things:

- (a) the Chair will direct a vote on the Plan Resolution to approve the Plan and any amendments or variations thereto as the Monitor and the Applicant may consider appropriate;
- (b) the quorum required at the Creditors' Meeting will be one representative of the Converting Secured Creditor Class, present in person or by Proxy;

- (c) an Affected Secured Creditor will be permitted to attend the Creditors' Meeting in person or by Proxy, in accordance with the process provided in the Meeting Order. The Meeting Order contains provisions outlining the requirements for Affected Secured Creditors to vote by Proxy, and sets out the procedures and deadlines for submitting a Proxy; and
 - (d) each Affected Secured Creditor will be entitled to one vote equal to the aggregate dollar value of its outstanding debt, which will not include fractional numbers and be rounded down to the nearest whole dollar amount.
- 26. The Applicant proposes that the Affected Secured Creditors be divided into two classes for voting purposes, because they do not have a commonality of interest:
 - (a) the Converting Secured Creditor Class has under the RSA agreed to vote all its secured debt in favour of the Plan Resolution;
 - (b) the Converting Secured Creditor Class will be compromised under the Plan; and
 - (c) under the Plan, the secured debt of the Paid-Out Secured Creditor Class is being repaid in full.
- 27. Further, the proposed division for voting purposes is administratively efficient and is supported by both Affected Secured Creditors and the Monitor.
- 28. In these circumstances, the Applicant believes that the proposed creditor classification will facilitate its successful reorganization.
- 29. The Meeting Order deems the Paid-Out Secured Creditor Class to have voted in favour of the Plan such that the required majority Class shall have been obtained. The Applicant believes that

because the because the Paid-Out Secured Creditor Class is being repaid in full it is fair and reasonable to do so, and the cost savings will benefit stakeholders generally.

Amendments to the Plan

30. The Meeting Order provides that the Applicants, subject to the provisions of the Plan, are authorized to make and file Plan Modifications prior to or at the Creditors' Meeting, in which case any such Plan Modification is deemed to form part of the Plan.

Approval and Court Sanction of the Plan

31. The Monitor will provide a report to the Court as soon as practicable after the Creditors' Meeting with respect to the results of voting at the Creditors' Meeting on the Plan Resolution, including whether the majorities required by section 6(1) of the CCAA have been achieved, and any other matter relating to Court sanction of the Plan.

32. The Applicant proposes that, in the event that the Plan Resolution is approved by the requisite majorities, the Applicant will bring a motion on December 3, 2020 to seek the Sanction Order (the "**Sanction Motion**").

33. The proposed Meeting Order provides that any Person intending to oppose the Sanction Motion must, no later than three (3) calendar days before the Sanction Motion, (a) serve and file a Notice of Appearance; (b) serve upon the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the Sanction Motion.

SWORN before me by video conference at the city of Toronto in the Province of Ontario this 22 day of November, 2020:

Patrick Corney LSO# 65452N

A Commissioner for Taking Affidavits

Name:

DocuSigned by:
Sheetal Jaitly
86106E1509E14DB...

SHEETAL JAITLEY

Signature: *patrick corney*

Email: pcorney@wfkllaw.ca

THIS IS **EXHIBIT “E”** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5th DAY OF JANUARY 2021

patrick conney

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-20-00645116-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC. (the "**Applicant**")

AMENDED PLAN OF COMPROMISE AND ARRANGEMENT
OF THE APPLICANT, TRIBALSCALE INC.,
PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

January 4, 2021

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AMENDED PLAN OF COMPROMISE AND ARRANGEMENT

RECITALS

WHEREAS TribalScale Inc. (the “**Applicant**” or “**TribalScale**”) is a debtor company pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “**CCAA**”);

AND WHEREAS, on July 31, 2020, the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Initial Order pursuant to the provisions of the CCAA and appointed MNP Ltd. as the monitor in these proceedings (the “**Monitor**”);

AND WHEREAS on October 30, 2020, the Court approved a Restructuring Support Agreement between the Applicant and its senior secured creditor, 1924191 Ontario Inc. (“**192**”), which was executed on November 3, 2020 (the “**RSA**”).

AND WHEREAS, on November 25, 2020, the Applicant obtained a Meeting Order (the “**Meeting Order**”) pursuant to which, among other things, the Applicant was authorized to file the Plan (as defined in Schedule “A” hereto) and to convene a meeting of Affected Secured Creditors to consider and vote on the Plan.

AND WHEREAS the Meeting Order states that the Applicant may effect a Plan Modification (as defined in the Meeting Order) prior to or at the Creditors’ Meeting (as defined herein), in which case any such Plan Modification will, for all purposes, be and be deemed to form part of and be incorporated into the Plan.

AND WHEREAS the purpose of this Plan is to facilitate the continuation of the business of the Applicant as a going concern, to address certain liabilities of the Applicant, and to effect a recapitalization transaction pursuant to and in accordance with the terms of the RSA on an expedited basis in order to provide a stronger financial foundation for the Applicant going forward, as well as additional liquidity to allow the Applicant to continue to work towards its operational and financial goals from and after the Implementation Date (as defined in Schedule “A”) of the Plan;

NOW THEREFORE the Applicant hereby proposes and presents this amended Plan pursuant to and in accordance with the provisions of the CCAA.

ARTICLE 1 - INTERPRETATION

1.1 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) In this Plan and the recitals herein, unless otherwise stated or the subject matter or context otherwise requires, all terms defined herein have their meanings ascribed thereto on **Schedule “A”**;

- (b) Any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means such document shall be substantially in such form or substantially on such terms and conditions;
- (c) Unless otherwise expressly provided herein, any reference in this Plan to an instrument, agreement or an Order or an existing document or exhibit filed or to be filed means such instrument, agreement, Order, document or exhibit as it may have been or may be amended, modified, or supplemented in accordance with its terms;
- (d) The division of this Plan into Articles and Sections is for convenience of reference only and does not affect the construction or interpretation of this Plan, nor are the descriptive headings of Articles and Sections intended as complete or accurate descriptions of the content thereof;
- (e) The use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of this Plan to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) The words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) Unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (h) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- (i) Unless otherwise provided, any reference to a statute or other enactment of parliament, a legislature or other Governmental Entity includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) References to a specific Recital, Article, or Section shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specific Recital, Article or Section of this Plan, whereas the terms “this Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to this Plan and not to any particular Recital, Article, Section or other portion of this Plan and include any documents supplemental hereto; and

(k) The word “or” is not exclusive.

1.2 Governing Law

This Plan shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation or application of this Plan and all proceedings taken in connection with this Plan and its provisions shall be subject to the jurisdiction of the Court.

1.3 Currency

Unless otherwise stated, all references in this Plan to sums of money are expressed in, and all payments provided for herein shall be made in, Canadian dollars.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder by a Person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

Time shall be of the essence in this Plan.

ARTICLE 2 - PURPOSE AND EFFECT OF THIS PLAN

2.1 Purpose

The purpose of this Plan is to effect a restructuring of the secured indebtedness of the Applicant with the expectation that Persons who have an economic interest in the Applicant, when considered as a whole, will derive a greater benefit from the implementation of this Plan than would result from a bankruptcy of the Applicant.

2.2 Effectiveness

Subject to the satisfaction, completion or waiver of the conditions precedent set out herein, this Plan will become effective in the sequence described in **ARTICLE 7** below from and after the Implementation Date and on the Implementation Date each Affected Secured Claim will be fully and finally compromised, released, settled and discharged under the Plan. The Plan shall be binding on and enure to the benefit of the Applicant, the Affected Secured Creditors, all Existing Equity Holders, all holders of Equity Claims, the Released Parties, and all other Persons as provided for herein, or subject to, this Plan and their respective successors and assigns and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

2.3 Persons Not Affected

This Plan does not affect Unaffected Creditors to the extent of their Unaffected Claims. Nothing in this Plan shall affect the Applicant's rights and defences, both legal and equitable, with respect to any Unaffected Claims, including, but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims. Nothing herein shall constitute a waiver of any rights of any of the Applicants to dispute the quantum or validity of an Unaffected Claim.

2.4 Corporate Approvals

The execution, delivery, implementation, and consummation of all matters contemplated under this Plan involving corporate action of the Applicant, Newco, 192, BDC, Scotiabank or any other entity subject to this Plan, including the steps outlined in Section 7.1 of this Plan, will be authorized and approved under this Plan and by the Court as part of the Sanction Order in all respects and for all purposes without any requirement of further action by any Person.

ARTICLE 3 - CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes

For the purposes of considering, voting on, and receiving distributions under this Plan, the Affected Secured Creditors shall constitute two classes, as follows:

- (a) one class of Creditors consisting of 192 (the “**Converting Secured Creditor Class**”); and
- (b) one class of Creditors consisting of BDC (the “**Paid-Out Secured Creditor Class**”).

3.2 Guarantees

No Person who has a Claim under a guarantee in respect of any Claim which is compromised or otherwise dealt with under the Plan (a “**Principal Claim**”) or who has any right to or claim over in respect of or to be subrogated to the rights of any Person in respect of a Principal Claim, shall: (a) be entitled to any greater rights as against the Applicant than the Person holding the Principal Claim; (b) be entitled to vote on this Plan to the extent that the Person holding the Principal Claim is voting on this Plan; or (c) be entitled to receive any distribution under this Plan to the extent that the Person holding the Principal Claim is receiving a distribution.

3.3 Claims of Affected Secured Creditors

Except as otherwise provided in the Meeting Order, Affected Secured Creditors shall be entitled to vote their Proven Claims at the Creditors' Meeting in respect of this Plan and

shall be entitled to receive distributions on account of their Proven Claims as provided under and pursuant to this Plan.

3.4 Creditors' Meeting

- (a) The Creditors' Meeting shall be held in accordance with this Plan, the Meeting Order, and any further Order in the CCAA Proceedings.
- (b) If this Plan is approved by the Required Majorities in each voting class, then this Plan shall be deemed to have been agreed to, accepted and approved by the Affected Secured Creditors and shall be binding upon all Affected Secured Creditors immediately upon the delivery of the Monitor's Certificate.

3.5 Existing Equity Holders and Holders of Equity Claims

Existing Equity Holders and holders of Equity Claims shall not be entitled to attend or vote in respect of their Existing Shares, Existing Share Options or Equity Claims any meeting to consider and approve this Plan and shall not receive any distribution under the Plan on account of their Existing Shares, Existing Share Options or Equity Claims.

3.6 Crown Claims

All federal and provincial government claims of the kind described in subsection 6(3) of the CCAA that were outstanding at the Filing Date shall be paid in full within six months after the Sanction Order, as required by subsection 6(3) of the CCAA.

3.7 Payments to Employees

If not already paid, then immediately after the date of the Sanction Order, the Applicant will pay in full all employee-related payments required by subsection 6(5) of the CCAA.

3.8 Determination of Affected Secured Claims

For the purposes of rights, entitlements and distributions under this Plan, the amount of an Affected Secured Claim shall be determined on the basis of the principal amount outstanding as of the Filing Date plus any accrued interest up to the Implementation Date.

ARTICLE 4 - TREATMENT OF CLAIMS

4.1 Treatment of Converting Secured Creditor Class

- (a) On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, 192 shall be entitled to receive in exchange for all of its right, title and interest in and to the Affected Secured Claim, a distribution from the Applicant of:
 - (i) 8,990,000 Voting Common Shares representing eighty-nine and nine tenths percent (89.9%) of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan;
 - (ii) 732,000 Preferred Shares representing one hundred percent (100%) of the total number of Preferred Shares that will be issued and outstanding immediately following the completion of the steps outlines in Section 7.1 of the Plan; and
 - (iii) the New Senior Secured Note and the General Security Agreement.

4.2 Treatment of the Paid-Out Secured Creditor Class

On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, the Paid-Out Secured Class shall be entitled to receive in full satisfaction of its right, title and interest in and to its Affected Secured Claim, a Cash distribution in the lesser amount of: (i) C\$115,300, or (ii) the actual amount outstanding and owing to the Paid-Out Secured Creditor Class pursuant to a payout statement received from the Paid-Out Secured Creditor Class (the “**BDC Payment**”).

4.3 Equity Claims

All Equity Claims, and all Claims that are based on or related to Equity Claims, shall and shall be deemed to be fully, finally and irrevocably and forever compromised, released, discharged, settled, extinguished, cancelled and barred on the Implementation Date. Holders of Equity Claims shall not receive any consideration or distributions under this Plan and shall not be entitled to vote on this Plan at the Creditors’ Meeting.

4.4 Calculation and Quantum of Claims

For the purposes of all distributions under this Plan, all Affected Secured Claims shall be calculated and quantified as of the Filing Date, which shall be deemed to mean as of 12:01 am on May 19, 2020. To the extent that interest or other amounts accrue as part of any Affected Secured Claim, such interest or other amounts shall be calculated up to and including the Implementation Date.

4.5 Extinguishment of Claims

On the Implementation Date, in accordance with this Plan and the provisions of the Sanction Order, the treatment of the Affected Secured Creditors in respect to their Affected Secured Claims shall be final and binding on TribalScale, all Affected Secured Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns), and any Person holding a Released Claim. All Released Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Secured Claims and the Released Claims, as applicable.

ARTICLE 5 - REORGANIZED EQUITY OF TRIBALSCALE

5.1 Amended Articles

In accordance with the Plan, TribalScale shall pre-file articles of amendment (the “**Amended Articles**”) with the applicable branch of the Ministry of Government Services (Ontario) to take effect as of the Implementation Date to authorize the issuance of the Preferred Shares and state the rights, privileges, restrictions and conditions attaching thereto.

5.2 Reorganization of Equity

On the Implementation Date and in accordance with the steps and sequence set forth in this Plan:

- (a) the Applicant shall issue from treasury to 192 8,990,000 Voting Common Shares representing eighty-nine and nine tenths percent (89.9%) of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan;
- (b) the Applicant shall issue from treasury to Jaitly Trust 1,010,000 Voting Common Shares representing ten and one tenth percent (10.1%) of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan;
- (c) pursuant to a share purchase agreement between 192 and Scotiabank (the “**Share Purchase Agreement**”), 192 shall sell 490,000 Voting Common Shares to Scotiabank, such that immediately following the completion of the steps outlined in Section 7.1 of the Plan, Scotiabank will hold 490,000 Voting Common Shares and 192 will hold 8,500,000 Voting Common Shares, representing five percent (4.9%) and eighty-five percent (85%), respectively, of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan; and

- (d) the Applicant shall issue from treasury 732,000 Preferred Shares to 192 representing one hundred percent (100%) of the total number of Preferred Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan.

5.3 Capitalization

Immediately following the completion of the steps outlined in Section 7.1 of the Plan, there will be 10,000,000 Voting Common Shares, 732,000 Preferred Shares and no Non-Voting Common Shares of the Applicant issued and outstanding.

5.4 No Fractional Shares

No fractional shares in the capital of the Applicant shall be issued under this Plan.

5.5 Shareholders' Agreement

On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, 192, Scotiabank and Jaitly Trust shall become party to a unanimous shareholders' agreement (the "**Shareholders' Agreement**"), each in his or its capacity as a holder of shares in the capital of the Applicant.

ARTICLE 6- CONDITIONS PRECEDENT TO IMPLEMENTATION OF THE PLAN

6.1 Pre-Implementation Date Conditions

- (a) The Plan is subject to the satisfaction of the following conditions (the "**Plan Implementation Conditions**"):
 - (i) the Plan must be approved by the Required Majority of the Affected Secured Creditors of the Applicants;
 - (ii) the Sanction Order and the Reverse Vesting Order must be granted by the Court, consistent with the terms of Section 10.1;
 - (iii) the existing shareholder rights agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, as amended, the Right of First Refusal and Co-Sale Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, and the Voting Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, shall be deemed to be terminated pursuant to the Sanction Order;
 - (iv) TribalScale shall have pre-filed the Amended Articles with the applicable branch of the Ministry of Government Services (Ontario) to take effect as of the Implementation Date;

- (v) all claims of the General Unsecured Creditors shall be transferred to Newco pursuant to the Reverse Vesting Order and the Reverse Vesting Order shall be effective;
 - (vi) Newco shall be added as an applicant in the CCAA Proceeding;
 - (vii) all applicable appeal periods in respect to the Reverse Vesting Order will have expired and any appeals therefrom will have been finally disposed of by the applicable appellant tribunal;
 - (viii) all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of the Applicants and the Monitor, are necessary to implement the provisions of the Plan, the Sanction Order or the Reverse Vesting Order;
 - (ix) no action or proceeding will be pending by any third party to enjoin or prohibit the Plan; and
 - (x) to the extent not listed above and without duplication, the conditions precedent listed in Article 6, Article 7, and Article 8 of the RSA, which conditions may be satisfied or varied in accordance with the terms of the RSA.
- (b) Upon satisfaction of the Implementation Conditions, the Applicant will proceed to implement the Plan. In consultation with the Monitor, the Applicant will designate the Implementation Date and will implement the Plan on that date in accordance with the terms and conditions hereof.

ARTICLE 7 - IMPLEMENTATION DATE TRANSACTIONS

7.1 Implementation Date Events

Commencing on the Implementation Date, the following events or actions will occur, or be deemed to have occurred and be taken and at such times, intervals, or order as the Applicant and the Monitor may agree, without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) the following shall occur concurrently (collectively, the “**Share Consolidation**”):
 - (i) all Existing Shares shall be cancelled without payment of any consideration therefor;
 - (ii) the Existing Share Options shall be cancelled without any repayment of capital thereof or compensation therefor and shall cease to be of any further force or effect;

- (iii) any existing agreements among the Existing Equity Holders with respect to their Existing Shares or Existing Share Options shall be cancelled and terminated; and
 - (iv) all Equity Claims, including indemnity claims of Directors or Officers that are based on or related to Equity Claims, shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without any repayment of capital thereof or compensation therefor;
- (b) the Amended Articles shall become effective;
- (c) the Applicant shall issue and deliver to 192 and Jaitly Trust, respectively, the number of Voting Common Shares stipulated under Section 5.2 herein;
- (d) the Applicant shall issue and deliver the New Senior Secured Note and the General Security Agreement to 192 stipulated under Section 5.2 herein;
- (e) the Applicant shall issue and deliver the Preferred Shares to 192 stipulated under Section 5.2 herein;
- (f) pursuant to the Share Purchase Agreement, 192 shall sell to Scotiabank the number of Voting Common Shares stipulated under Section 5.2 herein and deliver such shares to Scotiabank;
- (g) all Voting Common Shares and Preferred Shares issued as part of the implementation of this Plan shall be deemed to be issued and outstanding as fully paid and non-assessable shares in the capital of the Applicant;
- (h) the Applicant shall wire transfer an amount equal to the BDC Payment to BDC in accordance with Section 4.2 herein;
- (i) any right of indemnity or contribution of a Director, Officer or employee against the Applicant of any nature whatsoever (whether pursuant to a written contract or agreement or otherwise, and whether present or future or known or unknown) shall be fully, finally, irrevocably and forever terminated, extinguished, compromised, released, discharged, cancelled and barred without any liability, payment or other compensation in respect thereof and each Director, Officer or employee shall be permanently barred, estopped, stayed and enjoined, on and after the Implementation Date, from asserting any such right of indemnity or contribution against the Applicant;
- (j) all applicable appeal periods in respect to the Sanction Order will have expired and any appeals therefrom will have been finally disposed of by the applicable appellant tribunal;
- (k) the SiriusXM Claim shall be assigned from TribalScale to Newco pursuant to the terms of the Reverse Vesting Order; and

- (l) the releases and injunctions referred to under **ARTICLE 10** shall become effective.

7.2 Administration Charge

On the Implementation Date, all outstanding, invoiced obligations, liabilities, fees and disbursements secured by the Administration Charge shall be fully paid by the Applicant. Upon receipt by the Monitor of confirmation from each of the beneficiaries of the Administration Charge that payments of the amounts secured by the Administration Charge have been made, the Administration Charge shall be and be deemed to be discharged from the assets of the Applicant, without the need for any other formality; provided however that this Section shall not apply to the Monitor and its legal counsel in respect of any acts or steps required to be taken by the Monitor or its counsel after the Implementation Date and, for greater certainty, the Monitor and its legal counsel shall continue to have the benefit of the Administration Charge so long as (i) the Monitor has not been discharged from its duties as Monitor in these CCAA Proceedings, and (ii) any fees and disbursements of the Monitor or its counsel (including fees and disbursements incurred after the Implementation Date) remain unpaid by the Applicant or Newco.

Notwithstanding Plan Implementation or the reduction of the Administration Charge, TribalScale shall continue to pay the reasonable costs, fees and disbursements incurred by its counsel, Weisz Fell Kour LLP, whether incurred prior to or after the Implementation Date, where such costs, fees and disbursements relate to the implementation of this Plan or any of the transactions and activities contemplated herein.

7.3 Monitor's Certificate of Plan Implementation

Upon written notice from the Applicant (or counsel on their behalf) to the Monitor and 192 that the conditions to Plan implementation set out in Section 6.1 have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Applicant and 192, as well as file with the Court, a certificate (the "**Monitor's Certificate**") which states that all conditions precedent set out in **ARTICLE 6** have been satisfied or waived and that the Implementation Date (which shall be set out on the certificate) has occurred.

7.4 No Exercise of Right or Remedy

Subject to the performance by the Applicant of its obligations under the Plan, and except as provided in the Plan, all obligations, agreements, contracts or arrangements to which the Applicant is a party on the Implementation Date shall be and remain in full force and effect, unamended, as at the Implementation Date and no Person, including any party thereto, shall on or following the Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform, cancel or otherwise disclaim or resiliate its obligations or the Applicant's interests thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy (including any right to receive any change of control, assignment or similar payment) under or in respect thereof by reason:

- (a) of any event that occurred prior to the Implementation Date;
- (b) that the Applicant is or was insolvent, or that the Applicant sought or obtained relief or took steps as part of the Plan or during the CCAA Proceeding and the preceding NOI Proceeding;
- (c) of any default, event of default or circumstance of non-compliance arising as a result of the financial condition or insolvency of the Applicant, the CCAA Proceeding or the NOI Proceeding;
- (d) of the effect upon the Applicant of the completion of any of the transactions approved in the CCAA Proceeding or the NOI Proceeding, or contemplated by the Plan, including, without limitation, as a result of a change of control of the Applicant; or
- (e) of any assignments, compromises, settlements, restructurings, recapitalizations or reorganizations effected pursuant to the Plan.

ARTICLE 8 - CONSTITUTION OF NEWCO

8.1 Incorporation

Newco will be incorporated under the laws of Ontario as a private, wholly owned subsidiary of the Applicant and organized in a manner acceptable to 192 and the Applicant, acting reasonably.

8.2 Newco Further Assurances

Newco shall agree to do all such things in its control, take all such actions as are commercially reasonable, deliver to the other parties such further information and documents and execute and deliver to the other parties such further instruments and agreements as another party shall reasonably request to consummate or confirm the transactions provided for in this Plan, to accomplish the purpose of this Plan or to assure to the other party the benefits of this Plan.

ARTICLE 9 - DISTRIBUTIONS AND DISBURSEMENTS

9.1 Delivery of Shares by TribalScale

The obligation of TribalScale to deliver Voting Common Shares and Preferred Shares pursuant to this Plan shall be satisfied by the provision of electronic scans of share certificates representing such shares to each of 192 and the Jaitly Trust.

9.2 Delivery of Shares by 192

The obligation of 192 to deliver Voting Common Shares to Scotiabank pursuant to this Plan shall be satisfied by the delivery of the share certificate representing such shares accompanied by an irrevocable stock transfer power of attorney duly executed by 192 to Scotiabank.

9.3 Delivery of the New Senior Secured Note and General Security Agreement

The obligation of TribalScale to deliver the New Senior Secured Note and General Security Agreement to 192 pursuant to this Plan shall be satisfied by the provision of an electronically signed copy of the New Senior Secured Note and General Security Agreement to 192.

9.4 Delivery of Payment to BDC

The obligation of TribalScale to make the BDC Payment in accordance with Section 4.2 herein shall be satisfied by the arrangement of a wire transfer as directed by BDC on the Implementation Date and the provision of a wire confirmation to BDC therefor.

ARTICLE 10- RELEASES

10.1 Plan Releases

At the Implementation Date, the Applicant, the Applicant's present and former employees and contractors, the Directors and Officers and each of their respective financial advisors, legal counsel and agents (collectively, the "**Released Parties**") shall be released and discharged from any and all rights and claims of any holder of an Affected Secured Claim (the "**Released Claims**"), whether or not any such right or Claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, where such right or Claim is based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, or after the Implementation Date in furtherance of the Plan and that is in any way relating to, arising out of or in connection with (i) Affected Secured Claims; (ii) RSA, (iii) Equity Claims; (iv) Existing Shares; (v) Existing Share Options; (vi) this Plan; (vii) the CCAA Proceedings; and (viii) the NOI Proceedings, provided, however, that nothing in this Section will release or discharge:

- (a) any Unaffected Claim;
- (b) TribalScale of or from its obligations under this Plan, under any Order, or under any document delivered by TribalScale on the Implementation Date pursuant to this Plan;

- (c) Newco from its obligations under this Plan, under any Order, or under any document delivered by Newco on the Implementation Date pursuant to this Plan;
- (d) a Released Party if the Released Party is adjudged by the express terms of a judgment rendered on a final determination on the merits to have committed fraud, gross negligence, or wilful misconduct; and
- (e) to the extent not captured above, claims prohibited from release by operation of subsection 5.1(2) of the CCAA.

10.2 Cancellation of Outstanding Indebtedness

From and after the Implementation Date, any loan documents, debentures or other evidences of indebtedness in relation to any Affected Secured Creditors shall be cancelled and will thereupon be null and void, and the obligations of the Applicant thereunder or in any way related thereto shall be satisfied and discharged, except to the extent expressly preserved by this Plan.

10.3 Injunction

Subject to the exceptions stated in sub-paragraphs (a) through (d) of Section 10.1 of this Plan, all Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Implementation Date, with respect to the Affected Claims and the Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any of the Released Parties or their property;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit or demand (including by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation) or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any Person who makes such a Claim or might reasonably be expected to make such a Claim in any manner or forum, against one or more of the Released Parties;

- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any action to interfere with the implementation or consummation of this Plan (including the Implementation Date Transactions);

and any such proceedings will be deemed to have no further effect against the Applicant or any of their assets and will be released, discharged or vacated without cost to the Applicant. All Persons shall cooperate with the Applicant and the Monitor in lifting any lien or discontinuing any proceeding filed or commenced prior to the Implementation Date, as the Applicant or the Monitor may reasonably request. The Applicant may apply to the Court to obtain a discharge or dismissal of any such proceedings, if necessary, without notice to any Person.

10.4 Timing of Releases and Injunctions

All releases and injunctions set forth in this **ARTICLE 10** shall become effective on the Implementation Date.

10.5 Knowledge of Claims

Each Person to which Section 10.1 hereof applies shall be deemed to have granted the releases set forth in Section 10.1 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 11 - GENERAL

11.1 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.2 Preferential Transactions

Sections 95 to 101 of the BIA and any Applicable Law relating to preferences, settlements, fraudulent conveyances or transactions at undervalue shall not apply in any respect to this Plan including to any payments or distributions made in connection with the restructuring and recapitalization of the Applicant.

11.3 Claims Bar

Nothing in this Plan extends or shall be interpreted as extending, amending, or giving any rights to any Person in respect of Claims that have been barred or extinguished.

11.4 Non-Consummation

If the Implementation Date does not occur on or before the Outside Date (as the same may be extended in accordance with the terms hereof), or if this Plan is otherwise withdrawn in accordance with its terms: (a) this Plan shall be null and void in all respects, and (b) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Applicant, its respective successors or any other Person; (ii) prejudice in any manner the rights of the Applicant, its respective successors or any other Person in any further proceedings involving the Applicant or its respective successors; or (iii) constitute an admission of any sort by the Applicant, its respective successors or any other Person.

11.5 Modification of Plan

- (a) The Applicant may propose a variation or modification of, or amendment or supplement to this Plan at or prior to the Creditors' Meeting, in consultation with the Monitor, provided that notice of such variation, modification, amendment or supplement is given to all Affected Secured Creditors entitled to vote and present in person at the Creditors' Meeting prior to the vote being taken. Any variation, amendment, modification or supplement at a Creditors' Meeting shall be posted promptly on the Monitor's Website, served by email to the Service List and filed with the Court as soon as practicable following the applicable Creditors' Meeting and in any event prior to the Court hearing the Sanction Motion.
- (b) After the Creditors' Meeting (and both prior to and subsequent to the obtaining of any Sanction Order), the Applicant may at any time and from time to time, amend, restate, vary, modify or supplement this Plan: (a) pursuant to an Order of the Court, or (b) without further Court Order, where such amendment to this Plan concerns a matter which, in the opinion of the Applicant and the Monitor, is of an administrative nature required to better give effect to the implementation of this Plan or the Sanction Order or to cure any errors, omissions or ambiguities, and in either circumstance is not materially adverse to the financial or economic interests of the Affected Secured Creditors. The Monitor shall forthwith post on the Monitor's Website any such amendment to this Plan, with notice of such posting forthwith provided to the Service List.

11.6 Severability of Plan Provisions

If, prior to the Implementation Date, any term or provision of this Plan is held by the Court to be invalid, void or unenforceable, at the request of the Applicant with the consent of 192, the Court shall have the power to either:

- (a) sever such term or provision from the balance of this Plan and provide the Applicant with the option to proceed with the implementation of the balance of this Plan as of and with effect from the Implementation Date, or

- (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that this Plan is implemented, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

11.7 Preservation of Rights of Action

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with this Plan, following the Implementation Date, the Applicant and/or Newco will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Applicant and/or Newco may hold against any Person or entity without further approval of the Court.

11.8 Responsibilities of Monitor

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Applicant (and/or Newco, as applicable) and not in its personal or corporate capacity, and shall have no liability in connection with the implementation of this Plan, including without limitation with respect to making distributions pursuant to and in accordance with this Plan, or the timing or sequence of this Plan's transaction steps, in each case save and except for gross negligence and wilful misconduct. The Monitor will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Applicant to observe, perform or comply with any of its obligations under this Plan. The Monitor shall not be responsible or liable whatsoever for any obligations of the Applicant (and/or Newco, as applicable). The Monitor shall at all times have the powers and protections granted to it by this Plan, the CCAA, the Initial Order, and any other Order made in the CCAA Proceedings.

11.9 Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by a Person in writing or unless its Claims overlap or are otherwise duplicative.

11.10 Notices

Any notice or other communication to be delivered hereunder must be in writing and refer to this Plan and may, as hereinafter provided, be made or given by personal delivery, ordinary mail, email or by facsimile addressed to each of the respective parties as follows:

(a) If to the Applicant:

TribalScale Inc.

420 - 207 Queens Quay West
Toronto, ON M5J 1A7

Attention: Mr. Sheetal Jaitly
Chief Executive Officer
Email: sheetal@TribalScale.com

with a copy by email or fax (which shall not be deemed notice) to:

Weisz Fell Kour LLP

5600-100 King Street West
Toronto, ON M5X 1C9

Attention: Caitlin Fell
Partner

Email: cfell@wfkllaw.ca
Fax: 416-613-8290

(b) If to the Monitor:

MNP Ltd.

300 – 111 Richmond Street West
Toronto, ON M5H 2G4

Attention: Mr. Sheldon Title
Senior Vice-President

Email: Sheldon.Title@mnp.ca
Fax: 416.323.5240

with a copy by email or fax (which shall not be deemed notice) to:

Borden Ladner Gervais LLP
 East Tower Bay Adelaide Centre
 22 Adelaide St. W. Suite 3400
 Toronto, ON M5H 4E3

Attention: Alex MacFarlane

Email: AMacFarlane@blg.com

Fax: 416.367.6749

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. EST on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

11.11 Paramountcy

- (a) From and after the Implementation Date, any conflict between (i) this Plan and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and the Applicant (and/or Newco) as at the Implementation Date, will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.
- (b) From and after the granting of the Sanction Order, any conflict between (i) this Plan and (ii) the Sanction Order, will be deemed to be governed by the terms, conditions and provisions of the Sanction Order, which shall take precedence and priority.

11.12 Further Assurances

Notwithstanding that the transactions and events set out herein will occur and be deemed to occur in the order set out in this Plan without any further act or formality, each of the Persons named or referred to in, or subject to, this Plan will make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein.

DATED this 4th day of January, 2021

TribalScale Inc.

Per: /s/ Sheetal Jaitly

Name: Sheetal Jaitly

Title: Chief Executive Officer

SCHEDULE “A”
Definitions

“**192**” has the meaning given to that term in the recitals;

“**Administration Charge**” has the meaning given to that term in the Initial Order;

“**Affected Secured Claim**” means the Claims of: (i) 192 in the amount equal to C\$2,100,000 and (ii) BDC in the amount equal to C\$115,300.

“**Affected Secured Creditor**” means the holder of an Affected Secured Claim in respect, and to the extent of, such Affected Secured Claim;

“**Amended Articles**” have the meaning ascribed to that term in Section 5.1;

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the Law (or any part thereof) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;

“**Applicant**” has the meaning given to that term in the recitals;

“**BDC**” means the Business Development Bank of Canada;

“**BDC Payment**” has the meaning given to that term in Section 4.2;

“**BIA**” means the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended;

“**Business Day**” means any day, other than a Saturday, or a Sunday or a statutory or civic holiday, on which banks are generally open for business in Toronto, Ontario;

“**Cash**” means cash, certificates of deposit, bank deposits, and other cash equivalents;

“**CCAA**” has the meaning set out in the recitals;

“**CCAA Proceedings**” means the proceedings commenced by the Applicant under the CCAA as contemplated by the Initial Order;

“**Charges**” has the meaning ascribed to that term in the Initial Order;

“**Claim**” any right of any Person with indebtedness, liability or obligation of any kind against the Applicant which indebtedness, liability or obligation is in existence at the Filing Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by surety or otherwise and whether or not such a right is executory in nature including, without limitation, the right or ability of any Person to advance a Claim for contribution or indemnity or otherwise with respect to any matter, action, cause, chose in action, whether existing at present or

commenced in the future based in whole or in part on facts which exist prior to or at the Filing Date.

“Converting Secured Creditor Class” has the meaning given to that term in Section 3.1(a);

“Court” has the meaning given to that term in the recitals;

“Creditor” means any Person having a Claim and includes, without limitation, the transferee or assignee of a Claim or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;

“Creditors’ Meeting” means the meeting of the Affected Secured Creditors called for the purpose of considering and voting upon this Plan;

“Crown” means Her Majesty in right of Canada or a province of Canada;

“Crown Priority Claim” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;
- (b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the Canada Pension Plan, an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of the *Employment Insurance Act* and of any related interest, penalties or other amounts;
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a Tax similar in nature to the income tax imposed on individuals under the ITA; or
 - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“Director” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or de facto director of the Applicant;

“Employee Priority Claims” means, with respect to Creditors who are or were employees of the Applicant the following claims:

- (a) Claims of the Applicant's employees and former employees equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if the Applicant had become bankrupt on the Filing Date; and
- (b) Claims of the Applicants' employees and former employees for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the date of the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Applicant's business during the same period.

"Equity Claim" has the meaning set forth in section 2(1) of the CCAA;

"Existing Equity Holder" means a Person with an equity interest in the Applicant as at the Filing Date;

"Existing Shares" mean shares, of any kind, in the equity of the Applicant issued and outstanding as at the Filing Date;

"Existing Share Options" mean share options, of any kind, exercisable into equity securities of the Applicant outstanding as at the Filing Date;

"Filing Date" means May 19, 2020, the date the Applicant's proposal proceedings commenced under Part III of the BIA;

"General Security Agreement" means the General Security Agreement issued by the Applicant in favour of 192 as continuing security for the payment and performance of all obligations to be performed by the Applicant under the New Secured Senior Note;

"General Unsecured Claim" means any Claim other than a Claim of the Converting Secured Creditor Class of the Paid-Out Secured Creditor Class;

"General Unsecured Creditor" means the holder of a General Unsecured Claim in respect of and to the extent of such General Unsecured Claim;

"Governmental Entity" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or Taxing Authority or power;

"Implementation Date" means the Business Day on which this Plan becomes effective, which shall be the day indicated on the certificate which the Monitor shall file with the Court as contemplated herein;

“Implementation Date Transactions” means, collectively, the transactions contemplated under Section 7.1 herein;

“Initial Order” means the Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List), dated July 31, 2020, which declared TribalScale a company to which the CCAA applies;

“ITA” means the *Income Tax Act*, RSC 1985, c.1 (5th Supp), as amended, and any regulations thereunder;

“Jaitly Trust” means a trust governed by a Deed of Settlement dated as of May 20, 2020;

“Law” means any law, statute, order, decree, consent decree, judgment, rule regulation, ordinance or other pronouncement having the effect of law whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;

“Meeting Order” has the meaning given to that term in the recitals;

“Monitor” means MNP Ltd., in its capacity as court-appointed Monitor of the Applicant;

“Monitor’s Certificate” has the meaning ascribed to that term in Section 7.4 hereof;

“Monitor’s Website” means <<https://mnpdebt.ca/en/corporate/engagements/TribalScale-inc>>;

“New Senior Secured Note” means a promissory note issued by the Applicant to 192 in the principal amount of \$1,400,000 with interest accruing annually beginning on a date that is one year from the Implementation Date at a rate of 1% per annum, which promissory note shall be effective from and after the Implementation Date and secured by the General Security Agreement;

“Newco” means 2800741 Ontario Inc., a wholly-owned subsidiary of the Applicant established under the Provincial laws of Ontario;

“NOI Proceedings” means the proceedings commenced by TribalScale by the filing of a Notice of Intention to Make a Proposal under BIA;

“Non-Voting Common Shares” means the non-voting common shares in the capital of the Applicant authorized pursuant to the Amended Articles;

“Officer” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of the Applicant;

“Order” means any order of the Court in these CCAA Proceedings or the proposal proceedings under the BIA referenced in the Initial Order;

“Outside Date” means February 1, 2021 (or such other date as the Applicant, the Monitor and 192 may agree);

“Paid-Out Secured Creditor Class” has the meaning provided to it in Section 3.1(b);

“Person(s)” is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Governmental Entity or any agency, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

“Plan” means this Plan of Compromise and Arrangement, including any amendments, restatements, modifications or supplements hereto made from time to time in accordance with the terms hereof or made at the direction of the Court in the Sanction Order or otherwise;

“Preferred Shares” means the Class A preferred shares in the capital of the Applicant authorized pursuant to the Amended Articles;

“Priority Claim” means a Crown Priority Claim or an Employee Priority Claim;

“Proven Claim” as used in relation to any Claim means such Claim as finally accepted or determined by the Monitor and each Affected Secured Claim shall constitute a Proven Claim;

“Released Claims” has the meaning given to that term in to Section 10.1 hereof;

“Released Parties” has the meaning given to that term in Section 10.1 hereof;

“Required Majority” means a majority in number of Affected Secured Creditors within a class representing at least two thirds in value of the Voting Claims of such Creditors who actually vote (in person or by proxy) at the Creditors’ Meeting;

“RSA” has the meaning given to that term in the recitals;

“Sanction Motion” means the Applicant’s motion for an order sanctioning this Plan and granting the Reverse Vesting Order;

“Sanction Order” means an order acceptable in form and substance to the Applicant, the Monitor, and the Converting Creditor sanctioning the Plan and the transactions contemplated therein;

“Scotiabank” means The Bank of Nova Scotia;

“Share Purchase Agreement” has the meaning given to that term in Section 5.2(b);

“Shareholders Agreement” has the meaning ascribed to that term in Section 4.1(c), which agreement shall be in form and substance satisfactory to 192;

“Service List” means the service list maintained by the Monitor in respect of these CCAA Proceedings;

“SiriusXM” means Sirius XM Connected Vehicle Services Inc. and its affiliates.

“SiriusXM Claim” means all claims available to Tribalscale against SiriusXM, including, but not limited to, all claims available to Tribalscale under the professional services agreement between TribalScale and SiriusXM effective April 26, 2019 as further particularized through individual statements of work including, but not limited to, the statements of work effective July 1, 2019 and November 23, 2019.

“Tax” or “Taxes” means any and all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, Quebec and other government pension plan premiums or contributions;

“Taxing Authority” means any of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, any municipality of Canada, the Canada Revenue Agency, the Canada Border Services Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof and any Canadian or foreign government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power;

“TribalScale” has the meaning given in the recitals;

“Unaffected Claim” means:

- (a) any Claims secured by any of the Charges;
- (b) any Claims that cannot be compromised pursuant to subsection 19(2) of the CCAA;
- (c) any Priority Claims;
- (d) any Claims vested out pursuant to the Reverse Vesting Order; and
- (e) the Unaffected Trade Obligations

“Unaffected Creditor” means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim;

“Unaffected Trade Obligations” refer to all trade obligations owed by the Applicant to its suppliers, incurred at any time, which the Applicant will continue to pay notwithstanding anything in this Plan;

“Reverse Vesting Order” means an Order of the Court adding Newco as a CCAA applicant and permitting the transferring and vesting out absolutely, without formal legal conveyance, all

claims of General Unsecured Creditors to Newco, as contemplated under this Plan and in the Reverse Vesting Order;

“Voting Claim” means the amount of an Affected Secured Claim of an Affected Secured Creditor against the Applicant as finally accepted and determined for the purposes of voting at the Creditors’ Meeting, in accordance with this Plan and the CCAA; and

“Voting Common Shares” means the voting common shares in the capital of the Applicant authorized pursuant to the Amended Articles.

SCHEDULE “B”
Form of Sanction Order

THIS IS **EXHIBIT "F"** REFERRED TO IN THE
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,
THIS 5TH DAY OF JANUARY 2021

patrick coney

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-20-00645116-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC. (the “**Applicant**”)

AMENDED PLAN OF COMPROMISE AND ARRANGEMENT
OF THE APPLICANT, TRIBALSCALE INC.,
PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

~~NOVEMBER 22~~January 4, 2020~~2021~~

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AMENDED PLAN OF COMPROMISE AND ARRANGEMENT

RECITALS

WHEREAS ~~Tribalseale~~TribalScale Inc. (the “Applicant” or “~~Tribalseale~~TribalScale”) is a debtor company pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “CCAA”);

AND WHEREAS, on July 31, 2020, the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List) (the “Court”) granted an Initial Order pursuant to the provisions of the CCAA and appointed MNP Ltd. as the monitor in these proceedings (the “Monitor”);

AND WHEREAS on October 30, 2020, the Court approved a Restructuring Support Agreement between the Applicant and its senior secured creditor, 1924191 Ontario Inc. (“192”), which was executed on November 3, 2020 (the “RSA”).

AND WHEREAS, on November 25, 2020, the Applicant ~~will seek~~obtained a Meeting Order (the “Meeting Order”) pursuant to which, among other things, the Applicant ~~will be~~was authorized to file ~~at the~~the Plan (as defined in Schedule “A” hereto) and ~~authority to~~ convene a meeting of Affected Secured Creditors (~~as defined herein~~) to consider and vote on the Plan.

AND WHEREAS the Meeting Order states that the Applicant may effect a Plan Modification (as defined in the Meeting Order) prior to or at the Creditors’ Meeting (as defined herein), in which case any such Plan Modification will, for all purposes, be and be deemed to form part of and be incorporated into the Plan.

AND WHEREAS the purpose of ~~the~~this Plan is to facilitate the continuation of the business of the Applicant as a going concern, to address certain liabilities of the Applicant, and to effect a recapitalization transaction pursuant to and in accordance with the terms of the RSA on an expedited basis in order to provide a stronger financial foundation for the Applicant going forward, as well as additional liquidity to allow the Applicant to continue to work towards its operational and financial goals from and after the Implementation Date (as defined in Schedule “A”) of the Plan;

NOW THEREFORE the Applicant hereby proposes and presents this amended Plan pursuant to and in accordance with the provisions of the CCAA.

ARTICLE 1 - INTERPRETATION

1.1 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) In this Plan and the ~~Recitals thereto~~ recitals herein, unless otherwise stated or the subject matter or context otherwise requires, all terms defined herein have their meanings ascribed thereto on **Schedule “A”**;
- (b) Any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means such document shall be substantially in such form or substantially on such terms and conditions;
- (c) Unless otherwise expressly provided herein, any reference in this Plan to an instrument, agreement or an Order or an existing document or exhibit filed or to be filed means such instrument, agreement, Order, document or exhibit as it may have been or may be amended, modified, or supplemented in accordance with its terms;
- (d) The division of this Plan into Articles and Sections is for convenience of reference only and does not affect the construction or interpretation of this Plan, nor are the descriptive headings of Articles and Sections intended as complete or accurate descriptions of the content thereof;
- (e) The use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of this Plan to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) The words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) Unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (h) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- (i) Unless otherwise provided, any reference to a statute or other enactment of parliament, a legislature or other Governmental Entity includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supersedes or supersedes such statute or regulation;
- (j) References to a specific Recital, Article, or Section shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to

that specific Recital, Article or Section of this Plan, whereas the terms “this Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to this Plan and not to any particular Recital, Article, Section or other portion of this Plan and include any documents supplemental hereto; and

(k) The word “or” is not exclusive.

1.2 Governing Law

This Plan shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation or application of this Plan and all proceedings taken in connection with this Plan and its provisions shall be subject to the jurisdiction of the Court.

1.3 Currency

Unless otherwise stated, all references in this Plan to sums of money are expressed in, and all payments provided for herein shall be made in, Canadian dollars.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder by a Person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

Time shall be of the essence in this Plan.

ARTICLE 2 - PURPOSE AND EFFECT OF THIS PLAN

2.1 Purpose

The purpose of this Plan is to effect a restructuring of the secured indebtedness of the Applicant with the expectation that Persons who have an economic interest in the Applicant, when considered as a whole, will derive a greater benefit from the implementation of this Plan than would result from a bankruptcy of the Applicant.

2.2 Effectiveness

Subject to the satisfaction, completion or waiver of the conditions precedent set out herein, this Plan will become effective in the sequence described in **ARTICLE 7** below from and after the Implementation Date and on the Implementation Date each Affected Secured Claim will be fully and finally compromised, released, settled and discharged under the Plan. The Plan shall be binding on and enure to the benefit of the Applicant, the Affected Secured Creditors, all Existing Equity Holders, all holders of Equity Claims, the Released Parties, and all other Persons as provided for herein, or subject to,

this Plan and their respective successors and assigns and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

2.3 Persons Not Affected

This Plan does not affect Unaffected Creditors to the extent of their Unaffected Claims. Nothing in this Plan shall affect the Applicant's rights and defences, both legal and equitable, with respect to any Unaffected Claims, including, but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims. Nothing herein shall constitute a waiver of any rights of any of the Applicants to dispute the quantum or validity of an Unaffected Claim.

2.4 Corporate Approvals

The execution, delivery, implementation, and consummation of all matters contemplated under this Plan involving corporate action of the Applicant, Newco, 192, BDC, Scotiabank or any other entity subject to this Plan, including the steps outlined in Section 7.1 of this Plan, will be authorized and approved under this Plan and by the Court as part of the Sanction Order in all respects and for all purposes without any requirement of further action by any Person.

ARTICLE 3 - CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes

For the purposes of considering, voting on, and receiving distributions under this Plan, the Affected Secured Creditors shall constitute two classes, as follows:

- (a) one class of Creditors consisting of 192 (the “**Converting Secured Creditor Class**”); and
- (b) one class of Creditors consisting of BDC (the “**Paid-Out Secured Creditor Class**”).

3.2 Guarantees

No Person who has a Claim under a guarantee in respect of any Claim which is compromised or otherwise dealt with under the Plan (a “**Principal Claim**”) or who has any right to or claim over in respect of or to be subrogated to the rights of any Person in respect of a Principal Claim, shall: (a) be entitled to any greater rights as against the Applicant than the Person holding the Principal Claim; (b) be entitled to vote on this Plan to the extent that the Person holding the Principal Claim is voting on this Plan; or (c) be entitled to receive any distribution under this Plan to the extent that the Person holding the Principal Claim is receiving a distribution.

3.3 Claims of Affected Secured Creditors

Except as otherwise provided in the Meeting Order, Affected Secured Creditors shall be entitled to vote their Proven Claims at the Creditors' ~~Meetings~~ Meeting in respect of this Plan and shall be entitled to receive distributions on account of their Proven Claims as provided under and pursuant to this Plan.

3.4 Creditors' Meeting

- (a) The Creditors' Meeting shall be held in accordance with this Plan, the Meeting Order, and any further Order in the CCAA Proceedings.
- (b) If this Plan is approved by the Required Majorities in each voting class, then this Plan shall be deemed to have been agreed to, accepted and approved by the Affected Secured Creditors and shall be binding upon all Affected Secured Creditors immediately upon the delivery of the Monitor's Certificate.

3.5 Existing Equity Holders and Holders of Equity Claims

Existing Equity Holders and holders of Equity Claims shall not be entitled to attend or vote in respect of their Existing Shares, Existing Share Options or Equity Claims any meeting to consider and approve this Plan and shall not receive any distribution under the Plan on account of their Existing Shares, Existing Share Options or Equity Claims.

3.6 Crown Claims

All federal and provincial government claims of the kind described in subsection 6(3) of the CCAA that were outstanding at the Filing Date shall be paid in full within six months after the Sanction Order, as required by subsection 6(3) of the CCAA.

3.7 Payments to Employees

If not already paid, then immediately after the date of the Sanction Order, the Applicant will pay in full all employee-related payments required by subsection 6(5) of the CCAA.

3.8 Determination of Affected Secured Claims

For the purposes of rights, entitlements and distributions under this Plan, the amount of an Affected Secured Claim shall be determined on the basis of the principal amount outstanding as of the Filing Date plus any accrued interest up to the Implementation Date.

ARTICLE 4 - TREATMENT OF CLAIMS

4.1 Treatment of Converting Secured Creditor Class

- (a) On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, ~~the Converting Creditor~~ 192 shall be entitled to receive in

exchange for all of its right, title and interest in and to the Affected Secured Claim, a distribution from the Applicant of:

~~(i).~~ ~~New~~

(i) 8,990,000 Voting Common Shares representing ~~ninetyeighty-nine and nine tenths~~ percent (~~90~~89.9%) of the total number of Voting Common Shares that will be issued and outstanding ~~shares in the capital of the Applicant~~ immediately following the completion of the steps outlined in Section 7.1 of the Plan;

(ii) 732,000 Preferred Shares representing one hundred percent (100%) of the total number of Preferred Shares that will be issued and outstanding immediately following the completion of the steps outlines in Section 7.1 of the Plan; and

(iii) ~~(ii).~~ the New Senior Secured Note and the General Security Agreement.

~~(b) The Converting Creditor shall assign such number of New Common Shares that it holds in the capital of the Applicant to The Bank of Nova Scotia (“Scotiabank”) such that Scotiabank will hold New Common Shares in the Applicant equivalent to five percent (5%) of the total issued and outstanding shares in the capital of the Applicant.~~

~~(e) On the Implementation Date, each of the Converting Creditor and Scotiabank shall become a party to a unanimous shareholders agreement (the “Shareholders Agreement”), each in its capacity as a holder of New Common Shares and (ii) the constating documents of Applicant shall contain the terms in respect to the New Common Shares which shall apply to each of the Converting Creditor, Scotiabank and Jaitly in their capacity as a holder of New Common Shares.~~

4.2 Treatment of the Paid-Out Secured Creditor Class

On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, the Paid-Out Secured Class shall be entitled to receive in full satisfaction of its right, title and interest in and to its Affected Secured Claim, a ~~cash~~Cash distribution in the lesser amount of: (i) C\$115,300, or (ii) the actual amount outstanding and owing to the Paid-Out Secured Creditor Class pursuant to a payout statement received from the Paid-Out Secured Creditor Class (the “BDC Payment”).

4.3 Equity Claims

All Equity Claims, and all Claims that are based on or related to Equity Claims, shall and shall be deemed to be fully, finally and irrevocably and forever compromised, released, discharged, settled, extinguished, cancelled and barred on the Implementation Date. Holders of Equity Claims shall not receive any consideration or distributions under this Plan and shall not be entitled to vote on this Plan at the Creditors’ Meeting.

4.4 Calculation and Quantum of Claims

For the purposes of all distributions under this Plan, all Affected Secured Claims shall be calculated and quantified as of the Filing Date, which shall be deemed to mean as of 12:01 am on May 19, 2020. To the extent that interest or other amounts accrue as part of any Affected Secured Claim, such interest or other amounts shall be calculated up to and including the Implementation Date.

4.5 Extinguishment of Claims

On the Implementation Date, in accordance with this Plan and the provisions of the Sanction Order, the treatment of the Affected Secured Creditors in respect to their Affected Secured Claims shall be final and binding on ~~Tribalseale~~ TribalScale, all Affected Secured Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns), and any Person holding a Released Claim. All Released Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Secured Claims and the Released Claims, as applicable.

ARTICLE 5 - REORGANIZED EQUITY OF TRIBALSCALE

5.1 Amended Articles

In accordance with the Plan, TribalScale shall pre-file articles of amendment (the “Amended Articles shall be received for deposit at the records office of Tribalseale, with the effect as of the time of the Implementation specified”) with the applicable branch of the Ministry of Government Services (Ontario) to take effect as of the Implementation Date to authorize the issuance of the Preferred Shares and state the rights, privileges, restrictions and conditions attaching thereto.

5.2 Reorganization of Equity

On the Implementation Date and in accordance with the steps and sequence set forth in this Plan:

- (a) the Applicant shall issue from treasury to 192 8,990,000 Voting Common Shares representing eighty-nine and nine tenths percent (89.9%) of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan;
- (b) the Applicant shall issue from treasury to Jaitly Trust 1,010,000 Voting Common Shares representing ten and one tenth percent (10.1%) of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan;

- (c) pursuant to a share purchase agreement between 192 and Scotiabank (the “Share Purchase Agreement”), 192 shall sell 490,000 Voting Common Shares to Scotiabank, such that immediately following the completion of the steps outlined in Section 7.1 of the Plan, Scotiabank will hold 490,000 Voting Common Shares and 192 will hold 8,500,000 Voting Common Shares, representing five percent (4.9%) and eighty-five percent (85%), respectively, of the total number of Voting Common Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan; and
- (d) the Applicant shall issue from treasury 732,000 Preferred Shares to 192 representing one hundred percent (100%) of the total number of Preferred Shares that will be issued and outstanding immediately following the completion of the steps outlined in Section 7.1 of the Plan.

~~5.2~~ **Converting Creditor Shares**

~~The Converting Creditor Shares shall be distributed to the Converting Creditor in accordance with the Plan.~~

5.3 **Remaining Shares**Capitalization

Immediately following the completion of the steps outlined in Section 7.1 of the Plan, there will be 10,000,000 Voting Common Shares, 732,000 Preferred Shares and no Non-Voting Common Shares of the Applicant issued and outstanding.

5.4 **No Fractional Shares**

No fractional shares in the capital of the Applicant shall be issued under this Plan.

5.5 **Shareholders’ Agreement**

- (a) ~~The Converting Creditor shall assign to Scotiabank such number of New Common Shares held by the Converting Creditor as is equivalent to five percent (5%) the total issued and outstanding~~On the Implementation Date and in accordance with the steps and sequence set forth in this Plan, 192, Scotiabank and Jaitly Trust shall become party to a unanimous shareholders’ agreement (the “Shareholders’ Agreement”), each in his or its capacity as a holder of shares in the capital of the Applicant.
- (b) ~~In consideration of Jaitly’s continuing ongoing involvement with the Applicant, Jaitly shall be issued New Common Shares equal to 10% of the total issued New Common Shares.~~

ARTICLE 6- CONDITIONS PRECEDENT TO IMPLEMENTATION OF THE PLAN

6.1 Pre-Implementation Date Conditions

- (a) The Plan is subject to the satisfaction of the following conditions (the “**Plan Implementation Conditions**”):
- (i) ~~(i)~~ the Plan must be approved by the Required Majority of the Affected Secured Creditors of the Applicants;
 - (ii) ~~(ii)~~ the Sanction Order and the Reverse Vesting Order must be granted by the Court, consistent with the terms of Section 10.1;
 - (iii) ~~(iii)~~ the existing shareholder rights agreement among TribalScale and all of the shareholders ~~agreement of TribalscaleTribalScale~~ dated December 8, 2015, as amended, the Right of First Refusal and Co-Sale Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, and the Voting Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, shall be deemed to be terminated pursuant to the Sanction Order;
 - ~~(iv) Tribalscale shall file articles of amendment to: (i) restate the rights, privileges, restrictions and conditions attaching to the Common Shares;~~
 - (iv) TribalScale shall have pre-filed the Amended Articles with the applicable branch of the Ministry of Government Services (Ontario) to take effect as of the Implementation Date;
 - (v) all claims of the General Unsecured Creditors shall be transferred to Newco pursuant to the Reverse Vesting Order and the Reverse Vesting Order shall be effective;
 - (vi) Newco shall be added as an applicant in the CCAA Proceeding;
 - (vii) ~~(v)~~ all applicable appeal periods in respect ~~of~~ to the ~~Sanction Order and the Reserve~~ Reverse Vesting Order will have expired and any appeals therefrom will have been finally disposed of by the applicable appellant tribunal;
 - (viii) ~~(vi)~~ all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of the Applicants and the Monitor, are necessary to implement the provisions of the Plan, the Sanction Order or the Reverse Vesting Order;
 - (ix) ~~(vii)~~ no action or proceeding will be pending by any third party to enjoin or prohibit the Plan; and

- (x) ~~(viii). Such other~~ to the extent not listed above and without duplication, the conditions precedent listed in Article 6, Article 7, and Article 8 of the RSA- but not described in this ARTICLE 6, which conditions may be ~~dispensed with~~ satisfied or varied in accordance with the ~~mutual consent~~ terms of the ~~Applicant and the Converting Creditor~~ RSA.
- (b) Upon satisfaction of the Implementation Conditions, the Applicant will proceed to implement the Plan. In consultation with the Monitor, the Applicant will designate the Implementation Date and will implement the Plan on that date in accordance with the terms and conditions hereof.

ARTICLE 7 - IMPLEMENTATION DATE TRANSACTIONS

7.1 Implementation Date Events

Commencing on the Implementation Date, the following events or actions will occur, or be deemed to have occurred and be taken and at such ~~other~~ times, intervals, or order as the Applicant and the Monitor may agree, without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) the following shall occur concurrently (collectively, the “**Share Consolidation**”):
- (i) ~~(i).~~ all Existing Shares shall ~~be cancelled and shall be deemed to~~ be cancelled without payment of any consideration therefor;
 - (ii) ~~(ii).~~ the Existing Share Options shall ~~be cancelled and shall be deemed to~~ be cancelled without any repayment of capital thereof or compensation therefor and shall cease to be of any further force or effect;
 - (iii) ~~(iii).~~ any existing agreements among the Existing Equity Holders with respect to their Existing Shares or Existing Share Options shall ~~and shall be deemed to~~ be cancelled and terminated; and
 - (iv) ~~(iv).~~ all Equity Claims, including indemnity claims of Directors or Officers that are based on or related to Equity Claims, shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without any repayment of capital thereof or compensation therefor;
- (b) ~~the Applicant shall, where necessary, file and deposit amended articles of incorporation (the “Amended Articles”) at the records office of Tribalseale, which Amended Articles shall do all such things as are necessary to consummate or confirm the transactions provided for in this Plan, to accomplish the purpose of this Plan, or to assure to the affected parties the benefits of this Plan;~~ the Amended Articles shall become effective;
- (c) ~~in exchange for, and in full and final settlement of the claims of 192, the Applicant shall issue new common shares in the capital of the Applicant (“New~~

~~Common Shares”) to 192, in the proportions stipulated under Section 4.1 herein. No fractional New Common Shares shall be issued under this Plan;~~

- (c) ~~(d)~~ the Applicant shall issue ~~New~~ and deliver to 192 and Jaitly Trust, respectively, the number of Voting Common Shares to Scotiabank, in the proportions stipulated under Section 4.15.2 herein;
- (d) the Applicant shall issue and deliver the New Senior Secured Note and the General Security Agreement to 192 stipulated under Section 5.2 herein;
- (e) the Applicant shall issue and deliver the Preferred Shares to 192 stipulated under Section 5.2 herein;
- (f) pursuant to the Share Purchase Agreement, 192 shall sell to Scotiabank the number of Voting Common Shares stipulated under Section 5.2 herein and deliver such shares to Scotiabank;
- (g) ~~(e)~~ all ~~New~~ Voting Common Shares and Preferred Shares issued as part of the implementation of this Plan shall be deemed to be issued and outstanding as fully-paid and non-assessable; ~~(f) shares in exchange for, and in full and final settlement~~ the capital of the claims of BDC, Applicant;
- (h) the Applicant shall ~~make a one-time cash payment~~ wire transfer an amount equal to the BDC Payment to BDC in accordance with Section 4.2 herein;
- (i) ~~(g)~~ any right of indemnity or contribution of a Director, Officer or employee against the Applicant of any nature whatsoever (whether pursuant to a written contract or agreement or otherwise, and whether present or future or known or unknown) shall be fully, finally, irrevocably and forever terminated, extinguished, compromised, released, discharged, cancelled and barred without any liability, payment or other compensation in respect thereof and each Director, Officer or employee shall be permanently barred, estopped, stayed and enjoined, on and after the Implementation Date, from asserting any such right of indemnity or contribution against the Applicant;
- ~~(h) TribalScale shall distribute the New Common Shares in accordance with this Plan;~~
- ~~(i) the following shall occur concurrently:~~
- (j) all applicable appeal periods in respect to the Sanction Order will have expired and any appeals therefrom will have been finally disposed of by the applicable appellant tribunal;
- (k) ~~(i) the SiriusXM Claim shall be assigned from TribalScale to Newco pursuant to the terms of the Reverse Vesting Order shall become effective and all claims of the General Unsecured Creditors shall be transferred to Newco;~~
- ~~(ii) the Applicant shall issue the Newco Note to 192;~~

~~(j)~~ ~~Newco shall be added as an applicant in the CCAA Proceeding;~~ and

(l) ~~(k)~~ the releases and injunctions referred to under **ARTICLE 10** shall become effective.

~~7.2~~ **Amended Articles**

~~In accordance this Plan, the Amended Articles shall be received for deposit at the records office of Tribalscale, with effect as of the time on the Implementation Date specified in Section 7.1 of this Plan.~~

7.2 ~~7.3~~ **Administration Charge**

On the Implementation Date, all outstanding, invoiced obligations, liabilities, fees and disbursements secured by the Administration Charge shall be fully paid by the Applicant. Upon receipt by the Monitor of confirmation from each of the beneficiaries of the Administration Charge that payments of the amounts secured by the Administration Charge have been made, the Administration Charge shall be and be deemed to be discharged from the assets of the Applicant, without the need for any other formality; provided however that this Section shall not apply to the Monitor and its legal counsel in respect of any acts or steps required to be taken by the Monitor or its counsel after the Implementation Date and, for greater certainty, the Monitor and its legal counsel shall continue to have the benefit of the Administration Charge so long as (i) the Monitor has not been discharged from its duties as Monitor in these CCAA Proceedings, and (ii) any fees and disbursements of the Monitor or its counsel (including fees and disbursements incurred after the Implementation Date) remain unpaid by the Applicant or Newco.

Notwithstanding Plan Implementation or the reduction of the Administration Charge, ~~Tribalscale~~TribalScale shall continue to pay the reasonable costs, fees and disbursements incurred by its counsel, Weisz Fell Kour LLP ~~(“WFK”)~~, whether incurred prior to or after the Implementation Date, where such costs, fees and disbursements relate to the implementation of this Plan or any of the transactions and activities contemplated herein.

7.3 ~~7.4~~ **Monitor’s Certificate of Plan Implementation**

Upon written notice from the Applicant (or counsel on their behalf) to the Monitor and ~~the Supporting Creditor~~192 that the conditions to Plan implementation set out in Section 6.1 have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Applicant and ~~the Supporting Creditor~~192, as well as file with the Court, a certificate (the “**Monitor’s Certificate**”) which states that all conditions precedent set out in **ARTICLE 6** have been satisfied or waived and that the Implementation Date (which shall be set out on the certificate) has occurred.

7.4 ~~7.5~~ **No Exercise of Right or Remedy**

Subject to the performance by the Applicant of its obligations under the Plan, and except as provided in the Plan, all obligations, agreements, contracts or arrangements to which the Applicant is a party on the Implementation Date shall be and remain in full force and

effect, unamended, as at the Implementation Date and no Person, including any party thereto, shall on or following the Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform, cancel or otherwise disclaim or resiliate its obligations or the Applicant's interests thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy (including any right to receive any change of control, assignment or similar payment) under or in respect thereof by reason:

- (a) of any event that occurred prior to the Implementation Date;
- (b) that the Applicant is or was insolvent, or that the Applicant sought or obtained relief or took steps as part of the Plan or during the CCAA Proceeding and the preceding NOI Proceeding;
- (c) of any default, event of default or circumstance of non-compliance arising as a result of the financial condition or insolvency of the Applicant, the CCAA Proceeding or the NOI Proceeding;
- (d) of the effect upon the Applicant of the completion of any of the transactions approved in the CCAA Proceeding or the NOI Proceeding, or contemplated by the Plan, including, without limitation, as a result of a change of control of the Applicant; or
- (e) of any assignments, compromises, settlements, restructurings, recapitalizations or reorganizations effected pursuant to the Plan.

ARTICLE 8 - CONSTITUTION OF NEWCO

8.1 Incorporation

Newco will be incorporated ~~as a private company~~ under the laws of Ontario; as a private, wholly owned subsidiary of the Applicant and organized in a manner acceptable to 192 and the Applicant, acting reasonably.

8.2 Newco Further Assurances

Newco shall agree to do all such things in its control, take all such actions as are commercially reasonable, deliver to the other ~~Parties~~parties such further information and documents and execute and deliver to the other ~~Parties~~parties such further instruments and agreements as another ~~Party~~party shall reasonably request to consummate or confirm the transactions provided for in this Plan, to accomplish the purpose of this Plan or to assure to the other ~~Party~~party the benefits of this Plan.

ARTICLE 9 - DISTRIBUTIONS AND DISBURSEMENTS

9.1 Delivery of ~~New Common Share Certificates~~Shares by TribalScale

The ~~obligations of Tribalseale shall~~obligation of TribalScale to deliver ~~New~~Voting Common Shares and Preferred Shares pursuant to this Plan shall be satisfied by the ~~delivery~~provision of electronic scans of share certificates representing ~~the New Common Shares~~such shares to each of 192 and ~~Scotiabank on~~ the ~~Implementation Date~~in accordance with Section 4.1 Jaitly Trust.

9.2 **Delivery of ~~Payment to BDC~~Shares by 192**

~~On the Implementation Date Tribalseale shall distribute, by electronic wire transfer, a one-time cash payment to BDC~~

The obligation of 192 to deliver Voting Common Shares to Scotiabank pursuant to this Plan shall be satisfied by the delivery of the share certificate representing such shares accompanied by an irrevocable stock transfer power of attorney duly executed by 192 to Scotiabank.

9.3 **Delivery of the New Senior Secured Note and General Security Agreement**

The obligation of TribalScale to deliver the New Senior Secured Note and General Security Agreement to 192 pursuant to this Plan shall be satisfied by the provision of an electronically signed copy of the New Senior Secured Note and General Security Agreement to 192.

9.4 **Delivery of Payment to BDC**

The obligation of TribalScale to make the BDC Payment in accordance with Section 4.2 herein shall be satisfied by the arrangement of a wire transfer as directed by BDC on the Implementation Date and the provision of a wire confirmation to BDC therefor.

9.3 ~~**Delivery of the Newco Note**~~

~~On the Implementation Date and in accordance with this Plan, Tribalseale will unconditionally and irrevocably issue the Newco Note to Newco in the amount of the receivable owing to Tribalseale by SiriusXM less the legal fees and costs incurred to collect or enforce on such receivable, which promissory note shall be payable on a *pro rata* basis to the General Unsecured Creditors upon receipt of the Sirius Proceeds.~~

ARTICLE 10 - RELEASES

10.1 Plan Releases

At the Implementation Date, the Applicant, the Applicant's present and former employees and contractors, the Directors and Officers and each of their respective financial advisors, legal counsel and agents (collectively, the "**Released Parties**") shall be released and discharged from any and all rights and claims of any holder of an Affected Secured Claim (the "**Released Claims**"), whether or not any such right or Claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, where such right or Claim is based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, or after the Implementation Date in furtherance of the Plan and that is in any way relating to, arising out of or in connection with (i) Affected Secured Claims; (ii) RSA, (iii) Equity Claims; (iv) Existing Shares; (v) Existing Share Options; (vi) this Plan; (vii) the CCAA Proceedings; and (viii) the NOI Proceedings, provided, however, that nothing in this Section will release or discharge:

- (a) any Unaffected Claim;
- (b) ~~Tribalseale~~TribalScale of or from its obligations under this Plan, under any Order, or under any document delivered by ~~Tribalseale~~TribalScale on the Implementation Date pursuant to this Plan;
- (c) Newco from its obligations under this Plan, under any Order, or under any document delivered by Newco on the Implementation Date pursuant to this Plan;
~~or~~
- (d) a Released Party if the Released Party is adjudged by the express terms of a judgment rendered on a final determination on the merits to have committed fraud, gross negligence, or wilful misconduct; and
- (e) to the extent not captured above, claims prohibited from release by operation of subsection 5.1(2) of the CCAA.

10.2 Cancellation of Outstanding Indebtedness

From and after the Implementation Date, any loan documents, debentures or other evidences of indebtedness in relation to any Affected Secured Creditors shall be cancelled and will thereupon be null and void, and the obligations of the Applicant thereunder or in any way related thereto shall be satisfied and discharged, except to the extent expressly preserved by this Plan. ~~For further clarity, the Newco Note is explicitly excluded from this Section and is intended to survive this Plan.~~

10.3 Injunction

Subject to the exceptions stated in sub-paragraphs (a) through (d) of Section 10.1 of this Plan, all Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Implementation Date, with respect to the Affected Claims and the Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any of the Released Parties or their property;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit or demand (including by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation) or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any Person who makes such a Claim or might reasonably be expected to make such a Claim in any manner or forum, against one or more of the Released Parties;
- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any action to interfere with the implementation or consummation of this Plan (including the Implementation Date Transactions);

and any such proceedings will be deemed to have no further effect against the Applicant or any of their assets and will be released, discharged or vacated without cost to the Applicant. All Persons shall cooperate with the Applicant and the Monitor in lifting any lien or discontinuing any proceeding filed or commenced prior to the Implementation Date, as the Applicant or the Monitor may reasonably request. The Applicant may apply to the Court to obtain a discharge or dismissal of any such proceedings, if necessary, without notice to any Person.

10.4 Timing of Releases and Injunctions

All releases and injunctions set forth in this **ARTICLE 10** shall become effective on the Implementation Date.

10.5 Knowledge of Claims

Each Person to which Section 10.1 hereof applies shall be deemed to have granted the releases set forth in Section 10.1 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 11 - GENERAL

11.1 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.2 Preferential Transactions

Sections 95 to 101 of the BIA and any Applicable Law relating to preferences, settlements, fraudulent conveyances or transactions at undervalue shall not apply in any respect to this Plan including to any payments or distributions made in connection with the restructuring and recapitalization of the Applicant.

11.3 ~~11.2~~ Claims Bar

Nothing in this Plan extends or shall be interpreted as extending, amending, or giving any rights to any Person in respect of Claims that have been barred or extinguished.

11.4 ~~11.3~~ Non-Consummation

If the Implementation Date does not occur on or before the Outside Date (as the same may be extended in accordance with the terms hereof), or if this Plan is otherwise withdrawn in accordance with its terms: (a) this Plan shall be null and void in all respects, and (b) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Applicant, its respective successors or any other Person; (ii) prejudice in any manner the rights of the Applicant, its respective successors or any other Person in any further proceedings involving the Applicant or its respective successors; or (iii) constitute an admission of any sort by the Applicant, its respective successors or any other Person.

11.5 ~~11.4~~ Modification of Plan

- (a) The Applicant may propose a variation or modification of, or amendment or supplement to this Plan at or prior to the Creditors' ~~Meetings'~~ Meeting, in

consultation with the Monitor, provided that notice of such variation, modification, amendment or supplement is given to all Affected Secured Creditors entitled to vote and present in person at the ~~applicable-Creditors'-Meetings'~~ Meeting prior to the vote being taken. Any variation, amendment, modification or supplement at a Creditors'-~~Meetings'~~ Meeting shall be posted promptly on the Monitor's Website, served by email to the Service List and filed with the Court as soon as practicable following the applicable Creditors'-~~Meetings'~~ Meeting and in any event prior to the Court hearing the Sanction Motion.

- (b) After the Creditors' ~~Meetings'~~ Meeting (and both prior to and subsequent to the obtaining of any Sanction Order), the Applicant may at any time and from time to time, amend, restate, vary, modify or supplement this Plan: (a) pursuant to an Order of the Court, or (b) without further Court Order, where such amendment to this Plan concerns a matter which, in the opinion of the Applicant and the Monitor, is of an administrative nature required to better give effect to the implementation of this Plan or the Sanction Order or to cure any errors, omissions or ambiguities, and in either circumstance is not materially adverse to the financial or economic interests of the Affected Secured Creditors. The Monitor shall forthwith post on the Monitor's Website any such amendment to this Plan, with notice of such posting forthwith provided to the Service List.

11.6 ~~11.5~~ Severability of Plan Provisions

If, prior to the Implementation Date, any term or provision of this Plan is held by the Court to be invalid, void or unenforceable, at the request of the Applicant with the consent of ~~the Supporting Creditor~~ 192, the Court shall have the power to either:

- (a) sever such term or provision from the balance of this Plan and provide the Applicant with the option to proceed with the implementation of the balance of this Plan as of and with effect from the Implementation Date, or
- (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that this Plan is implemented, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

11.7 ~~11.6~~ Preservation of Rights of Action

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with this Plan, following the Implementation Date, the Applicant and/or Newco will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Applicant and/or Newco may hold against any Person or entity without further approval of the Court.

11.8 ~~11.7~~ Responsibilities of Monitor

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Applicant (and/or Newco, as applicable) and not in its personal or corporate capacity, and shall have no liability in connection with the implementation of this Plan, including without limitation with respect to making distributions pursuant to and in accordance with this Plan, or the timing or sequence of this Plan's transaction steps, in each case save and except for gross negligence and wilful misconduct. The Monitor will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Applicant to observe, perform or comply with any of its obligations under this Plan. The Monitor shall not be responsible or liable whatsoever for any obligations of the Applicant (and/or Newco, as applicable). The Monitor shall at all times have the powers and protections granted to it by this Plan, the CCAA, the Initial Order, and any other Order made in the CCAA Proceedings.

11.9 ~~11.8~~ Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by a Person in writing or unless its Claims overlap or are otherwise duplicative.

11.10 ~~11.9~~ Notices

Any notice or other communication to be delivered hereunder must be in writing and refer to this Plan and may, as hereinafter provided, be made or given by personal delivery, ordinary mail, email or by facsimile addressed to each of the respective parties as follows:

(a) If to the Applicant:

TribalScale Inc.
420 - 207 Queens Quay West
Toronto, ON M5J 1A7

Attention: Mr. Sheetal Jaitly
Chief Executive Officer
Email: sheetal@~~tribalseale~~[TribalScale](mailto:sheetal@TribalScale.com).com

with a copy by email or fax (which shall not be deemed notice) to:

Weisz Fell Kour LLP
5600-100 King Street West
Toronto, ON M5X 1C9

Attention: Caitlin Fell
Partner
Email: cfell@wfklaw.ca
Fax: 416-613-8290

(b) If to the Monitor:

MNP Ltd.
300 – 111 Richmond Street West
Toronto, ON M5H 2G4

Attention: Mr. Sheldon Title
Senior Vice-President
Email: Sheldon.Title@mnp.ca
Fax: 416.323.5240

with a copy by email or fax (which shall not be deemed notice) to:

Borden Ladner Gervais LLP
 East Tower Bay Adelaide Centre
 22 Adelaide St. W. Suite 3400
 Toronto, ON M5H 4E3

Attention: Alex MacFarlane

Email: AMacFarlane@blg.com

Fax: 416.367.6749

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. EST on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

11.11 ~~11.10~~ Paramountcy

- (a) From and after the Implementation Date, any conflict between (i) this Plan and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and the Applicant (and/or Newco) as at the Implementation Date, will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.
- (b) From and after the granting of the Sanction Order, any conflict between (i) this Plan and (ii) the Sanction Order, will be deemed to be governed by the terms, conditions and provisions of the Sanction Order, which shall take precedence and priority.

11.12 ~~11.11~~ Further Assurances

Notwithstanding that the transactions and events set out herein will occur and be deemed to occur in the order set out in this Plan without any further act or formality, each of the Persons named or referred to in, or subject to, this Plan will make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein.

DATED this ~~22nd~~^{4th} day of ~~November~~^{January}, ~~2020~~²⁰²¹

TribalScale Inc.

Per: /s/ Sheetal Jaitly

Name: Sheetal Jaitly

Title: Chief Executive Officer

SCHEDULE “A”
Definitions

“**192**” has the meaning given to that term in the recitals;

“**Administration Charge**” has the meaning given to that term in the Initial Order;

“**Affected Secured Claim**” means the Claims of: (i) 192 in the amount equal to C\$~~2,648,000~~2,100,000 and (ii) BDC in the amount equal to C\$**115,300**.

“**Affected Secured Creditor**” means the holder of an Affected Secured Claim in respect, and to the extent of, such Affected Secured Claim;

“**Amended Articles**” have the meaning ascribed to that term in Section ~~7.1(b)~~5.1;

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the Law (or any part thereof) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;

“**Applicant**” has the meaning given to that term in the recitals;

“**BDC**” means the Business Development Bank of Canada;

“**BDC Payment**” has the meaning given to that term in Section 4.2;

“**BIA**” means the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended;

“**Business Day**” means any day, other than a Saturday, or a Sunday or a statutory or civic holiday, on which banks are generally open for business in Toronto, Ontario;

“**Cash**” means cash, certificates of deposit, bank deposits, and other cash equivalents;

“**CCAA**” has the meaning set out in the recitals;

“**CCAA Proceedings**” means the proceedings commenced by the Applicant under the CCAA as contemplated by the Initial Order;

“**Charges**” has the meaning ascribed to that term in the Initial Order;

“**Claim**” any right of any Person with indebtedness, liability or obligation of any kind against the Applicant which indebtedness, liability or obligation is in existence at the Filing Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by surety or otherwise and whether or not such a right is executory in nature including, without limitation, the right or ability of any Person to advance a Claim for contribution or indemnity or

otherwise with respect to any matter, action, cause, chose in action, whether existing at present or commenced in the future based in whole or in part on facts which exist prior to or at the Filing Date.

~~“**Converting Creditor**” means 192;~~

~~“**Converting Creditor Shares**” means New Common Shares representing ninety percent (90%) of the total issued and outstanding shares in the capital of the Applicant;~~

“**Converting Secured Creditor Class**” has the meaning given to that term in Section 3.1(a);

“**Court**” has the meaning given to that term in the recitals;

“**Creditor**” means any Person having a Claim and includes, without limitation, the transferee or assignee of a Claim or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;

“**Creditors’ Meeting**” means the meeting of the Affected Secured Creditors called for the purpose of considering and voting upon this Plan;

“**Crown**” means Her Majesty in right of Canada or a province of Canada;

“**Crown Priority Claim**” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;
- (b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the Canada Pension Plan, an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of the *Employment Insurance Act* and of any related interest, penalties or other amounts;
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a ~~tax~~Tax similar in nature to the income tax imposed on individuals under the ITA; or
 - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“Director” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or de facto director of the Applicant;

“Employee Priority Claims” means, with respect to Creditors who are or were employees of the Applicant the following claims:

- (a) Claims of the Applicant’s employees and former employees equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if the Applicant had become bankrupt on the Filing Date; and
- (b) Claims of the Applicants’ employees and former employees for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the date of the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Applicant’s business during the same period.

“Equity Claim” has the meaning set forth in section 2(1) of the CCAA;

“Existing Equity Holder” means a Person with an equity interest in the Applicant as at the Filing Date;

“Existing Shares” mean shares, of any kind, in the equity of the Applicant issued and outstanding as at the Filing Date;

“Existing Share Options” mean share options, of any kind, ~~applicable to the~~ exercisable into equity securities of the Applicant outstanding as at the Filing Date;

“Filing Date” means May 19, 2020, the date the Applicant’s proposal proceedings commenced under Part III of the BIA;

“General Security Agreement” means the General Security Agreement issued by the Applicant in favour of 192 as continuing security for the payment and performance of all obligations to be performed by the Applicant under the New Secured Senior Note;

“General Unsecured Claim” means any Claim other than a Claim of the ~~Converting Creditor~~ Secured Creditor Class of the Paid-Out Secured Creditor Class;

“General Unsecured Creditor” means the holder of a General Unsecured Claim in respect of and to the extent of such General Unsecured Claim;

“Governmental Entity” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or ~~taxing authority~~ Taxing Authority or power;

“Implementation Date” means the Business Day on which this Plan becomes effective, which shall be the day indicated on the certificate which the Monitor shall file with the Court as contemplated herein;

“Implementation Date Transactions” means, collectively, the transactions contemplated under Section 7.1 herein;

“Initial Order” means the Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List), dated July 31, 2020, which declared ~~Tribalseale~~[TribalScale](#) a company to which the CCAA applies;

“ITA” means the *Income Tax Act*, RSC 1985, c.1 (5th Supp), as amended, and any regulations thereunder;

“Jaitly Trust” means ~~Sheetal Jaitly, in his capacity as chief executive officer of the Applicant~~[a trust governed by a Deed of Settlement dated as of May 20, 2020;](#)

“Law” means any law, statute, order, decree, consent decree, judgment, rule regulation, ordinance or other pronouncement having the effect of law whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;

“Meeting Order” has the meaning given to that term in the recitals;

“Monitor” means MNP Ltd., in its capacity as court-appointed Monitor of the Applicant;

“Monitor’s Certificate” has the meaning ascribed to that term in Section 7.4 hereof;

“Monitor’s Website” means
<<https://mnpdebt.ca/en/corporate/engagements/tribalsealeTribalScale-inc>>;

“New Senior Secured Note” means a ~~secured~~ promissory note issued by the Applicant to ~~the Converting Creditor~~[192](#) in the principal amount of \$1,400,000 with interest accruing annually beginning on a date that is one year from the Implementation Date at a rate of ~~21~~[21](#)% per annum, which promissory note shall be effective from and after the Implementation Date ~~and secured by the General Security Agreement~~;

“Newco” means ~~a new company incorporated by~~[2800741 Ontario Inc., a wholly-owned subsidiary of](#) the Applicant ~~as a private company established~~ under the Provincial laws of Ontario ~~in accordance with this Plan~~;

~~“Newco Note” has the meaning ascribed to that term under Section 9.3 hereof;~~

~~“New Common Shares” refers to new common shares in the capital of the Applicant issued or to be issued to the Converting Creditor in exchange for, and in full and final settlement of its Claims, in accordance with this Plan;~~

“NOI Proceedings” means the proceedings commenced by ~~Tribalseale~~[TribalScale](#) by the filing

of a Notice of Intention to Make a Proposal under BIA;

“Non-Voting Common Shares” means the non-voting common shares in the capital of the Applicant authorized pursuant to the Amended Articles;

“Officer” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of the Applicant;

“Order” means any order of the Court in these CCAA Proceedings or the proposal proceedings under the BIA referenced in the Initial Order;

“Outside Date” means ~~December 3~~February 1, 20202021 (or such other date as the Applicant, the Monitor and ~~the Supporting Creditor~~192 may agree);

“Paid-Out Secured Creditor Class” has the meaning provided to it in Section 3.1(b);

“Person(s)” is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Governmental Entity or any agency, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

“Plan” means this Plan of Compromise and Arrangement, including any amendments, restatements, modifications or supplements hereto made from time to time in accordance with the terms hereof or made at the direction of the Court in the Sanction Order or otherwise;

“Preferred Shares” means the Class A preferred shares in the capital of the Applicant authorized pursuant to the Amended Articles;

“Priority Claim” means a Crown Priority Claim or an Employee Priority Claim;

“Proven Claim” as used in relation to any Claim means such Claim as finally accepted or determined by the Monitor and each Affected Secured Claim shall constitute a Proven Claim;

~~“Recitals” mean those Recitals stated on the first page of this Plan;~~

“Released Claims” ~~means~~has the ~~matters~~meaning given to that ~~are subject to release and discharge pursuant~~term in to Section 10.1 hereof;

“Released Parties” has the meaning ~~ascribed~~given to that term in Section 10.1 hereof;

~~“Released Party” means each of the Released Parties;~~

“Required Majority” means a majority in number of Affected Secured Creditors within a class representing at least two thirds in value of the Voting Claims of such Creditors who actually vote (in person or by proxy) at the Creditors’ Meeting;

“RSA” has the meaning given to that term in the recitals;

“Sanction Motion” means the Applicant’s motion for an order sanctioning this Plan and granting the Reverse Vesting Order;

“Sanction Order” means an order acceptable in form and substance to the Applicant, the Monitor, and the ~~Supporting~~Converting Creditor sanctioning the Plan and the transactions contemplated therein;

“Scotiabank” means The Bank of Nova Scotia;

“Share Purchase Agreement” has the meaning given to that term in Section 5.2(b);

“Shareholders Agreement” has the meaning ascribed to that term in Section 4.1(c), which agreement shall be in form and substance satisfactory to 192;

“Service List” means the service list maintained by the Monitor in respect of these CCAA Proceedings;

~~“Sirius Proceeds” mean the proceeds of a receivable owing by SiriusXM to the Applicant, including such proceeds received in respect of a settlement or determination of the claim of the Applicant against SiriusXM;~~

“SiriusXM” means Sirius XM Connected Vehicle Services Inc. and its affiliates.

~~“Support Agreement” has the meaning provided to it in the recitals;~~

~~“Supporting Creditor” means 192 pursuant to and in accordance with the Support Agreement;~~
“SiriusXM Claim” means all claims available to Tribalscale against SiriusXM, including, but not limited to, all claims available to Tribalscale under the professional services agreement between TribalScale and SiriusXM effective April 26, 2019 as further particularized through individual statements of work including, but not limited to, the statements of work effective July 1, 2019 and November 23, 2019.

“Tax” or “Taxes” means any and all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, Quebec and other government pension plan premiums or contributions;

“Taxing Authority” means any of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, any municipality of Canada, the Canada Revenue Agency, the Canada Border Services Agency, any similar revenue or taxing authority of

Canada and each and every province or territory of Canada and any political subdivision thereof and any Canadian or foreign government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power;

“~~Tribalseale~~TribalScale” has the meaning given in the recitals;

“**Unaffected Claim**” means:

- (a) any Claims secured by any of the Charges;
- (b) any Claims that cannot be compromised pursuant to subsection 19(2) of the CCAA;
- (c) any Priority Claims;
- (d) any Claims vested out pursuant to the Reverse Vesting Order; and
- (e) the Unaffected Trade Obligations

“**Unaffected Creditor**” means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim;

“**Unaffected Trade Obligations**” refer to all trade obligations owed by the Applicant to its suppliers, incurred at any time, which the Applicant will continue to pay notwithstanding anything in this Plan;

“**Reverse Vesting Order**” means an Order of the Court adding Newco as a CCAA applicant and permitting the transferring and vesting out absolutely, without formal legal conveyance, all claims of General Unsecured Creditors to Newco, as contemplated under this Plan and in the Reverse Vesting Order;

“**Voting Claim**” means the amount of an Affected Secured Claim of an Affected Secured Creditor against the Applicant as finally accepted and determined for the purposes of voting at the Creditors’ Meeting, in accordance with this Plan and the CCAA; and

“~~WFK~~Voting Common Shares” means the voting common shares in the capital of the Applicant~~’s counsel, Weisz Felt Kour LLP~~ authorized pursuant to the Amended Articles.

SCHEDULE “B”
Form of Sanction Order

Document comparison by Workshare 10.0 on Tuesday, January 5, 2021
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Input:	
Document 1 ID	file://\wfk-dc\WDOX\DATA\CLIENTS\7043\001\~VER\11\00021104.DOCX
Description	00021104
Document 2 ID	file://\wfk-dc\WDOX\DATA\CLIENTS\7043\001\00021104.DOCX
Description	00021104
Rendering set	standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	286
Deletions	231
Moved from	7
Moved to	7
Style change	0
Format changed	0
Total changes	531

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC.**

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

Proceedings commenced at Toronto

**AFFIDAVIT OF SHEETAL JAITLEY
(Re Sanction Motion, Returnable January 11,
2021)**

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TAB 3

Court File No. CV-20-00645116-00CL

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

THE HONOURABLE
JUSTICE CAVANAGH

)
)
)

MONDAY, THE 11TH
DAY OF JANUARY, 2021

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC.**

Applicant

SANCTION ORDER

THIS MOTION, made by TribalScale Inc. ("**TribalScale**" or the "**Applicant**") for an order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), among other things, sanctioning the Amended Plan of Compromise and Arrangement dated January 4, 2021 (as amended, varied or supplemented from time to time in accordance with the terms thereof, and together with all schedules thereto, the "**Plan**"), which Plan is attached as **Schedule "A"** hereto; and granting related relief.

ON READING the Notice of Motion, the Affidavit of Sheetal Jaitly sworn January 5, 2021, the Third Report of MNP Inc. in its capacity as monitor of the Applicant (the "**Monitor**"), and the Second Report of the Monitor; and on hearing the submissions of respective counsel for the Applicant, the Monitor, and such other counsel as were present, and on being advised that the Service List was served with the Motion Record herein:

DEFINED TERMS

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Order shall have the meanings ascribed to such terms in the Plan.

SERVICE, NOTICE AND MEETINGS

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.
3. **THIS COURT ORDERS** that there has been good and sufficient notice, service and delivery of the Voting Materials (as defined in the Meeting Order granted by this Court on November 25, 2020 (the “**Meeting Order**”)), the Meeting Order and the Plan to all Persons upon which notice, service and delivery were required.
4. **THIS COURT ORDERS** that the Creditors’ Meeting was duly called, convened, held and conducted, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceedings, including, without limitation, the Meeting Order.

SANCTION OF THE PLAN

5. **THIS COURT ORDERS** that the Plan, in the form appended here as **Schedule “A”**, is accepted for filing and replaces the plan of compromise and arrangement appended to the Meeting Order.

6. **THIS COURT ORDERS** that:
- (a) the Plan has been approved by the Required Majorities of Affected Secured Creditors as required by the Meeting Order, and in conformity with the CCAA;
 - (b) the Applicant has complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects;
 - (c) the Court is satisfied that the Applicant has not done or purported to do anything that is not authorized by the CCAA; and
 - (d) the Applicant has acted in good faith and with due diligence, and the Plan and the transactions, terms and conditions contemplated therein are fair and reasonable.
7. **THIS COURT ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases contemplated therein are hereby sanctioned and approved pursuant to Section 6 of the CCAA.

PLAN IMPLEMENTATION

8. **THIS COURT ORDERS** that each of the Applicant, Newco, their respective directors and officers, and the Monitor is authorized and directed to take all steps and actions (including, without limitation, the Implementation Date Transactions), and to do all things, necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. None of the Applicant, Newco, or their respective directors and officers, or the Monitor shall incur any liability as a result of acting in accordance with the

terms of the Plan and this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of such parties.

9. **THIS COURT ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases and reorganizations effected thereby (including, without limitation, the Implementation Date Transactions) are hereby approved, shall be deemed to be implemented without the need for any corporate formality and shall be binding and effective as of the Effective Time in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon the Applicant, Newco, the Affected Secured Creditors, the Released Parties, and all other Persons and parties named or referred to in, affected by, or subject to the Plan.
10. **THIS COURT ORDERS** that: (i) the Applicants and the Monitor, and any other Person required to make any distributions, deliveries or allocations or take any steps or actions related thereto pursuant to the Plan are hereby authorized and directed to complete such distributions, deliveries or allocations and to take any such related steps or actions, as the case may be, in accordance with the terms of the Plan, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved; and (ii) such distributions, deliveries or allocations shall be free and clear of all claims, rights and interests of any Person, including, without limitation, any super-priority CCAA charges.
11. **THIS COURT ORDERS** that upon delivery to the Monitor of written notice by the Applicant and the Supporting Creditor of the fulfilment or waiver of the conditions precedent to implementation of the Plan, the Monitor shall deliver to the Applicant a certificate signed by the Monitor confirming that all of the conditions precedent set out in

Article 6 of the Plan have been satisfied or waived, as applicable, in accordance with paragraph 7.3 of the Plan, and that the Implementation Date has occurred and the Plan is effective in accordance with its terms and the terms of this Order (the “**Monitor’s Implementation Date Certificate**”), a form of which is appended here as **Schedule “B”**. The Monitor is hereby directed to file the Monitor’s Implementation Date Certificate with the Court as soon as reasonably practicable on or forthwith following the Implementation Date after delivery thereof and shall post a copy of same, once filed, on the Website and provide a copy to the Service List.

12. **THIS COURT ORDERS** that the form of Monitor’s Implementation Date Certificate is hereby approved.
13. **THIS COURT ORDERS** that (i) the existing shareholder rights agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, as amended, (ii) the Right of First Refusal and Co-Sale Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, and (iii) the Voting Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, shall be deemed to be terminated.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

14. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Plan, on the Implementation Date, all Released Claims shall be fully, finally, irrevocably and forever compromised, discharged and released with prejudice, and the ability of any Person to proceed against the Released Parties in respect of or relating to any such Affected Claims shall be and shall be deemed forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims shall

permanently be stayed against the Released Parties, subject only to the right of Affected Secured Creditors to receive the distributions and deliveries pursuant to the Plan and this Order in respect of their Proven Claims, in the manner and to the extent provided for in the Plan. For the avoidance of doubt, the terms “distributions” and “deliveries” shall include all elements of the transactions contemplated in the Plan and this Order to be issued or delivered to an Affected Secured Creditor including the New Senior Secured Note and General Security Agreement.

15. **THIS COURT ORDERS** that the determination of Proven Claims shall be final and binding on the Applicant and all Affected Secured Creditors.
16. **THIS COURT ORDERS** that nothing in the Plan extends to or shall be interpreted as extending, amending, or giving any rights to any Person in respect of Claims that have been barred or extinguished.
17. **THIS COURT ORDERS** that each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have consented and agreed to all of the provisions in the Plan, in its entirety, and each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have executed and delivered to the Applicant all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.
18. **THIS COURT ORDERS AND DECLARES** that all distributions or payments to Affected Secured Creditors under the Plan are for the account of the Applicant and the fulfillment of its obligations under the Plan.
19. **THIS COURT ORDERS** that sections 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances or transfers at undervalue,

shall not apply to the Plan or to any transactions, distributions or settlement payments implemented pursuant to the Plan.

20. **THIS COURT ORDERS AND DECLARES** that the Applicant shall be authorized, in connection with the making of any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Governmental Authority for any consent, authorization, certificate or approval in connection therewith.
21. **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan or this Order shall not constitute a “distribution” by any person for the purposes of any tax statute or regulation, and the Applicant, in making any such distributions, disbursements or payments, as applicable, is merely a disbursing agent under the Plan and is not exercising any discretion in making payments under the Plan and no person is “distributing” such funds for the purpose of any tax statute or regulation, and the Applicant and any other person shall not incur any liability under any tax statute or regulation in respect of distributions, disbursements or payments made by it and the Applicant and any other person is hereby forever released, remised and discharged from any claims against it under or pursuant to any tax statute or regulation or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and this Order and any claims of this nature are hereby forever barred.

RELEASES

22. **THIS COURT ORDERS AND DECLARES** that the compromises and releases set out in Article 10 of the Plan are approved and shall be binding and effective as at the Implementation Date, in accordance with the Plan.
23. **THIS COURT ORDERS** that from and after the Implementation Date any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative: hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Claims that are released pursuant to paragraph 22 of this Order and Article 10 of the Plan or discharged, compromised or terminated pursuant to the Plan.

THE MONITOR

24. **THIS COURT ORDERS** that in addition to its prescribed rights and obligations under the CCAA and the Orders of the Court made in these CCAA Proceedings, the Monitor is granted the powers, duties and protections contemplated by and required under the Plan and that the Monitor be and is hereby authorized, entitled and empowered to perform its duties and fulfil its obligations under the Plan to facilitate the implementation thereof, including without limitation:
- (a) to take all such actions to pursue any outstanding accounts receivable owing to any of the Applicant and/or Newco, or to assist the Applicant and/or Newco with respect thereto;

- (b) to act, if required, as trustee in bankruptcy, liquidator, receiver or a similar official of the Applicant; and
 - (c) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under any other Order granted by this Court including for advice and directions with respect to any matter arising from or under the Plan.
25. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order or the provisions of any other Order granted in the CCAA Proceeding, including this Order, the Applicant shall remain in possession and control of the Property (as defined in the Initial Order) and that the Monitor shall not take possession or be deemed to be in possession and/or control of the Property.
26. **THIS COURT ORDERS AND DECLARES** that the Monitor shall be authorized, in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Governmental Authority for any consent, authorization, certificate or approval in connection therewith.
27. **THIS COURT ORDERS AND DECLARES** that: (i) in carrying out the terms of this Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, and as an officer of the Court, including the Stay of Proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Order and/or the Plan, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor; (iii) the Monitor shall be entitled to rely on the books and records of the Applicant and any information provided by the Applicant without independent investigation; and (iv) the Monitor shall not be liable for

any claims or damages resulting from any errors or omissions in such books, records or information.

28. **THIS COURT ORDERS AND DECLARES** that in no circumstance will the Monitor have any liability for any of the Applicant's tax liabilities regardless of how or when such liability may have arisen.
29. **THIS COURT ORDERS** that the Monitor is hereby directed to post a copy of the Monitor's Plan Completion Certificate, once filed, on the Website and provide a copy to the Service List.

ADDITION OF NEWCO AS CCAA APPLICANT

30. **THIS COURT ORDERS** that,
 - (a) Newco is a company to which the CCAA applies;
 - (b) Newco shall be an Applicant in these CCAA proceedings and any reference in any Order of this Court in respect of these CCAA proceedings to an "Applicant" shall refer to Newco, *mutatis mutandis*; and
 - (c) The full legal name of Newco, being 2800741 Ontario Inc., shall be added to the title of these proceedings after TribalScale, and any document filed thereafter in these proceedings shall be filed using the revised title of proceedings.

REVERSE VESTING

31. **THIS COURT ORDERS** that on the Implementation Date, all Claims of General Unsecured Creditors shall vest absolutely and exclusively in Newco, such that the these Claims shall become obligations of Newco and shall no longer be obligations of TribalScale, and the Applicant and all of its assets, licenses, undertakings and properties of

every nature and kind whatsoever and wherever situate (the “**Applicant’s Property**”) shall be and are hereby forever released and discharged from such Claims and all related Claims and all encumbrances affecting or relating to the Applicant’s Property are hereby expunged and discharged as against the Applicant’s Property.

32. **THIS COURT ORDERS** that on the Implementation Date, all rights and benefits of TribalScale relating to a professional services agreement between TribalScale and Sirius XM Connected Vehicle Services Inc. (“**SiriusXM**”) dated April 26, 2019 as further particularized through individual statements of work including the statement of work effective November 23, 2019 (the “**SiriusXM Contract**”) are hereby vested in Newco, including without limitation, (i) TribalScale’s right to receive interest, penalties and fees, (ii) any actions, claims, rights or lawsuits of any nature whatsoever, whether against SiriusXM or any other party, arising out of or in connection with SiriusXM Contract (collectively, the “**Claims**”), (iii) all cash, securities, instruments and other property which may be paid or issued by SiriusXM under the SiriusXM Contract or in satisfaction of the Claims, and (iv) all proceeds of the foregoing. For greater clarity, Newco is hereby empowered to pursue and prosecute all claims available to TribalScale against SiriusXM and its affiliates.

OTHER CONTRACTS

33. **THIS COURT ORDERS** that subject to the performance by the Applicant of its obligations under the Plan, all contracts, leases, agreements and other arrangements to which the Applicants, or any of them, are a party and that have not been terminated or disclaimed pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA will be and remain in full force and effect as of the Effective Time, and no

Person who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Implementation Date and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);
- (b) the insolvency of the Applicant or the fact that the Applicant sought or obtained relief under the CCAA;
- (c) any steps, compromises, releases, discharges, cancellations, transactions, arrangements or reorganizations effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan; or (d) any change of control of any of the Applicants arising from the implementation of the Plan; or
- (d) any change of control of any of the Applicants arising from the implementation of the Plan.

GENERAL

34. **THIS COURT ORDERS** that the Applicant, Newco, and the Monitor may apply to this Court from time to time for advice and direction with respect to any matter arising from or under the Plan or this Order.

35. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada and abroad as against all persons and parties against whom it may otherwise be enforced.
36. **THIS COURT ORDERS** that the Applicant and/or Newco (in the sole discretion of either) are hereby authorized to seek an order of any court of competent jurisdiction to recognize the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Applicant, Newco, the Monitor and their respective agents in carrying out the terms of the Plan and this Order.
37. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to recognize and give effect to the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Applicant, Newco, the Monitor and their respective agents in carrying out the terms of the Plan and this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
38. **THIS COURT ORDERS** that this Order is effective from the date it is made without any need for entry and filing.
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IN THE MATTER OF THE COMPANIES' CREDITORS' ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(Re: Plan Sanction)

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

Court File No.: CV-20-00645116-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TRIBALSCALE INC. (the "Applicant")**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

MOTION RECORD
(Re: Sanction Order, Returnable January 11, 2021)

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