

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**

**MOTION RECORD**

July 27, 2020

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**TO: THE SERVICE LIST**

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# TAB 1

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**NOTICE OF MOTION**

(Re: Continuation under the *Companies' Creditors Arrangement Act*)

**TRIBALSCALE INC.** (“**TribalScale**” or the “**Applicant**”) will make a motion to a Judge presiding over the Commercial List on July 31, 2020, at 2:00 p.m. 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@wfklaw.ca](mailto:cpaul@wfklaw.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 4 of the Motion Record (the “**Initial Order**”) that, among other things:
  - a) abridges the time for service of this Motion, validates the manner of service, and declares that this Motion is properly returnable before the Court;

- b) declares that TribalScale is a company to which the *Companies Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”) applies;
- c) authorizes the continuation under the CCAA of these proposal proceedings under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), commenced on May 19, 2020, pursuant to the Notice of Intention to Make a Proposal filed by TribalScale (the “**NOI**”);
- d) appoints MNP LTD (“**MNP**” or the “**Proposed Monitor**”) as an officer of this Honourable Court to monitor the business and financial affairs of the Applicant;
- e) stays all proceedings and enforcement processes taken or that might be taken in respect of the Applicant, the Proposed Monitor, or their respective employees and representatives;
- f) grants the Applicant the authority to file a plan of compromise or arrangement;
- g) grants the following charges over the property of the Applicant, listed in order of priority:
  - (i). an administration charge in favour of the Applicant’s counsel, the Proposed Monitor, and the Proposed Monitor’s counsel (the “**Administration Charge**” – qualified below); and,
  - (ii). a directors’ charge in favour of the directors and officers of the Applicant (the “**D&O Charge**”).

2. Strictly in the alternative, an Order (the “**NOI Stay Extension Order**”) extending the time period within which TribalScale Inc. must file a proposal with the Official Receiver and extending the corresponding stay of proceedings from July 31, 2020 up to and including September 14, 2020, pursuant to section 50.4(9) of the BIA; and,
3. Such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THIS MOTION ARE:**

*Overview*

4. TribalScale filed an NOI on May 19, 2020 (the proceedings commenced by such filing, being the “**NOI Proceedings**”). MNP was appointed as the proposal trustee in the NOI Proceedings (the “**Proposal Trustee**”).
5. TribalScale is a software engineering and development company incorporated under the Ontario *Business Corporation Act*, with head offices at 1410 – 8 King Street East, Toronto, Ontario, M5C 1B6.
6. 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 Company, its value lies principally in its contracts, intellectual property, goodwill, and accounts receivables.
7. Prior to June 2019, TribalScale began experiencing liquidity issues principally as a result of the loss of two major customer contracts.
8. As a result of loss of revenue and breaches by the company of its main secured credit facility through the Bank of Nova Scotia (“**Scotiabank**”), TribalScale has for the past year

undertaken various steps to restructure its business operations. Namely, TribalScale, with the assistance of its financial advisor, 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.

9. On May 19, 2020, in response to a default and termination letter by its landlord, TribalScale filed an NOI.
10. TribalScale's only material secured creditor is 1924191 Ontario Inc. ("**192**"), pursuant to an assignment of the debt and security dated April 30, 2020 between Scotiabank and 192. TribalScale currently owes \$2.465 million to 192.
11. TribalScale has approximately \$3.3 million in unsecured liabilities.
12. The Applicant requires the protections afforded under the CCAA in order to maintain the *status quo*, as well as to obtain the breathing room required to complete negotiations with 192 with respect to a potential transaction to resolve the secured indebtedness of 192 (the "**Proposed CCAA Transaction**"). The Proposed CCAA Transaction will likely take the form of a conversion of the secured debt of 192 into equity – that is, 95 percent equity to 192, and 5 percent to Scotiabank – and providing for cash payment to BDC.
13. The CCAA framework will also assist the Applicant with the collection of outstanding receivables and the resolution of disputes with respect to the same.
14. The CCAA is the best forum for these insolvency proceedings. 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. Furthermore, the CCAA will allow TribalScale additional breathing room beyond limited 45-day stay extensions. This will assist in conserving cash.

*Continuation under the CCAA*

15. TribalScale is insolvent and seeks to continue the NOI Proceedings under the CCAA pursuant to section 11.6 of the CCAA. The CCAA is the best forum for these insolvency proceedings and presents the best possible chance of maximizing value for all stakeholders.
16. TribalScale is an Ontario corporation with liabilities in excess of \$5 million.
17. The Proposal Trustee supports TribalScale's motion to continue the NOI Proceedings under the CCAA.
18. The Applicant has prepared a cash flow forecast that demonstrates TribalScale will have sufficient liquidity to meet its obligations during the initial period of the CCAA filing.

*Objectives of the CCAA Proceedings*

19. The Applicant requires a stay of proceedings and the other relief set out in the Initial Order to preserve the value of the Applicant's business by permitting it to continue operating as it pursues restructuring paths for the benefit of its stakeholders as a whole.
20. As a part of the Applicant's restructuring strategy, the Applicant's immediate objectives are to: (i) resolve a dispute with a customer, Sirius XM Connected Vehicle Services, which may

require further attendance and recourse to this Court; and, (ii) to implement the Proposed CCAA Transaction.

21. In addition to the immediate objectives, CCAA protection will further aid the Applicant's efforts to:

- a) perform current customer contracts;
- b) execute new customer contracts;
- c) collect outstanding receivables; and,
- d) engage in strategic "right-sizing" of the business with the assistance of the Proposed Monitor.

22. MNP has consented to act as Monitor in the CCAA proceedings.

*Priority Charges*

23. The Applicants are seeking the following Court-ordered charges as part of the relief granted by the Initial Order, in the following priority:

FIRST – a continuation of the Administration Charge, previously granted in the NOI Proceedings, up to a maximum of \$125,000 to secure the fees and disbursements of the professional advisors of the Applicants, Monitor and Monitor's counsel; and,

SECOND – a D&O Charge up to a maximum of \$125,000 for liabilities and obligations of the directors and officers of the Applicants after the date of the Initial Order.



24. It is just and appropriate under the circumstances to grant the relief sought in the Initial Order. The requested relief is limited only to that required to maintain the Applicants during the initial stay period of ten days until August 10, 2020, at which time the Applicants will re-attend before this court for a comeback hearing.

*Extension of the NOI Proceedings*

25. Strictly in the alternative, if this Court does not see it fit to grant the proposed Initial Order at this time, TribalScale seeks an extension of the stay period under the NOI Proceedings up to and including September 14, 2020.
26. TribalScale has acted, and continues to act, in good faith and with due diligence during the NOI Proceedings with the oversight of the Proposal Trustee. No creditors of TribalScale will be materially prejudiced by the proposed stay extension.
27. The Proposal Trustee supports the proposed stay extension.

*Further Grounds*

28. The provisions of the BIA, including section 50.4(9);
29. The provisions of the CCAA, including section 11.6;
30. The statutory, inherent, and equitable jurisdiction of this Honourable Court
31. Rules 1.04, 2.03, 3.02, 16.04, and 37 of the *Rules of Civil Procedure*, RSO 1990, Reg 194, as amended; and
32. 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, sworn July 25, 2020, with Exhibits attached thereto;
2. The consent of MNP to act as Monitor in the CCAA proceedings;
3. The Report of the Proposal Trustee, to be filed; and,
4. Such further and other evidence as counsel may advise and this Honourable Court may permit.

July 27, 2020

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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

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**AFFIDAVIT OF SHEETAL JAITLEY**  
(Sworn July 25, 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 1<sup>st</sup> 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 17<sup>th</sup>, 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**

THIS IS **EXHIBIT "A"** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2479504	TRIBALSCALE INC.	2015/08/18
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
8 KING STREET EAST	NOT APPLICABLE	NOT APPLICABLE
<b>Suite # 1410</b> TORONTO ONTARIO CANADA M5C 1B5	<b>New Amal. Number</b>	<b>Notice Date</b>
	NOT APPLICABLE	NOT APPLICABLE
<b>Mailing Address</b>		<b>Letter Date</b>
SHEETAL JAITLEY 8 KING STREET EAST		NOT APPLICABLE
<b>Suite # 1410</b> TORONTO ONTARIO CANADA M5C 1B5	<b>Revival Date</b>	<b>Continuation Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Date Commenced in Ontario</b>	<b>Date Ceased in Ontario</b>
	00001 00010	NOT APPLICABLE
<b>Activity Classification</b>		
NOT AVAILABLE		

## CORPORATION PROFILE REPORT

### Ontario Corp Number

2479504

### Corporation Name

TRIBALSCALE INC.

### Corporate Name History

TRIBALSCALE INC.

### Effective Date

2015/08/18

### Current Business Name(s) Exist:

NO

### Expired Business Name(s) Exist:

NO

### Administrator: Name (Individual / Corporation)

SHEETAL  
JAITLEY

### Address

8 KING STREET EAST  
  
Suite # 1410  
TORONTO  
ONTARIO  
CANADA M5C 1B5

### Date Began

2015/08/18

### First Director

NOT APPLICABLE

### Designation

DIRECTOR

### Officer Type

### Resident Canadian

Y

Request ID: 024543312  
Transaction ID: 75455846  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/05/19  
Time Report Produced: 12:57:54  
Page: 3

035

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2479504

**Corporation Name**

TRIBALSCALE INC.

**Administrator:**

**Name (Individual / Corporation)**

SHEETAL

JAITLEY

**Address**

8 KING STREET EAST

Suite # 1410  
TORONTO  
ONTARIO  
CANADA M5C 1B5

**Date Began**

2015/08/18

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

CHIEF EXECUTIVE OFFICER Y

**Resident Canadian**

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2479504

**Corporation Name**

TRIBALSCALE INC.

**Last Document Recorded**

Act/Code	Description	Form	Date
CIA	ANNUAL RETURN 2018	1C	2020/04/26 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

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



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A COMMISSIONER FOR TAKING AFFIDAVITS

**TribalScale Inc.**

Consolidated Financial Statements

**September 30, 2018**

(expressed in Canadian dollars)





March 29, 2019

## **Independent Auditor's Report**

### **To the Directors of TribalScale Inc.**

We have audited the accompanying consolidated financial statements of TribalScale Inc. and its subsidiary, which comprise the consolidated balance sheet as at September 30, 2018 and the consolidated statements of income, changes in shareholders' equity and cash flows for the year then ended, and the related notes, which comprise a summary of significant accounting policies and other explanatory information.

#### **Management's responsibility for the consolidated financial statements**

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

#### **Auditor's responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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*PricewaterhouseCoopers LLP*  
*PwC Centre, 354 Davis Road, Suite 600, Oakville, Ontario, Canada L6J 0C5*  
*T: +1 905 815 6300, F: +1 905 815 6499*

"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership.

**Opinion**

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of TribalScale Inc. and its subsidiary as at September 30, 2018 and the results of their operations and their cash flows for the year then ended in accordance with Canadian accounting standards for private enterprises.

**Emphasis of matter**

Without qualifying our opinion, we draw your attention to note 1 to the financial statements, which describes matters and conditions that indicate the existence of material uncertainty that may cause significant doubt about TribalScale Inc.'s ability to continue as a going concern.

*PricewaterhouseCoopers LLP*

Chartered Professional Accountants, Licensed Public Accountants

**TribalScale Inc.****Consolidated Balance Sheet****As at September 30, 2018**

(expressed in Canadian dollars)

	<b>2018</b> <b>\$</b>	<b>2017</b> <b>\$</b> (Unaudited)
<b>Assets</b>		
<b>Current assets</b>		
Cash	-	1,697,105
Accounts receivable (note 5)	5,757,968	3,945,506
SR&ED receivable	283,000	-
HST receivable	-	520,000
Prepaid expenses and deposits	562,003	346,862
Income taxes recoverable	-	33,340
Due from related party (note 7)	202,710	-
	6,805,681	6,542,813
<b>Property and equipment</b> (note 3)	1,039,508	289,767
<b>Intangible assets</b> (note 4)	2,666,667	4,000,000
<b>Investments</b>	359,031	58,231
	10,870,887	10,890,811
<b>Liabilities</b>		
<b>Current liabilities</b>		
Bank indebtedness (note 15)	1,143,977	-
Accounts payable	544,358	246,481
HST payable	5,749	-
Income taxes payable	82,000	-
Accrued liabilities	975,026	2,713,486
Deferred revenue	315,614	449,008
Current portion of long-term debt (note 12)	1,000,000	1,520,000
	4,066,724	4,928,975
<b>Leasehold loan</b> (note 14)	195,520	47,774
<b>Shareholder loan</b> (note 13)	1,480,000	-
<b>Long-term debt</b> (note 12)	2,000,000	3,000,000
	7,742,244	7,976,749
<b>Shareholders' Equity</b>		
<b>Common shares</b> (note 6)	139,197	135,354
<b>Contributed surplus</b>	121,365	7,551
<b>Retained earnings</b>	2,868,081	2,771,157
	3,128,643	2,914,062
	10,870,887	10,890,811
<b>Going concern</b> (note 1)		

**Approved by the Board of Directors**

\_\_\_\_\_ Director \_\_\_\_\_ Director

The accompanying notes are an integral part of these consolidated financial statements.

**TribalScale Inc.**

## Consolidated Statement of Income

For the year ended September 30, 2018

(expressed in Canadian dollars)

	2018 \$	2017 \$ (Unaudited)
<b>Revenue</b>		
Professional services	25,066,128	13,045,049
<b>Operating expenses</b>		
Amortization of property and equipment	201,018	51,968
Amortization of intangible assets	1,333,333	-
General and administration	4,169,149	1,548,552
Professional fees	1,275,534	868,623
Salary and benefits	15,357,079	7,967,576
Share-based compensation	113,814	7,551
Sales and marketing	1,454,737	465,781
Management fees paid to related party (note 7)	1,408,525	-
	25,313,189	10,910,051
<b>Operating (loss) gain</b>	(247,061)	2,134,998
<b>Other income</b>	830,405	347,792
	583,344	2,482,790
<b>Other expenses</b>		
Bad debt	368,544	-
Interest	21,381	232
Foreign exchange (gain) loss	(29,514)	123,726
	360,411	123,958
<b>Income before income taxes</b>	222,933	2,358,832
<b>Income taxes (recovery)</b>	126,009	(108,569)
<b>Net income for the year</b>	96,924	2,467,401

The accompanying notes are an integral part of these consolidated financial statements.

**TribalScale Inc.**
**Consolidated Statement of Changes in Shareholders' Equity**  
**For the year ended September 30, 2018**

(expressed in Canadian dollars)

	<b>Common shares</b>		<b>Contributed surplus</b>	<b>Retained earnings</b>	<b>Total</b>
	<b>Number</b>	<b>Amount</b>			
		<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Balance – September 30, 2016</b>					
(Unaudited)	205,500,000	285,014	-	303,756	588,770
Exercise of stock options (note 8)	104,167	1,042	-	-	1,042
Share-based compensation (note 8)	-	-	7,551	-	7,551
Share repurchase and reissuance	-	(150,702)	-	-	(150,702)
Net income for the year	-	-	-	2,467,401	2,467,401
<b>Balance – September 30, 2017</b>					
(Unaudited)	205,604,167	135,354	7,551	2,771,157	2,914,062
Exercise of stock options (note 8)	384,375	3,844	-	-	3,844
Share-based compensation (note 8)	-	-	113,814	-	113,814
Shares repurchased	(6,291,094)	(1)	-	-	(1)
Net income for the year	-	-	-	96,924	96,924
<b>Balance – September 30, 2018</b>	<b>199,697,448</b>	<b>139,197</b>	<b>121,365</b>	<b>2,868,081</b>	<b>3,128,643</b>

The accompanying notes are an integral part of these consolidated financial statements.

**TribalScale Inc.****Consolidated Statement of Cash Flows**  
**For the year ended September 30, 2018**

(expressed in Canadian dollars)

	<b>2018</b> <b>\$</b>	<b>2017</b> <b>\$</b> (Unaudited)
<b>Cash provided by (used in)</b>		
<b>Operating activities</b>		
Net income for the year	96,924	2,467,401
Items not affecting cash		
Amortization of property and equipment	201,018	51,968
Amortization of intangible assets	1,333,333	-
Share-based compensation	113,814	7,551
Changes in non-cash working capital balances (note 16)	(3,571,200)	(668,382)
	<u>(1,826,111)</u>	<u>1,858,538</u>
<b>Investing activities</b>		
Purchase of property and equipment	(950,759)	(252,258)
Purchase of investments	(175,800)	(58,232)
	<u>(1,126,559)</u>	<u>(310,490)</u>
<b>Financing activities</b>		
Exercise of stock options	3,844	1,042
Repurchase of common shares	(1)	(150,702)
Repayment of current portion of long-term debt	(1,520,000)	-
Proceeds from shareholder loan	1,480,000	-
Proceeds from leasehold loan	147,745	47,775
	<u>111,588</u>	<u>(101,885)</u>
<b>(Decrease) increase in cash during the year</b>	<b>(2,841,082)</b>	<b>1,446,163</b>
<b>Cash – Beginning of year</b>	<u><b>1,697,105</b></u>	<u><b>250,942</b></u>
<b>(Bank indebtedness) cash – End of year</b>	<u><b>(1,143,977)</b></u>	<u><b>1,697,105</b></u>

The accompanying notes are an integral part of these consolidated financial statements.

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

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(expressed in Canadian dollars)

**1 Nature of operations and going concern**

TribalScale Inc. (the Company) was incorporated on August 18, 2015 under the Ontario Business Corporations Act. The Company is a technology innovation firm providing services to companies located in Canada, the United States of America and the United Arab Emirates on digital product strategy, design and development for web, mobile and emerging technologies.

TribalScale US, Inc. (the subsidiary) is incorporated as a wholly owned subsidiary of the Company and was consolidated in these financial statements. Prior to incorporation, the Company transferred funds at cost to cover expenditures for the normal course of operation in exchange for a management fee.

The Company prepares its consolidated financial statements in accordance with Canadian accounting standards for private enterprises as issued by the Canadian Accounting Standards Board applicable to a going concern, which contemplates the realization of assets and settlement of liabilities in the normal course of business as they come due for the foreseeable future.

The Company is in a high growth stage and its cash flows from operations are insufficient to cover its operating expenses. The Company has taken actions to reduce and restructure its operating costs, and with its existing line of credit and successful execution of planned debt financing, the Company believes it can fund the next twelve months of operations. While the Company has been successful in raising financing through debt financing in the past, there can be no assurance that it will be able to do so in the future. These circumstances lend significant doubt as to the ability of the Company to meet its obligations as they come due, and accordingly, the appropriateness of the use of accounting principles applicable to a going concern.

These financial statements do not reflect the adjustments to the carrying values of assets and liabilities and the reported expenses and balance sheet classifications that would be necessary if the Company were unable to realize its assets and settle its liabilities as a going concern in the normal course of operations. Such adjustments could be material.

**2 Summary of significant accounting policies****Basis of presentation**

The Company prepares its consolidated financial statements in accordance with Canadian accounting standards for private enterprises as issued by the Canadian Accounting Standards Board.

**Basis of consolidation**

These consolidated financial statements include the accounts of the Company and its wholly owned subsidiary, TribalScale US, Inc. Intercompany transactions and balances have been eliminated on consolidation.

**Revenue recognition**

Service revenue consists of revenue from digital design, development, consulting and transformation services. All services performed are set forth in a statement of work in addition to a master service agreement with each

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

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(expressed in Canadian dollars)

client. Included in the time and materials based statements of work are the personnel resources, hours and rates. The Company assesses collectibility based on the general creditworthiness of the customer. The cost of revenue includes all expenses incurred directly attributable to the revenue recognized. Revenue from these services is recognized after the services are performed.

**Deferred revenue**

Deferred revenue consists of deposits received in advance of revenue recognition performance criteria being met for the Company's service provided. Revenue is generally recognized within the next six months once all the recognition criteria are met.

**Foreign currency translation**

Foreign currency denominated assets and liabilities are translated into Canadian dollars at exchange rates prevailing at the consolidated balance sheet date for monetary items. Revenue and expenses are converted at the exchange rate on the date of the transaction.

**Research and development costs**

Research and development costs are charged as an operating expense in the period incurred, unless they meet generally accepted accounting criteria for deferral. To date, no costs have been deferred. Refundable tax credits and other government assistance related to research and development activities are disclosed separately in the consolidated statement of income or are offset against property and equipment, as applicable, provided there is reasonable assurance the benefits will be realized.

**Property and equipment**

Property and equipment are stated at acquisition cost less accumulated amortization. Amortization is computed using the declining balance method at the following rates:

Computer hardware	30%
Office equipment	20%
Leasehold improvements	20%

**Intangible assets**

Licences are stated at acquisition cost less accumulated amortization. Amortization is computed using the straight-line method over the estimated useful life set out below:

Software	3 years
----------	---------

**Impairment of long-lived assets**

The Company reviews long-lived assets for impairment on a regular basis or whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of property and equipment is measured by comparison of their carrying amounts to the undiscounted future net cash flows the



**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

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(expressed in Canadian dollars)

long-lived assets are expected to generate. If the carrying value exceeds the estimated amounts recoverable, a writedown equal to the excess of the carrying value over the assets' fair value is charged to the consolidated statement of income.

**Financial instruments**

The Company records cash, investments, accounts receivable, accounts payable, accrued liabilities and repayable government contributions at amortized cost. Amortization is recorded on a straight-line basis.

Financial assets are tested for impairment at the end of each reporting period when there are indications the assets may be impaired.

**Income taxes**

The Company uses the income taxes payable method of accounting for income taxes. Under this method of accounting, the Company records as an expense or income only the cost or benefit of current income taxes for that year determined in accordance with the rates established by the taxation authorities.

**Share-based compensation**

The Company has a share-based compensation plan, which is described in note 8. In accordance with the Chartered Professional Accountants of Canada Handbook Section 3870, Stock-based Compensation and Other Stock-based Payments, awards are accounted for using the fair value method of accounting, whereby the Company recognizes compensation equal to the fair value of the award over its vesting period. On the exercise of stock options, the consideration paid and any related compensation expense recorded through contributed surplus are credited to share capital.

**Investments**

Investments consist of speculative equity positions in external companies. Investments are recorded at cost and are assessed for impairment annually.

**Use of estimates**

The preparation of consolidated financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the disclosure of revenues and expenses during the reporting period. Actual results could differ those estimates, and such differences could affect the results of operations in future periods.

**TribalScale Inc.**

## Notes to Consolidated Financial Statements

September 30, 2018

(expressed in Canadian dollars)

**3 Property and equipment**

	<b>2018</b>		
	<b>Cost \$</b>	<b>Accumulated amortization \$</b>	<b>Net \$</b>
Computer hardware	736,199	174,462	561,737
Office equipment	194,522	24,482	170,040
Leasehold improvements	358,115	50,384	307,731
	<b>1,288,836</b>	<b>249,328</b>	<b>1,039,508</b>
	<b>2017</b>		
	<b>Cost \$</b>	<b>Accumulated amortization \$</b>	<b>Net \$</b> (Unaudited)
Computer hardware	290,034	59,804	230,230
Office equipment	39,394	4,152	35,242
Leasehold improvements	25,143	848	24,295
	<b>354,571</b>	<b>64,804</b>	<b>289,767</b>

**4 Intangible assets**

	<b>2018</b>		
	<b>Cost \$</b>	<b>Accumulated amortization \$</b>	<b>Net \$</b>
Software	4,000,000	1,333,333	2,666,667
	<b>2017</b>		
	<b>Cost \$</b>	<b>Accumulated amortization \$</b>	<b>Net \$</b> (Unaudited)
Software	4,000,000	-	4,000,000

**5 Accounts receivable**

Accounts receivable of \$5,757,968 have been presented net of an allowance for doubtful accounts of \$nil (2017 – \$3,945,506).

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

(expressed in Canadian dollars)

**6 Common shares**

The Company was incorporated on August 18, 2015 and issued an unlimited number of voting and non-voting common shares, issuable to founders, investors, advisers and employees. The outstanding share capital of the Company and the accompanying rights and privileges are detailed as follows:

Authorized

Unlimited common shares

Unlimited common shares, non-voting

Issued

	<b>2018</b>	<b>2017</b>
	<b>\$</b>	<b>\$</b>
199,208,927 common shares	134,312	134,312
488,521 common shares, non-voting	4,885	1,042
	<u>139,197</u>	<u>135,354</u>

**Voting**

Each holder of the voting common shares is entitled to one vote for each voting common share held at all meetings of shareholders and to receive notice of and to attend all meetings of shareholders of the Company, except meetings at which only the holders of a specified class of share or specified series of shares are entitled to attend, and to vote on all matters submitted to a vote or consent of shareholders of the Company. Holders of non-voting common shares are not entitled to vote on such matters aforementioned.

**Ranking**

The common shares of each series shall rank pari passu with the common shares of every other series with respect to the dividends and return of capital in the event of the liquidation, dissolution or winding up of the Company.

**Dividends**

The holders of common shares are entitled, subject to the rights, privileges, restrictions and conditions attached to any other class or series of shares in the capital of the Company, to receive dividends if, as and when declared by the board of directors of the Company on the common shares.

**Liquidation, dissolution or winding up**

The holders of the common shares are entitled, subject to the rights, privileges, restrictions and conditions attached to any other class or series of shares in the capital of the Company, to receive the remaining property of the Company on liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, or any other distribution of the assets of the Company among its shareholders for the purpose of winding up its affairs.

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

(expressed in Canadian dollars)

**7 Related party transactions**

The Company transfers funds and pays a management fee to its related party, TribalScale MEA FZ LLC (related party), in the normal course of operation. Funds transferred are measured at cost and management fees are measured at cost plus, which is the consideration established by the Company's transfer pricing arrangement and agreed to by both the Company and the related party. The related party is wholly owned by the primary shareholder of the Company.

**8 Share-based compensation plan**

The Company has adopted an employee stock option plan for the Company's employees and directors. Options granted expire ten years from the date of the grant. One quarter of the options granted will vest and become exercisable on the first vesting date (12 months after the grant date). The remaining options vest and become exercisable on a pro-rated basis each month for a period of 36 months following the first vesting date, unless otherwise specified by the board of directors on the date of the grant. The employee stock option plan limits the maximum number of options outstanding to 44,500,000 options.

A summary of all option activity is presented below:

	<b>Outstanding options</b>	<b>Weighted average price per share \$</b>
Balance – September 30, 2016 (Unaudited)	3,285,000	0.01
Options granted	6,225,000	0.01
Options forfeited	-	-
Options exercised	(104,167)	0.01
Balance – September 30, 2017 (Unaudited)	9,405,833	0.01
Options granted	27,930,000	0.01
Options forfeited	(3,175,835)	0.01
Options exercised	(384,375)	0.01
Balance – September 30, 2018	33,775,623	0.01
Options vested – September 30, 2018	16,192,901	0.01
Options vested – September 30, 2017 (Unaudited)	1,184,575	0.01

	<b>Exercise price \$</b>	<b>Number outstanding</b>	<b>Weighted average remaining contractual life (years)</b>	<b>Options vested</b>
September 30, 2018	0.01	33,775,623	21.20	16,192,901
September 30, 2017 (Unaudited)	0.01	9,405,800	9.28	1,184,575

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

(expressed in Canadian dollars)

The Company recorded a share-based compensation charge of \$113,814 (2017 – \$7,551), which is based on the fair value of the options granted, and has been recorded in contributed surplus. The fair value of the options issued in 2018 was \$511,554 (2017 – \$62,250) using the Black-Scholes option pricing model.

The following table outlines the assumptions used within the Black-Scholes option pricing model:

	<b>2018</b>	<b>2017</b> (Unaudited)
Volatility	70%	60%
Risk free rate	1.4%	1.4%
Dividend rate	nil%	nil%
Expected life of options	7 years	6.25 years
Discount rate	2%	nil%

**9 Financial instruments**

The Company's financial instruments consist of cash, other receivable and accounts payable and accrued liabilities. Management believes the carrying values reported on the consolidated balance sheet approximate their fair value, due to the short-term nature of those instruments.

Where other financial assets and liabilities are of longer duration, including repayable government contributions, then fair value is determined using the discounted cash flow method using discount rates based on adjusted observable market rates.

**Credit risk**

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist principally of cash. Cash is maintained with high quality institutions.

The Company is also exposed, in its normal course of business, to credit risk from its customers. The Company monitors its exposure to credit risk through regular credit evaluations on all its customers and regular follow-up on overdue accounts.

**Foreign currency risk**

The Company is exposed to market risk from changes in foreign currency exchange rates, which could affect operating results, financial position and cash flows. The Company manages its exposure to these market risks through its regular operating and financing activities.

**Liquidity risk**

The Company is exposed to liquidity risk where it be unable to fulfill its obligations on a timely basis. The Company manages its liquidity risks by monitoring operating requirements and preparing budgets and cash forecasts to ensure it has sufficient funds to fulfill its obligations.

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

(expressed in Canadian dollars)

**10 Income taxes**

The following table reconciles income taxes calculated at the combined Canadian federal and provincial statutory rate with the provision for (recovery of) income taxes (expressed in thousands):

	<b>2018</b> \$	<b>2017</b> \$ (Unaudited)
Canadian statutory income tax rate	26.50%	26.50%
Income taxes based on Canadian statutory income tax rate	(9,277)	606,312
Adjustment to income taxes to reflect Canadian small business income tax rate	(65,000)	(48,469)
Income taxes based on foreign subsidiaries' statutory income tax rate	6,546	-
Non-deductible items and other	141,777	(494,622)
Prior period adjustment	53,437	-
Other	(1,474)	(171,790)
Losses not recognized	-	-
Provision for (recovery of) income taxes	<u>126,009</u>	<u>(108,569)</u>

There were no items charged or credited directly into equity during the year.

**Carry-forward losses**

As at September 30, 2018, the Company had the following United States income tax attributes to carry forward (expressed in thousands):

	<b>2018</b> \$	<b>Expiry</b>
Non-capital losses (federal)	63,434	2038
Non-capital losses (California state)	317,960	2038

**11 Contingencies and commitments****Operating leases**

The Company is currently under two office leases and has entered into a third lease commencing in March 2019. Expected lease commitments payable for the next three years are as follows:

	\$
2019	2,323,674
2020	2,486,355
2021	<u>1,648,332</u>
	<u>6,458,361</u>

**TribalScale Inc.****Notes to Consolidated Financial Statements****September 30, 2018**

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(expressed in Canadian dollars)

From time to time, in the normal course of business, the Company becomes involved in various claims and legal proceedings. While the final outcome with respect to claims and legal proceedings pending as at September 30, 2018 cannot be predicted with certainty, it is the opinion of management that their resolution will not have a material effect on the Company's consolidated balance sheet or the results of its operations.

**12 Long-term debt**

As consideration for the purchase of the intellectual property described in note 4 of these consolidated financial statements, the Company entered into promissory note of \$4,520,000 accruing interest at a rate of 8% per annum to pay for the asset acquired. The balance remaining on the note is \$3,000,000, with \$1,000,000 payable in the next year and the remaining \$2,000,000 payable in 2020.

	\$
2020	<u>2,000,000</u>

**13 Shareholder loan**

During the year ended September 30, 2018, the Company obtained a shareholder loan from the shareholders of the Company for a total of \$1,480,000. The loan is due and payable on September 30, 2022 or in a liquidity event by the Company.

**14 Leasehold loan**

For the year ended September 30, 2018, the Company has a leasehold improvement loan bearing interest at a floating rate plus 1% per annum. The current base floating rate established by the credit institution is 4.7% per annum, repayable in monthly payments of \$4,160 plus monthly compounded interest until July 2022. During 2018, the Company has drawn \$195,520 (2017 – \$47,774) on the leasehold loan from the credit institution.

The lease loan is secured by a personal guarantee from the Company's primary shareholder for the full loan amount outstanding.

**15 Bank indebtedness**

The Company obtained a revolving line of credit up to \$6,000,000 from Scotiabank, which is due on demand, with a variable interest rate at prime plus 0.25% per annum. As at September 30, 2018, the amount drawn on the operating line of credit is \$1,092,945.

The operating line of credit is secured against a first ranking security interest on all present and future acquired tangible and intangible assets, and an assignment of all present and future accounts receivable of the Company. The line of credit is governed by a funded debt to EBITDA ratio of at least 4.25 in fiscal year-end 2018, 3.75 in fiscal year-end 2019 and 3.00 in fiscal year-end 2020 and a fixed charge coverage ratio of at least 1.20:1, assessed quarterly.

**TribalScale Inc.**

## Notes to Consolidated Financial Statements

September 30, 2018

(expressed in Canadian dollars)

**16 Consolidated statement of cash flows**

Changes in non-cash working capital balances consist of the following:

	<b>2018</b> \$	<b>2017</b> \$ (Unaudited)
Increase in accounts receivable	(1,937,462)	(2,743,021)
Increase in SR&ED receivable	(283,000)	-
Increase in income taxes recoverable	33,340	-
Increase in due from related party	(202,710)	-
Increase (decrease) in HST payable	525,749	(35,330)
Increase in prepaid expenses and deposits	(215,141)	(249,366)
Increase in accounts payable	297,878	83,041
(Decrease) increase in accrued liabilities	(1,738,460)	2,108,621
(Decrease) in income taxes payable	82,000	(108,569)
Increase (decrease) in deferred revenue	(133,394)	276,242
	<u>(3,571,200)</u>	<u>(668,382)</u>

**17 Subsequent event**

In November 2018, the Company received written intention by Applied Recognition Inc. to repurchase the software in note 4 for a repurchase price of \$4,520,000. As consideration for the repurchase option exercised by Applied Recognition Inc., the Company will obtain preferred shares equal to the difference between the purchase price (\$4,000,000) and the repurchase price (\$4,520,000) from Applied Recognition Inc. to the Company. As at the date of signing the consolidated financial statements, the agreement has not been signed hence the written intention is not binding.



THIS IS **EXHIBIT “C”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



---

A COMMISSIONER FOR TAKING AFFIDAVITS

TribalScale Inc.		3:26 PM
Balance Sheet		06-30-2020
As of September 30, 2019		Accrual Basis
		Sep 30, 19
ASSETS		
Current Assets		
Chequing/Savings		
110-000 · BANK ACCOUNTS		
110-010 · CIBC (CAD) 5549418		-175.29
110-020 · ScotiaBank (CAD) 0452114		-103,674.83
110-030 · Operating Loan Scotiabank (CAD)		-4,094,261.00
Total 110-000 · BANK ACCOUNTS		-4,198,111.12
110-200 · US BANK ACCOUNTS		
110-210 · CIBC (USD) 0338516		-2,492.99
110-220 · Scotiabank (USD) 0724211		176,684.86
Total 110-200 · US BANK ACCOUNTS		174,191.87
Total Chequing/Savings		-4,023,919.25
Accounts Receivable		
111-100 · ACCOUNTS RECEIVABLE [CAD]		315,800.09
111-200 · ACCOUNTS RECEIVABLE [USD]		1,639,372.69
Total Accounts Receivable		1,955,172.78
Other Current Assets		
113-100 · INTERCOMPANY ADVANCES		
113-120 · Intercompany Advances - TS UAE		1,720,960.81
Total 113-100 · INTERCOMPANY ADVANCES		1,720,960.81
116-100 · PREPAID EXPENSES & DEPOSITS		
116-130 · Prepaid Software License Fees		230,165.57
116-140 · Prepaid Insurance		1,298.31
116-150 · Retainers		65,180.00
116-180 · Deposits - Benecaid		-2,282.38
Total 116-100 · PREPAID EXPENSES & DEPOSITS		294,361.50
116-800 · SR&ED RECEIVABLE		1,197,245.00
117-000 · INVESTMENTS		
117-020 · Synervoz Communications - SAFE		33,232.00
117-030 · TKS Learning Inc.		25,000.00
117-040 · Winston House Inc.- SAFE USD		30,799.25
117-060 · Senso.ai		65,826.50
117-070 · Applied Recognition		1,233,573.70
Total 117-000 · INVESTMENTS		1,388,431.45
120-000 · Undeposited Funds		197.91
Total Other Current Assets		4,601,196.67
Total Current Assets		2,532,450.20
Fixed Assets		
120-100 · CAPITAL ASSETS		
120-120 · LEASEHOLD		
120-121 · Leasehold - Cost		641,486.67
120-122 · Leasehold Amortization		-147,349.14
Total 120-120 · LEASEHOLD		494,137.53
120-130 · FURNITURE & FIXTURES		
120-131 · Furniture - Cost		226,267.95
120-132 · Furniture & Fixture - Acc Depn		-46,809.57
Total 120-130 · FURNITURE & FIXTURES		179,458.38
120-140 · COMPUTERS		
120-141 · Computers - Cost		768,234.27
120-142 · Computers - Acc Depn		-321,350.38
Total 120-140 · COMPUTERS		446,883.89
120-150 · SOFTWARE		
120-151 · Software - Cost		7,170.46
120-152 · Software - Depreciation		-7,170.46
Total 120-150 · SOFTWARE		0.00
120-160 · OFFICE EQUIPMENT		
120-161 · Office Equip - Cost		55,734.32
120-162 · Office Equipment - Acc Depn		-20,519.66
Total 120-160 · OFFICE EQUIPMENT		35,214.66
120-180 · QA HARWARE AND DEVICES		
120-181 · QA Devices - Cost		24,970.66
120-182 · QA Devices - Acc Depn		-6,856.24
Total 120-180 · QA HARWARE AND DEVICES		18,114.42
Total 120-100 · CAPITAL ASSETS		1,173,808.88
Total Fixed Assets		1,173,808.88
TOTAL ASSETS		3,706,259.08
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable		
122-100 · CAD - ACCOUNTS PAYABLE		672,467.04
122-200 · USD - ACCOUNTS PAYABLE		311,167.92
Total Accounts Payable		983,634.96

	Sep 30, 19
Other Current Liabilities	
125-000 · HST	
125-010 · HST Payable	19,031.69
Total 125-000 · HST	19,031.69
125-100 · CORPORATE TAXES	
125-110 · FEDERAL TAXES	82,000.00
Total 125-100 · CORPORATE TAXES	82,000.00
125-200 · PAYROLL TAX LIABILITIES	
125-210 · EHT Payable	24,765.26
125-220 · Other Payroll Liabilities	20,023.32
Total 125-200 · PAYROLL TAX LIABILITIES	44,788.58
126-700 · ACCRUED FEES & EXPENSES	
126-710 · Accrued Consulting Fees	93,022.00
126-740 · Accrued GRSP Contribution	-4,520.10
126-755 · Accrued Accounting/Audit Fees	30,000.00
126-760 · Accrued Payroll	293,920.02
126-765 · Accrued Vacation	48,499.22
126-785 · Accrued Misc	52,281.57
Total 126-700 · ACCRUED FEES & EXPENSES	513,202.71
127-100 · CUSTOMER ADVANCES	
127-105 · Rent Deposit from Lessor	120,106.14
Total 127-100 · CUSTOMER ADVANCES	120,106.14
Total Other Current Liabilities	779,129.12
Total Current Liabilities	1,762,764.08
Long Term Liabilities	
129-000 · LONG TERM DEBTS	
129-005 · BDC Lease Loan	145,600.00
129-020 · Loan From Shareholders	1,480,000.00
129-040 · Leasehold Loan	155,204.70
Total 129-000 · LONG TERM DEBTS	1,780,804.70
Total Long Term Liabilities	1,780,804.70
Total Liabilities	3,543,568.78
Equity	
130-000 · COMMON SHARES	
130-110 · Common Shares (Investment)	134,298.00
130-120 · Common Shares (Founders)	10.63
130-130 · Common Shares (Equity C)	2.01
130-150 · Non-Voting Common Shares	0.79
130-170 · Options (Non-Voting Common Shar	12,046.87
Total 130-000 · COMMON SHARES	146,358.30
130-100 · CONTRIBUTED SURPLUS	121,366.00
130-950 · RETAINED EARNINGS	2,612,498.28
Net Income	-2,717,532.28
Total Equity	162,690.30
TOTAL LIABILITIES & EQUITY	3,706,259.08

TribalScale Inc.		3:27 PM
Profit & Loss		06-30-2020
October 2018 through September 2019		Accrual Basis
		<u>Oct '18 - Sep 19</u>
Ordinary Income/Expense		
Income		
140-000 · REVENUE / INCOME		
140-100 · PROF. SERVICES		
140-010 · Professional Fees		16,495,745.68
Total 140-100 · PROF. SERVICES		16,495,745.68
140-300 · INVESTMENT INCOME		
140-210 · Every ( Wave )		219,248.35
Total 140-300 · INVESTMENT INCOME		219,248.35
140-400 · OTHER REVENUE		
140-310 · Reimbursed Expense		132,773.23
140-320 · Office Services		154,467.89
140-325 · Rent		448,132.11
140-327 · Sponsorship		0.00
140-328 · TakeOver Conference Ticket		0.00
140-330 · Misc. & Interest income		81,608.15
Total 140-400 · OTHER REVENUE		816,981.38
140-500 · GRANTS / TAX REFUND		
140-410 · SR&ED (Income A/c.)		1,197,245.00
140-420 · NSERC / ICTC / IRAP (Income)		79,533.33
Total 140-500 · GRANTS / TAX REFUND		1,276,778.33
Total 140-000 · REVENUE / INCOME		18,808,753.74
Total Income		18,808,753.74
Gross Profit		18,808,753.74
Expense		
160-100 · BANK & INTEREST		
160-101 · Bank Charges & Interest		229,787.56
160-105 · Stripe Credit Card Fees		25.59
Total 160-100 · BANK & INTEREST		229,813.15
160-120 · AMORTIZATION OF CAPITAL ASSETS		308,496.87
160-200 · OFFICE & GENERAL		
160-210 · KITCHEN CONSUMABLES		
160-211 · Kitchen Supplies		7,097.04
160-212 · Office Coffee & Tea		37,479.12
160-214 · Office Food		336,469.09
160-215 · Employee Meal Deduction		-51,080.00
Total 160-210 · KITCHEN CONSUMABLES		329,965.25
160-220 · Team Events-Company Wide		47,122.43
160-221 · Team Events-Team/Dept.		26,819.92
160-231 · Fees & Subscriptions (non-soft)		61,018.63
160-232 · Software Licensing Fees		429,245.88
160-235 · Postage and Courier		4,328.41
160-236 · Leasehold Maint.		22,552.74
160-237 · Printing		130.16
160-238 · Repair & Maint (Eqp)		669.75
160-240 · Office Supplies		26,601.86
160-241 · Office Cleaning		54,643.53
160-242 · Delivery & Cartage		1,818.40
160-243 · Equipment Rental		1,530.30
160-247 · Computer Supplies		9,508.52
160-249 · Misc. & Gen.		63,946.00
160-271 · Rent - Office		1,793,269.11
160-287 · Data & Internet		19,927.64
160-291 · Office Phones & Telecom		6,728.51
160-292 · Cellular Phones		43,599.81
160-296 · Cell USA		1,154.43
Total 160-200 · OFFICE & GENERAL		2,944,581.28
160-250 · PROFESSIONAL FEES		
160-251 · Contractor - Eng		78,485.00
160-252 · Contractor - Other		58,083.47
160-253 · Recruiting Fees		6,960.96
160-254 · Accounting Fees		
160-255 · Tax		138,182.72
160-256 · Audit		-3,273.79
160-257 · Consulting		228,445.72
160-258 · Factoring Fees		8,869.94
Total 160-254 · Accounting Fees		372,224.59
160-260 · Legal		
160-262 · Visa's and Immigration		46,605.45
160-263 · Corporate Matters		230,356.35
Total 160-260 · Legal		276,961.80
160-265 · Consulting/Management Fee		715,748.88
Total 160-250 · PROFESSIONAL FEES		1,508,464.70
160-280 · INSURANCE		108,712.06
160-300 · TRAVEL & TRANSPORT		
160-301 · Fares - Air, Bus etc		332,577.65
160-302 · Hotel (Room & Board)		341,957.78
160-303 · Taxi/Uber & Car Rentals		73,101.41
160-304 · Mileage		6,617.25
160-306 · Gas (Rental Car)		1,701.96

	Oct '18 - Sep 19
160-307 · Travel Meals	68,246.30
160-308 · Parking	14,590.52
160-310 · Travel Cell /Data	4,048.95
Total 160-300 · TRAVEL & TRANSPORT	842,841.82
160-320 · MEALS & ENTERTAINMENT	
160-321 · Meals	107,424.48
160-322 · Entertainment	18,662.69
160-324 · Meals - Sales Mtg	93,675.07
Total 160-320 · MEALS & ENTERTAINMENT	219,762.24
160-340 · SALARY & BENEFITS	
160-245 · Payroll Processing Fees	28,232.90
160-341 · Salary	10,066,136.40
160-342 · Vacation Pay	270,056.23
160-343 · Bonus	190,225.43
160-344 · Sales Commission	308,452.79
160-345 · Accrued Salary	293,920.23
160-346 · Accrued Vacation	-101,225.20
160-350 · Benefits	
160-351 · Group Life, AD&D & EHC	268,929.83
160-352 · Employee Incentives	23,318.38
160-354 · Fitness	11,164.95
160-355 · Mental Health Benefits	2,648.50
160-356 · Employee Relocation Costs	
New Hire Relocation	5,332.03
Total 160-356 · Employee Relocation Costs	5,332.03
Total 160-350 · Benefits	311,393.69
160-360 · TAXES	
160-361 · CPP & EI	531,845.64
160-362 · EHT	226,511.63
Total 160-360 · TAXES	758,357.27
Total 160-340 · SALARY & BENEFITS	12,125,549.74
160-380 · TRAINING & DEVELOPMENT	
160-381 · Books	2,795.13
160-382 · Conferences-Seminars	25,627.04
160-383 · Professional Development	23,132.16
Total 160-380 · TRAINING & DEVELOPMENT	51,554.33
160-400 · SALES & MARKETING	
160-401 · Contractor - S&M	216,074.69
160-410 · Advertising	46,485.22
160-420 · Promotions	7,119.14
160-430 · Conferences - Biz Dev	8,445.78
160-450 · Marketing Supplies and Material	28,624.91
160-455 · Client Gifts	127.92
160-457 · Recruiting Event Fees	485.38
160-460 · Sales Commissions	82,769.74
160-470 · Software License Fees	167,060.80
160-491 · Sponsorships	12,883.50
160-499 · Takeover Conference Expenses	
160-492 · Venue & Food/Bev	74,355.07
160-493 · Travel & Hotel	54,984.15
160-494 · Promotions & Gifts	617.22
160-499 · Takeover Conference Expenses - Other	80.00
Total 160-499 · Takeover Conference Expenses	130,036.44
Total 160-400 · SALES & MARKETING	700,113.52
160-700 · DONATIONS	
160-710 · Charitable Donations	0.00
Total 160-700 · DONATIONS	0.00
Total Expense	19,039,889.71
Net Ordinary Income	-231,135.97
Other Income/Expense	
Other Income	
180-200 · INTEREST INCOME	355.89
Total Other Income	355.89
Other Expense	
190-200 · Interest Expense	298,902.82
190-300 · Transfer Pricing	4,009,841.19
190-600 · Income Tax Provison	22,017.68
190-700 · (Gain)/Loss on asset disposal	-1,853,333.00
190-800 · Unrealized FX Loss/(Gain)	-19,569.49
190-850 · Penalty	13,004.43
190-900 · Bad Debt Expense	15,888.57
Total Other Expense	2,486,752.20
Net Other Income	-2,486,396.31
Net Income	-2,717,532.28

THIS IS **EXHIBIT “D”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

TribalScale Inc.		3:26 PM
Balance Sheet		06-30-2020
As of May 31, 2020		Accrual Basis
		May 31, 20
ASSETS		
Current Assets		
Chequing/Savings		
110-000 · BANK ACCOUNTS		
110-010 · CIBC (CAD) 5549418		274,974.00
110-020 · ScotiaBank (CAD) 0452114		264,418.68
Total 110-000 · BANK ACCOUNTS		539,392.68
110-200 · US BANK ACCOUNTS		
110-210 · CIBC (USD) 0338516		2,948.90
110-220 · Scotiabank (USD) 0724211		465,656.25
Total 110-200 · US BANK ACCOUNTS		468,605.15
Total Chequing/Savings		1,007,997.83
Accounts Receivable		
111-100 · ACCOUNTS RECEIVABLE [CAD]		1,031,308.01
111-200 · ACCOUNTS RECEIVABLE [USD]		872,906.82
Total Accounts Receivable		1,904,214.83
Other Current Assets		
113-100 · INTERCOMPANY ADVANCES		
113-110 · Intercompany Advances - TS US		76,863.91
Total 113-100 · INTERCOMPANY ADVANCES		76,863.91
116-100 · PREPAID EXPENSES & DEPOSITS		
116-130 · Prepaid Software License Fees		68,966.49
116-140 · Prepaid Insurance		30,901.20
116-150 · Retainers		40,851.72
116-180 · Deposits - Benecaid		16,900.64
Total 116-100 · PREPAID EXPENSES & DEPOSITS		157,620.05
117-000 · INVESTMENTS		
117-020 · Synervoz Communications - SAFE		33,232.00
117-030 · TKS Learning Inc.		25,000.00
117-040 · Winston House Inc.- SAFE USD		30,799.25
117-060 · Senso.ai		65,826.50
117-070 · Applied Recognition		1,233,573.70
Total 117-000 · INVESTMENTS		1,388,431.45
120-000 · Undeposited Funds		197.91
Total Other Current Assets		1,623,113.32
Total Current Assets		4,535,325.98
Fixed Assets		
120-100 · CAPITAL ASSETS		
120-120 · LEASEHOLD		
120-121 · Leasehold - Cost		643,236.67
120-122 · Leasehold Amortization		-643,236.67
Total 120-120 · LEASEHOLD		0.00
120-130 · FURNITURE & FIXTURES		
120-131 · Furniture - Cost		226,267.95
120-132 · Furniture & Fixture - Acc Depn		-66,728.12
Total 120-130 · FURNITURE & FIXTURES		159,539.83
120-140 · COMPUTERS		
120-141 · Computers - Cost		768,234.27
120-142 · Computers - Acc Depn		-393,928.04
Total 120-140 · COMPUTERS		374,306.23
120-150 · SOFTWARE		
120-151 · Software - Cost		7,170.46
120-152 · Software - Depreciation		-7,170.46
Total 120-150 · SOFTWARE		0.00
120-160 · OFFICE EQUIPMENT		
120-161 · Office Equip - Cost		55,734.32
120-162 · Office Equipment - Acc Depn		-55,734.32
Total 120-160 · OFFICE EQUIPMENT		0.00
120-180 · QA HARWARE AND DEVICES		
120-181 · QA Devices - Cost		24,970.66
120-182 · QA Devices - Acc Depn		-24,970.66
Total 120-180 · QA HARWARE AND DEVICES		0.00
Total 120-100 · CAPITAL ASSETS		533,846.06
Total Fixed Assets		533,846.06
TOTAL ASSETS		5,069,172.04
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable		
122-100 · CAD - ACCOUNTS PAYABLE		988,871.43
122-200 · USD - ACCOUNTS PAYABLE		385,017.36
Total Accounts Payable		1,373,888.79


	May 31, 20
Other Current Liabilities	
125-000 · HST	
125-010 · HST Payable	-8,945.68
Total 125-000 · HST	-8,945.68
125-100 · CORPORATE TAXES	
125-110 · FEDERAL TAXES	82,000.00
Total 125-100 · CORPORATE TAXES	82,000.00
125-200 · PAYROLL TAX LIABILITIES	
125-220 · Other Payroll Liabilities	20,023.32
Total 125-200 · PAYROLL TAX LIABILITIES	20,023.32
126-700 · ACCRUED FEES & EXPENSES	
126-740 · Accrued GRSP Contribution	-5,795.10
126-755 · Accrued Accounting/Audit Fees	30,000.00
126-760 · Accrued Payroll	319,128.22
Total 126-700 · ACCRUED FEES & EXPENSES	343,333.12
127-100 · CUSTOMER ADVANCES	
127-101 · Customer Retainer	67,311.09
127-105 · Rent Deposit from Lessor	125,606.14
Total 127-100 · CUSTOMER ADVANCES	192,917.23
Total Other Current Liabilities	629,327.99
Total Current Liabilities	2,003,216.78
Long Term Liabilities	
129-000 · LONG TERM DEBTS	
129-005 · BDC Lease Loan	112,320.00
129-020 · Loan From Shareholders	1,480,000.00
129-060 · 1924191 Ontario Inc. Loan	2,620,204.70
Total 129-000 · LONG TERM DEBTS	4,212,524.70
Total Long Term Liabilities	4,212,524.70
Total Liabilities	6,215,741.48
Equity	
130-000 · COMMON SHARES	
130-110 · Common Shares (Investment)	134,298.00
130-120 · Common Shares (Founders)	10.63
130-130 · Common Shares (Equity C)	2.01
130-150 · Non-Voting Common Shares	0.79
130-170 · Options (Non-Voting Common Shar	12,046.87
Total 130-000 · COMMON SHARES	146,358.30
130-100 · CONTRIBUTED SURPLUS	121,366.00
130-950 · RETAINED EARNINGS	-105,034.00
Net Income	-1,309,259.74
Total Equity	-1,146,569.44
TOTAL LIABILITIES & EQUITY	5,069,172.04



TribalScale Inc.		3:28 PM
Profit & Loss		06-30-2020
October 2019 through May 2020		Accrual Basis
		Oct '19 - May 20
Ordinary Income/Expense		
Income		
140-000 · REVENUE / INCOME		
140-100 · PROF. SERVICES		
140-010 · Professional Fees	4,626,292.82	
Total 140-100 · PROF. SERVICES	4,626,292.82	
140-300 · INVESTMENT INCOME		
140-210 · Every ( Wave )	4,896.54	
Total 140-300 · INVESTMENT INCOME	4,896.54	
140-400 · OTHER REVENUE		
140-310 · Reimbursed Expense	40,579.50	
140-320 · Office Services	228,132.77	
140-330 · Misc. & Interest income	10,223.03	
140-340 · 10% Temporary Wage Subsidy	25,000.00	
140-345 · 75% Wage Subsidy	285,297.90	
Total 140-400 · OTHER REVENUE	589,233.20	
Total 140-000 · REVENUE / INCOME	5,220,422.56	
140-600 · WIP (Unbilled)	0.00	
Total Income	5,220,422.56	
Gross Profit		5,220,422.56
Expense		
160-100 · BANK & INTEREST		
160-101 · Bank Charges & Interest	116,781.39	
Total 160-100 · BANK & INTEREST	116,781.39	
160-120 · AMORTIZATION OF CAPITAL ASSETS		641,712.82
160-200 · OFFICE & GENERAL		
160-210 · KITCHEN CONSUMABLES		
160-211 · Kitchen Supplies	92.15	
160-212 · Office Coffee & Tea	7,172.13	
160-214 · Office Food	65,593.36	
160-215 · Employee Meal Deduction	-11,383.00	
Total 160-210 · KITCHEN CONSUMABLES	61,474.64	
160-220 · Team Events-Company Wide	2,440.97	
160-221 · Team Events-Team/Dept.	981.18	
160-222 · HST Expense on Meal	0.00	
160-230 · Access Cards	-675.00	
160-231 · Fees & Subscriptions (non-soft)	11,128.96	
160-232 · Software Licensing Fees	295,883.84	
160-235 · Postage and Courier	755.93	
160-236 · Leasehold Maint.	2,767.13	
160-237 · Printing	289.89	
160-238 · Repair & Maint (Eqp)	659.45	
160-240 · Office Supplies	4,432.03	
160-241 · Office Cleaning	2,905.22	
160-243 · Equipment Rental	683.34	
160-247 · Computer Supplies	3,212.30	
160-249 · Misc. & Gen.	-1,589.47	
160-271 · Rent - Office	487,556.81	
160-287 · Data & Internet	9,885.96	
160-291 · Office Phones & Telecom	828.82	
160-292 · Cellular Phones	2,511.03	
160-296 · Cell USA	730.87	
Total 160-200 · OFFICE & GENERAL	886,863.90	
160-250 · PROFESSIONAL FEES		
160-251 · Contractor - Eng	119,662.80	
160-253 · Recruiting Fees	8,083.28	
160-254 · Accounting Fees		
160-255 · Tax	86,442.67	
160-257 · Consulting	253,566.55	
Total 160-254 · Accounting Fees	340,009.22	
160-260 · Legal		
160-262 · Visa's and Immigration	1,566.26	
160-263 · Corporate Matters	149,693.42	
Total 160-260 · Legal	151,259.68	
160-265 · Consulting/Management Fee	41,632.83	
Total 160-250 · PROFESSIONAL FEES	660,647.81	
160-280 · INSURANCE	43,859.87	
160-300 · TRAVEL & TRANSPORT		
160-301 · Fares - Air, Bus etc	21,655.38	
160-302 · Hotel (Room & Board)	25,542.23	
160-303 · Taxi/Uber & Car Rentals	6,984.12	
160-304 · Mileage	262.57	
160-306 · Gas (Rental Car)	165.15	
160-307 · Travel Meals	2,687.91	
160-308 · Parking	639.96	
160-310 · Travel Cell /Data	531.19	
Total 160-300 · TRAVEL & TRANSPORT	58,468.51	
160-320 · MEALS & ENTERTAINMENT		
160-321 · Meals	51,591.82	

	Oct '19 - May 20
160-322 · Entertainment	10,253.37
160-324 · Meals - Sales Mtg	1,695.13
Total 160-320 · MEALS & ENTERTAINMENT	63,540.32
160-340 · SALARY & BENEFITS	
160-245 · Payroll Processing Fees	4,786.56
160-341 · Salary	2,586,902.39
160-342 · Vacation Pay	47,399.08
160-343 · Bonus	95,000.00
160-344 · Sales Commission	14,181.80
160-345 · Accrued Salary	-80,544.95
160-346 · Accrued Vacation	-48,499.22
160-350 · Benefits	
160-351 · Group Life, AD&D & EHC	43,245.05
160-352 · Employee Incentives	347.76
160-354 · Fitness	3,000.00
160-355 · Mental Health Benefits	1,263.25
160-356 · Employee Relocation Costs	2,960.00
Total 160-350 · Benefits	50,816.06
160-360 · TAXES	
160-361 · CPP & EI	146,318.06
160-362 · EHT	28,238.39
Total 160-360 · TAXES	174,556.45
Total 160-340 · SALARY & BENEFITS	2,844,598.17
160-380 · TRAINING & DEVELOPMENT	
160-381 · Books	82.96
160-382 · Conferences-Seminars	2,034.80
160-383 · Professional Development	1,152.21
Total 160-380 · TRAINING & DEVELOPMENT	3,269.97
160-400 · SALES & MARKETING	
160-401 · Contractor - S&M	125,522.04
160-410 · Advertising	19,163.59
160-430 · Conferences - Biz Dev	2,112.20
160-450 · Marketing Supplies and Material	960.24
160-460 · Sales Commissions	19,440.27
160-470 · Software License Fees	39,640.93
160-480 · Editing services	4,512.50
160-491 · Sponsorships	-2,681.00
160-499 · Takeover Conference Expenses	
160-493 · Travel & Hotel	1,164.70
160-494 · Promotions & Gifts	15.00
160-499 · Takeover Conference Expenses - Other	67,900.88
Total 160-499 · Takeover Conference Expenses	69,080.58
Total 160-400 · SALES & MARKETING	277,751.35
Total Expense	5,597,494.11
Net Ordinary Income	-377,071.55
Other Income/Expense	
Other Income	
180-200 · INTEREST INCOME	30,616.11
Total Other Income	30,616.11
Other Expense	
190-200 · Interest Expense	8,879.97
190-300 · Transfer Pricing	140,128.05
190-550 · US Taxes	35,116.86
190-800 · Unrealized FX Loss/(Gain)	-106,409.74
190-850 · Penalty	
190-854 · Penalty - US Tax Authority	5,252.36
190-850 · Penalty - Other	-6,609.01
Total 190-850 · Penalty	-1,356.65
190-900 · Bad Debt Expense	886,445.81
Total Other Expense	962,804.30
Net Other Income	-932,188.19
Net Income	-1,309,259.74

THIS IS **EXHIBIT “E”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

# AGREEMENT RE: OPERATING CREDIT LINE

066

TribalScale Inc.

July 05 2018

CUSTOMER NAME

DATE

200 Wellington Street West, Suite 900

Toronto

ON

M5V 3C7

ADDRESS

CUSTOMER NAME

ADDRESS

Dear Customer:

1. We are pleased to advise that, subject to acceptance by you (the undersigned, and each other if more than one), we have established an operating credit line (the "Credit Line") in your favour jointly and severally in the amount of \$6,000,000.00 - Six Million Dollars.....

subject to the terms of this agreement and any Schedule now or hereafter attached hereto (this "Agreement"). You may utilize the Credit Line jointly and severally at The Bank of Nova Scotia (the "Bank") at its  
06502 4715 TAHOE BOULEVARD, MISSISSAUGA, ON L4W 0B4

Branch from time to time by way of direct advances to be deposited to your Account, No. \_\_\_\_\_, or a replacement account in your name as agreed by us from time to time (the "Account"), and/or by way of any other avallment option authorized under this Agreement.

2. Upon the date of acceptance by you of this Agreement, your obligations to repay your indebtedness and liability:
  - (a) in respect of direct advances under all existing operating credit lines and under the Credit Line shall be subject to this Agreement exclusively; and
  - (b) in respect of utilizations under any other avallment option authorized under this Agreement shall be subject to any applicable agreement(s) referred to in Schedule A ("Special Agreement(s)") to which you and the Bank are or may become parties.
3. You acknowledge that the outstanding principal balance by way of direct advances owing to the Bank under existing operating credit lines is \$0.00, as at the close of business on July 04, 2018 which will be adjusted to reflect direct advances and repayments of direct advances under the existing credit lines occurring between that date and the date of acceptance of this Agreement. You acknowledge that the hypothecs or other security interests previously granted to the Bank to secure existing operating credit lines continue to constitute security for indebtedness and liability under the Credit Line.
4. The Credit Line may be utilized by:
  - (a) you notifying the Bank from time to time as to the amounts you wish to borrow by way of direct advances and the Bank crediting such amounts to the Account; and/or
  - (b) you authorizing the Bank to ascertain from time to time the position between us in respect to the Account and, if such position is a debit in favour of the Bank or is a credit in favour of you that is less than any minimum credit position for the Account as agreed upon between us from time to time, the Bank is authorized to make a direct advance under the Credit Line, by crediting the Account, to provide cover for such debit position or to place the Account in the appropriate minimum credit position. You hereby authorize the Bank to debit your Account or any other account specified by you with the fees and charges which the Bank establishes from time to time for the provision of this service to you; and/or
  - (c) you providing the Bank with the documentation required by the Bank from time to time to utilize the Credit Line under any other avallment option authorized under this Agreement.
5. You will repay on demand all your indebtedness and liability under the Credit Line and interest and interest on overdue interest under this Agreement and you hereby irrevocably authorize and direct us, while the Credit Line is in existence, but the Bank is not so obligated, to apply all amounts standing to your credit, and above any agreed upon minimum credit position, in the Account at the end of each business day to repay your indebtedness and liability under the Credit Line.
6. Amounts may be borrowed, repaid and reborrowed or otherwise utilized or reutilized under the Credit Line from time to time, provided that, upon our periodic review of your financial affairs or upon the occurrence of an event of default, we may refuse to allow you to borrow further by way of direct advances or to otherwise utilize the Credit Line and/or we may terminate the Credit Line entirely and demand payment of all your indebtedness and liability under the Credit Line together with interest and interest on overdue interest. A default shall occur if:
  - (i) you or any guarantor fail to make when due, either on demand or on a fixed payment date, by acceleration or otherwise, any payment of interest, principal, fees, commissions or other amounts payable to the Bank or any other lender;
  - (ii) you breach any other term or condition contained in this Agreement or in any other agreement to which you and the Bank are parties;
  - (iii) any default occurs under any security under this Agreement or in any Special Agreement or under any credit, loan or security agreement to which you are a party;
  - (iv) any bankruptcy, reorganization, compromise, arrangement, insolvency or liquidation proceedings or other proceedings for the relief of debtors are instituted by or against you and, if instituted against you, are allowed against or consented to by you or are not dismissed or stayed within 60 days after institution;
  - (v) a receiver is appointed over any of your property or any judgment or order or any process of any court becomes enforceable against you or any of your property or any creditor takes possession of any of your property;
  - (vi) any course of action is undertaken by you or with respect to you which would result in your reorganization, amalgamation or merger with another corporation or the transfer of all or substantially all of your assets;
  - (vii) any guarantee of indebtedness and liability under the Credit Line is withdrawn, determined to be invalid or otherwise rendered ineffective;
  - (viii) any adverse change occurs in the financial condition of yourself or any guarantor of indebtedness and liability under the Credit Line;
  - (ix) any adverse change occurs in the environmental condition of:
    - (a) yourself or any guarantor of indebtedness and liability under the Credit Line; or
    - (b) any of the property, equipment or business activities of yourself or any guarantor of indebtedness and liability under the Credit Line;

and you agree that if any default occurs under this Agreement, we may immediately exercise all our rights and remedies under any Special Agreement(s) as if default had occurred under the Special Agreement(s).

In the event where a default arises from the non-fulfilment of an obligation in a prescribed period of time, you shall be considered in default by the mere lapse of time, without the necessity of any notice or demand.



7. Upon failure to pay amounts due to the Bank on demand under the Credit Line, the Bank shall be entitled at your cost to take such steps as may be permitted by law or as provided under this Agreement, any Special Agreement or any other credit, loan or security agreement and as it deems fit to sue for and recover payment for your indebtedness and liability to the Bank, including realization of any security held. Upon your default and subject to applicable law, you will pay to us on demand all of our reasonable costs, including but not limited to legal fees and expenses (on a solicitor and his own client basis) incurred (i) in collecting the balance due to the Bank under the Credit Line, whether or not a legal action is brought against you; and (ii) in protecting the Bank from any loss which the Bank may suffer as a result of your default.

8. All amounts borrowed by way of direct advances will bear interest at the Bank's Prime Lending Rate from time to time plus 0.25 % per annum. (Prime Lending Rate being a variable per annum reference rate of interest as announced and adjusted by the Bank from time to time for loans made by the Bank in Canada in Canadian dollars). Interest shall be calculated daily for the actual number of days elapsed and be payable monthly and you authorize the Bank, but the Bank is not so obligated, to debit the Account or any other account specified by you monthly in arrears on the 22nd day of each month or, if such day is a Saturday, Sunday or a day on which banks are closed for business, on the first subsequent business day with the amount of interest accrued and unpaid by you. Interest on overdue interest amounts shall be calculated at the same rate, but shall be compounded monthly and be payable on demand, both before and after demand and judgment.

9. You will provide us with financial and net worth statements and such other information respecting your financial affairs as we may reasonably require from time to time. You will cause any guarantor to provide us with financial and net worth statements and such other information respecting the guarantor's financial affairs as we may reasonably request from time to time.

10. You agree to:

- (a) obey all applicable laws and requirements of any federal, provincial, or any other governmental authority relating to the environment and the operation of your business activities;
- (b) allow us access at all times to your business premises to monitor and inspect all property and business activities;
- (c) notify us from time to time of any business activity conducted by you which involves the use or handling of hazardous materials or wastes or which increases your environmental liability in any material manner;
- (d) notify us of any proposed change in the use or occupation of your property prior to any change occurring;
- (e) provide us with immediate written notice of any environmental problem and any hazardous materials or substances which have an adverse effect on your property, equipment or business activities and with any other environmental information requested by us from time to time;
- (f) conduct all environmental remedial activities which a commercially reasonable person would perform in similar circumstances to meet its environmental responsibilities and if you fail to do so, we may perform such activities; and
- (g) pay for any environmental investigations, assessments or remedial activities with respect to any of your property that may be performed by or for us from time to time.

11. If you notify us of any specified activity or change and provide us with any information pursuant to paragraph 10(c), (d) or (e), or if we receive any environmental information from other sources, we, in our sole discretion, may decide that an adverse change in your environmental condition or any of your property, equipment or business activities has occurred which decision shall constitute, in the absence of manifest error, conclusive evidence of the adverse change. Following this decision being made by us, we shall notify you of our decision concerning the adverse change.

12. If we decide or are required to incur expenses in compliance or to verify your compliance with applicable environmental or other regulations, you shall indemnify us in respect of such expenses, which will constitute further advances by us to you under this Agreement.

13. The Bank will maintain records of your indebtedness and liability to the Bank under the Credit Line and such records shall evidence such indebtedness and liability. The Bank shall render a monthly statement of account of your indebtedness by way of direct advances under the Credit Line. In the absence of manifest error, such statement shall be considered conclusively binding upon you as to your indebtedness and liability to the Bank by way of direct advances under the Credit Line unless you notify the Bank to the contrary within thirty (30) days from the date on which the statement was sent to you, provided that any error by the Bank in keeping its records or in the statement shall not affect your obligation to pay or repay your indebtedness and liability under the Credit Line.

14. The terms and conditions of this Agreement including, but not limited to, the annual percentage rate specified in paragraph 8, may be amended at any time by the Bank by mailing or delivering notice in writing of the amendment to you. If the Bank mails the said notice in writing by ordinary mail it shall be effective from the date of mailing. Please acknowledge acceptance of the terms and conditions of this Agreement by signing and delivering to the Bank a copy hereof.

15. If you are a corporation, the *Limitation of Civil Rights Act* of the Province of Saskatchewan shall have no application to this Agreement, or to any agreement or instrument renewing or extending or collateral to this Agreement or to the rights, powers or remedies of the Bank under this Agreement or any such agreement or instrument.

16. The parties require that this Agreement and all related documents be drawn in English. Les parties exigent que cette convention et tous documents qui s'y rattachent soient rédigés en anglais.

The Bank appreciates this opportunity to be of service to you.

Yours truly,

THE BANK OF NOVA SCOTIA

X  
Per \_\_\_\_\_

X

(AUTHORIZED SIGNATURE)

X

(AUTHORIZED SIGNATURE)

ACCEPTED this 9<sup>TH</sup> day of JULY, 2018

TribalScale Inc.

SHEETAL JAITLEY

(NAME OF CUSTOMER)

JERRY LIN

(NAME OF CUSTOMER)

DATE RECEIVED
RECORDED.....
APPROVED.....
E.O. AUDITOR .....

This Schedule is part of the Agreement re: Operating Credit Line dated July 05, 2018 between  
The Bank of Nova Scotia and TribalScale Inc.

(the "Customer").

☒ The Credit Line is subject to provisions of a Commitment Letter dated Jun 28 2018, as it may be amended, varied, supplemented, restated, renewed or replaced at any time and from time to time.

OR

☐ The Credit Line is subject to the following additional terms and conditions.

#### AVAILMENT OPTIONS

The Credit Line may also be utilized by way of the following options, provided that the total amount outstanding by way of direct advances and other availment options does not exceed the principal amount of the Credit Line:

☐ Bankers' Acceptances in Canadian Dollars in multiples of \$100,000 (subject to a minimum availment amount of \$200,000) and having terms of maturity of 30 to 180 days without grace. Availment is subject to completion of Agreement re Bankers' Acceptance in a form satisfactory to the Bank.

Fees: The Bank's Commercial/Corporate/Government Bankers' Acceptance fee (delete whichever is not applicable), plus \_\_\_\_\_% per annum, (subject to revision at any time), subject to a minimum fee of \$200.00 per availment, payable at the time of each availment.

☐ Commercial Letters of Credit/Letter of Credit Acceptances with expiry dates not to exceed \_\_\_\_\_ days from date of issuance. Drafts are to be payable at sight and/or up to \_\_\_\_\_ days sight. Availment is subject to completion of Agreement for Commercial Letter of Credit in a form satisfactory to the Bank.

Fees: The applicable fee or fees charged by the Bank for Letters of Credit as agreed between you and the Bank from time to time.

☐ Letters of Guarantee. Availment is subject to completion of an Application and an Agreement for Irrevocable Standby Letter of Credit/Letter of Guarantee in a form satisfactory to the Bank. An Application is needed for each issuance and an Agreement must be on file.

Commission: The applicable commission or commissions charged by the Bank for Letters of Guarantee as agreed between you and the Bank from time to time.

☐ Standby Letters of Credit. Availment is subject to completion of an Application and an Agreement for Irrevocable Standby Letter of Credit/Letter of Guarantee in a form satisfactory to the Bank. An Application is needed for each issuance and an Agreement must be on file.

Commission: \_\_\_\_\_% per annum calculated on the issue amount on the basis of a calendar year for the actual number of days elapsed from and including the date of issue to the termination date, subject to the Bank's minimum fee as well as revision at anytime, payable upon issuance.

Your obligations to repay your indebtedness and liability under any Agreement re Bankers' Acceptance, Agreement for Commercial Letter of Credit, Application and Agreement for Irrevocable Standby Letter of Credit/Letter of Guarantee entered into with the Bank will be subject to the terms of those Special Agreements and not this Agreement.

#### SECURITY

The following security, evidenced by documents in form satisfactory to the Bank and registered or recorded as required by the Bank, is to be provided prior to any advances or availment being made under the Credit Line:

☐ General Assignment of/Hypothec on Book Debts.

☐ Security under Section 427 of the Bank Act with appropriate insurance coverage assigned/hypothecated to the Bank.

☐ Assignment/Hypothec of insurance over: Inventory \$ \_\_\_\_\_, Buildings \$ \_\_\_\_\_,  
Equipment & Furniture \$ \_\_\_\_\_

☐ Security Agreement/Hypothec over all inventories.

☐ General Security Agreement/Hypothec over all of your property and undertaking.

☐ Postponement Agreement covering an amount of \$ \_\_\_\_\_.

☐ Assignment of Life Insurance - Face Value \$ \_\_\_\_\_.

☐ Guarantees:

Name	Amount
	\$

☐ Collateral Mortgage/Hypothec in the amount of \$ \_\_\_\_\_ providing a \_\_\_\_\_ fixed charge over certain lands known as \_\_\_\_\_ (prior encumbrances \$ \_\_\_\_\_) with replacement cost fire insurance coverage, loss, if any, payable to the Bank as mortgagee.

☐ Demand Debenture in the principal amount of \$ \_\_\_\_\_ secured by a \_\_\_\_\_ fixed charge/hypothec over lands known as \_\_\_\_\_ (prior encumbrances \$ \_\_\_\_\_) together with a fixed/floating charge/hypothec over all other assets now or hereafter acquired with replacement cost fire insurance coverage, loss, if any, payable to the Bank as mortgagee/hypothecary creditor.

☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_

#### CONDITIONS

Until all the debts and liabilities under the Credit Line have been discharged in full, the following conditions will apply in respect to the Credit Line:

- ☐ Direct advances, Bankers' Acceptances, Letter of Credit Acceptances, Letters of Guarantee (delete whichever is not applicable) are not to exceed the "Borrowing Base" which is defined as the aggregate of
- ☐ \_\_\_\_\_ % of good quality accounts receivable (excluding accounts over 90 days, off-sets and inter-company accounts);
- ☐ \_\_\_\_\_ % of inventory;
- less security interests or charges held by other parties and specific payables which have or may have priority over the Bank's security.
- ☐ Advances against inventory are limited to \$ \_\_\_\_\_.
- ☐ Working capital is to be maintained at all times in excess of \$ \_\_\_\_\_.
- ☐ Tangible Net Worth (TNW) is to be maintained in excess of \$ \_\_\_\_\_ at all times. TNW is defined as the sum of share capital, earned and contributed surplus and postponed funds less (i) amounts due from officers/affiliates, (ii) investment in affiliates, and (iii) intangible assets as defined by the Bank.
- ☐ The ratio of Debt (including deferred taxes) to Tangible Net Worth is not to exceed \_\_\_\_\_ : 1.
- ☐ \_\_\_\_\_

#### REPORTING

Until all debts and liabilities under the Credit Line have been discharged in full, you will provide the Bank with the following:

- ☐ Annual Financial Statements - audited/prepared\* within \_\_\_\_\_ days of your fiscal year end.
- ☐ Interim Financial Statements - monthly/quarterly\* within \_\_\_\_\_ days of period end.
- \*DELETE ONE ☐ Statement of Security/Borrowing Base Calculation\* - monthly/quarterly\* within \_\_\_\_\_ days of period end.
- ☐ \_\_\_\_\_

#### FEES

Until all debts and liabilities under the Credit Line have been discharged in full, you will pay the following fees applicable to the Credit Line:

- |   |          |                 |
|---|----------|-----------------|
| <input type="checkbox"/> Application Fee            | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Renewal Fee                | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Interim Credit Request Fee | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Commitment Fee             | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Standby Fee                | _____ %  | Frequency _____ |
| <input type="checkbox"/> Administration Fee         | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Loan Administration Fee    | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Security Monitoring Fee    | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Late Reporting Fee         | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Default Fee                | \$ _____ | Frequency _____ |
| <input type="checkbox"/> Other Fee                  | \$ _____ | Frequency _____ |

(SPECIFY) \_\_\_\_\_

X

X

CUSTOMER'S INITIALS

CUSTOMER'S INITIALS

THIS IS **EXHIBIT “F”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



---

A COMMISSIONER FOR TAKING AFFIDAVITS





**The Bank of Nova Scotia**  
Executive Offices  
40 King Street West  
26<sup>TH</sup> Floor  
Toronto, ON  
Canada M5H 3Y2

**Sent via Email**

April 30, 2020

TribalScale Inc.  
200 Wellington Street West, Suite 900  
Toronto, Ontario  
M5V 3C7

Attention: Sheetal Jaitly

Dear Sir:

**RE: Loans to TribalScale Inc. ("TS")**

We confirm that TS is insolvent and will be filing a notice of intention to make a proposal ("**NOI**") and a proposal under the Bankruptcy and Insolvency Act ("**BIA**"). We further confirm that the Bank has agreed to assign its debt and security, on a without recourse basis, pursuant to the terms of the agreement attached at Schedule A hereto (the "**Assignment**"). The Assignment is to be completed prior to TS's filing of the NOI.

The Assignment is conditional on:

- a) the balance on the operating line owed by TS to the Bank being \$3,132,000 or less, and all of TS's non-borrowing accounts shall not be in an overdraft position;
- b) TS and Tribal Scale (US) TribalScale US Inc. releasing the Bank from any claims that it may have now or in the future, with respect to the Bank's lending, administration of loans and accounts, its dealing with and assigning of the indebtedness and security.

Further we confirm that in consideration for the Assignment, and following TS' creditor and court approved Proposal under the BIA, TS shall issue to the Bank common shares, sufficient in number to provide the Bank with a 5% share of all TS equity with all common shareholders to be parties to a unanimous shareholder agreement, on terms reasonably acceptable to the Bank.

Finally, we confirm that the Bank's fees in relation to the completion of this matter, and limited to the total sum of \$5,000, will be paid as a condition of the assignment.

Yours very truly,

**THE BANK OF NOVA SCOTIA**

Rachel Davies  
Senior Manager  
Special Accounts Management

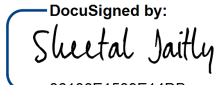
Neel Chopra  
Director  
Special Accounts Management

4/30/2020

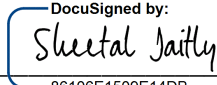
072

Undersigned acknowledges and agrees to the foregoing this \_\_\_\_ day of April, 2019.

TribalScale Inc.

By:  86106E1509E14DB...  
Title: CEO  
I have authority to bind the Company

TribalScale US Inc.

By:  86106E1509E14DB...  
Title: CEO  
I have authority to bind the Company

## ASSIGNMENT OF SECURITY AND INDEBTEDNESS WITHOUT RECOURSE

**A M O N G:**

**THE BANK OF NOVA SCOTIA**

(hereinafter called the “**Lender**”)

- and -

**1924191 Ontario Inc.**

(hereinafter collectively called the “**Assignee**”)

- A. **WHEREAS** Tribalscale Inc. (“**Tribalscale**”) and the Lender are parties to a Commitment Agreement dated June 28, 2018 and amended by Amending Letter dated January 28, 2019 and and Default Letter dated May 31, 2019 and amended by agreement dated August 1, 2010 (the “**Commitment Agreement**”) pursuant to which the Lender extended an operating line of credit to Tribalscale in the maximum amount of \$6,000,000, and reduced to \$4,000,000, standby letters of credit and equipment financing in the amount of \$500,000 (collectively, the “**Loan Facilities**”).
- B. **WHEREAS** TribalScale is indebted and liable to the Lender, including all legal and professional fees, for loans advanced under the Loan Facilities, for the total sum of \$2,132,000 as of April 30, 2020 (the “**Indebtedness**”).
- C. **AND WHEREAS** as security for the due payment of the Indebtedness, the Lender received the loan documents, the priority agreement and the security agreements each as set out at Schedule A to this Agreement (collectively the “**Security Agreements**”).
- D. **AND WHEREAS** the Lender made demand for payment and the Lender issued a notice of intention to enforce security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* to the Debtor, dated August 6, 2019, and Tribalscale did acknowledge receipt and waived the notice period of same (collectively the “**Demand**”).
- E. **AND WHEREAS** the Lender has agreed to assign its rights and obligations under the Commitment Agreement, the Security Agreements and the documents in connection thereto (the “**Assigned Security**”) and the Assignee wishes to purchase from the Lender the Assigned Security and the Indebtedness (collectively the “**Assigned Interest**”) on an absolute without recourse basis, subject to the terms of this Agreement.

**NOW THEREFORE** in consideration of the foregoing, the Purchase Price (as defined below) now paid by the Assignee to the Assignor and for other valuable consideration, including the mutual agreements contained herein (the receipt and adequacy of which consideration is hereby acknowledged by the Assignor), the parties hereto agree as follows:

## ARTICLE 1 ASSIGNMENT

- 1.1 Upon receipt by the Lender of the sum of \$667,000 (the “**Purchase Price**”) in cleared and readily available funds (the date and time of receipt of the Purchase Price the “**Effective Date**”), the Lender hereby irrevocably and unconditionally sells, assigns, and transfers on a without recourse basis to the Assignee and the Assignee hereby purchases and assumes absolutely all of the Lender’s right, title and interest, at law or in equity in and to the Assigned Interest.

## ARTICLE 2 REPRESENTATIONS AND WARRANTIES

- 2.1 The Lender certifies and agrees that the Lender has delivered to the Assignee a copy of the Security and the Lender will from time to time and at any time after the Effective Date, at the cost of the Assignee, execute all such further assurances and documents as may be reasonably necessary to assign the Assigned Interest to the Assignee as the Assignee or their solicitor may reasonably require.
- 2.2 This Assignment is made by the Lender to the Assignee without recourse in any manner by the Assignee as against the Lender, and without any representation or warranty on the part of the Lender as to the collectability, validity, priority, authorization, execution, delivery, perfection, continuity of perfection, or enforceability of the Assigned Interest or any other matter except as specifically set out herein. The Assignee agrees that it shall be responsible to satisfy itself with respect to the foregoing and with respect to the Assigned Interest. Except as provided for in this Agreement, the Lender makes no other representations, collateral agreements, conditions nor warranties of any kind whatsoever with respect to the Assigned Interest, and in particular, the Lender **does not warrant or represent** that:
- (a) the Assigned Interest has been appropriately drafted, authorized, filed or executed or that the necessary steps have been taken to appropriately register or perfect all or any portion of the Assigned Interest; or that
  - (b) the right, title or interest of the Lender under or by virtue of the Assigned Interest or any part thereof is or will be enforceable, or as to any matter in relation to the existence, attachment, priority, adequacy, value, marketability, quantum, location, condition, fitness, status of repair, validity, or enforceability of the Assigned Interest or any property charged thereunder, or the availability of any documents, chattels, inventory, receivables, accounts, property or collateral referred to described in or in any way contemplated by all or any part of the Assigned Interest;
  - (c) the Indebtedness is collectible; or that

- (d) any steps taken by the Lender, including but not limited to, the issuing of the Demands, were properly taken.

2.3 The Lender does covenant with the Assignee and represent that:

- (a) the principal amount and interest comprising the Indebtedness is accurately reflected herein;
- (b) the Lender is the owner of the Assigned Interest and has not been postponed, sold, assigned, pledged, syndicated, or encumbered the Assigned Interest, or any part thereof in favour of any third party;
- (c) upon the effectiveness of this Agreement, the Lender shall have no right, title or interest in and to the Assigned Interest;
- (d) the Lender has not released or discharged all or any portion of the Assigned Interest and the Debtor is currently indebted to the Lender for the Indebtedness which remains due and owing to the Lender at the time of this assignment;
- (e) the Lender has the full right and authority to assign the Assigned Interest to the Assignee; and,
- (f) the Assignor is not a non-resident of Canada under the *Income Tax Act* (Canada);

### **ARTICLE 3 GENERAL**

- 3.1 The Lender agrees on and after the Effective Date, the Assignee may file a financing change statement in accordance with the *Personal Property Security Act* (Ontario) to reflect a transfer from the Lender to the Assignee in relation to Assigned Security.
- 3.2 The Assignee acknowledges and agrees that all steps to be taken, proceedings to be initiated or continued, whether judicial or extrajudicial, contractual or statutory, in relation to the Assigned Interest shall be in the name of the Assignee and shall not be in the name of the Lender, subject to the right of the Assignee to refer to the assignment herein of the Assigned Interest.
- 3.3 This Assignment shall enure to the benefit of and be binding upon the Lender and its successors and assigns.
- 3.4 This Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein. Each of the parties hereto irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario.
- 3.5 This Assignment may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution, shall be deemed to bear

DATED this 30<sup>th</sup> day of April, 2020

**THE BANK OF NOVA SCOTIA**

Per: \_\_\_\_\_  
I have authority to bind the Lender

Per: \_\_\_\_\_  
I have authority to bind the Lender

DATED this 30<sup>th</sup> day of April, 2020

**BRIJ SHARMA**

Per: \_\_\_\_\_  
I have authority to bind the Assignee

Acknowledged by:

**DATED** this 30<sup>th</sup> day of April, 2020.

**TRIBALSCALE INC.**

DocuSigned by:  
*Sheetal Jaitly*  
86106E1509E14DB...

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
I have authority to bind the corporation

DATED this 30<sup>th</sup> day of April, 2020

**THE BANK OF NOVA SCOTIA**

Per: Rachel D.  
I have authority to bind the Lender

Per: [Signature]  
I have authority to bind the Lender

DATED this 30<sup>th</sup> day of April, 2020

**BRIJ SHARMA**

Per: \_\_\_\_\_  
I have authority to bind the Assignee

Acknowledged by:

**DATED** this 30<sup>th</sup> day of April, 2020.

**TRIBALSCALE INC.**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
I have authority to bind the corporation

**SCHEDULE “A”****LOAN DOCUMENTS/SECURITY**

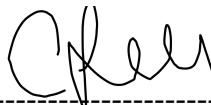
1. The Letter Agreement;
2. Scotiabank Visa Business Card Agreement dated July 5, 2018;
3. Scotiabank Visa Business Card Agreement – US\$ dated August 1, 2018;
4. General Security Agreement dated July 9, 2018;
5. Priority Agreement between Business Development Bank of Canada, The Bank of Nova Scotia 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.

**Registration under the Personal Property Security Act (“PPSA”)**

1. PPSA, file number, 741792321, as against TribalScale Inc., as debtor; and
2. PPSA, file number, 74604357, as against TribalScale Inc., as debtor.



THIS IS **EXHIBIT “G”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



---

A COMMISSIONER FOR TAKING AFFIDAVITS

## GENERAL SECURITY AGREEMENT

1. TribalScale Inc.

(NAME OF CUSTOMER)

of 200 Wellington Street West, Suite 900, Toronto, ON, M5V 3C7

(the "Customer")

(ADDRESS OF CUSTOMER)

for valuable consideration grants, assigns, transfers, sets over, mortgages and charges to THE BANK OF NOVA SCOTIA, at its Branch located at 4715 TAHOE BOULEVARD, MISSISSAUGA, ON L4W 0B4

(ADDRESS OF BRANCH)

(the "Bank") as and by way of a fixed and specific mortgage and charge, and grants to the Bank, a security interest in the present and after acquired undertaking and property (other than consumer goods) of the Customer including without limitation all the right title, interest and benefit which the Customer now has or may hereafter have in all property of the kinds hereinafter described (the "Collateral"):

- (a) all goods comprising the inventory of the Customer including but not limited to goods held for sale or lease or that have been leased or consigned to or by the Customer or furnished or to be furnished under a contract of service or that are raw materials, work in process or materials used or consumed in a business or profession or finished goods and timber cut or to be cut, oil, gas, hydrocarbons, and minerals extracted or to be extracted, all livestock and the young and unborn young thereof and all crops;
- (b) all goods which are not inventory or consumer goods, including but not limited to furniture, fixtures, equipment, machinery, plant, tools, vehicles and other tangible personal property, whether described in Schedule "A" hereto or not;
- (c) all accounts, including deposit accounts in banks, credit unions, trust companies and similar institutions, debts, demands and choses in action which are now due, owing or accruing due or which may hereafter become due, owing or accruing due to the Customer, and all claims of any kind which the Customer now has or may hereafter have including but not limited to claims against the Crown and claims under insurance policies;
- (d) all chattel paper;
- (e) all money;
- (f) all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (g) all instruments, including but not limited to bills, notes, cheques, letters of credit, and advices of credit;
- (h) all investment property, including but not limited to shares, stock, warrants, bonds, debentures, debenture stock and other securities (whether evidenced by a security certificate or an uncertificated security) and financial assets, security entitlements, securities accounts, futures contracts and futures accounts;
- (i) all intangibles including but not limited to contracts, agreements, options, clearing house options, permits, licences, consents, approvals, authorizations, orders, judgments, certificates, rulings, insurance policies, agricultural and other quotas, subsidies, franchises, immunities, privileges, and benefits and all goodwill, patents, trade marks, trade names, trade secrets, inventions, processes, copyrights and other industrial or intellectual property;
- (j) with respect to the personal property described in subparagraphs (a) to (i) inclusive, all books, accounts, invoices, letters, papers, documents, disks, and other records in any form, electronic or otherwise, evidencing or relating thereto; and all contracts, investment property, securities, instruments and other rights and benefits in respect thereof;
- (k) with respect to the personal property described in subparagraphs (a) to (j) inclusive, all parts, components, renewals, substitutions and replacements thereof and all attachments, accessories and increases, additions and accessions thereto; and
- (l) with respect to the personal property described in subparagraphs (a) to (k) inclusive, all proceeds therefrom (other than consumer goods), including personal property in any form or fixtures derived directly or indirectly from any dealing with such property or proceeds therefrom, and any insurance or other payment as indemnity or compensation for loss of or damage to such property or any right to such payment, and any payment made in total or partial discharge or redemption of an intangible, chattel paper, instrument, security or investment property; and

In this Agreement, the words "goods", "consumer goods", "account", "account debtor", "inventory", "crops", "equipment", "fixtures", "chattel paper", "document of title", "instrument", "money", "security", or "securities", "intangible", "receiver", "proceeds", "accessions", "certificated security", "clearing house option", "control", "financial asset", "futures account", "futures contract", "futures intermediary", "investment property", "securities account", "securities intermediary", "security certificate", "security entitlement", and "uncertificated security" shall have the same meanings as their defined meanings where such words are defined in the Personal Property Security Act of the province or territory in which the Branch of the Bank mentioned in paragraph 1 is located, such Act including any amendments thereto, being referred to in this Agreement as "the PPSA". In this Agreement "Collateral" shall refer to "Collateral or any item thereof".

2. The fixed and specific mortgages and charges and the security interest granted under this Agreement secure payment and performance of all obligations of the Customer to the Bank, including but not limited to all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Customer to the Bank in any currency or remaining unpaid by the Customer to the Bank in any currency, whether arising from dealings between the Bank and the

Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatever a creditor of the Customer and wherever incurred, and whether incurred by the Customer alone or with another or others and whether as principal or surety, including all interest, commissions, legal and other costs, charges and expenses (the "Obligations").

3. The Customer hereby represents and warrants to the Bank that:

- (a) all of the Collateral is, or when the Customer acquires any right, title or interest therein, will be the sole property of the Customer free and clear of all security interests, mortgages, charges, hypothecs, liens or other encumbrances except as disclosed by the Customer to the Bank in writing;
- (b) the Collateral insofar as it consists of goods (other than inventory enroute from suppliers or enroute to customers or on lease or consignment) will be kept at the locations specified in Schedule "B" hereto or at such other locations as the Customer shall specify in writing to the Bank and subject to the provisions of paragraph 4(j) none of the Collateral shall be moved therefrom without the prior written consent of the Bank;
- (c) the Customer's chief executive office is located at the address specified in paragraph 1;
- (d) none of the Collateral consists of consumer goods; and
- (e) this Agreement has been properly authorized and constitutes a legally valid and binding obligation of the Customer in accordance with its terms.

4. The Customer hereby agrees that:

- (a) the Customer shall diligently maintain, use and operate the Collateral and shall carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Collateral and the earnings, incomes, rents, issues and profits thereof;
- (b) the Customer shall cause the Collateral to be insured and kept insured to the full insurable value thereof with reputable insurers against loss or damage by fire and such other risks as the Bank may reasonably require and shall maintain such insurance with loss if any payable to the Bank and shall lodge such policies with the Bank;
- (c) the Customer shall pay all rents, taxes, levies, assessments and government fees or dues lawfully levied, assessed or imposed in respect of the Collateral or any part thereof as and when the same shall become due and payable, and shall exhibit to the Bank, when required, the receipts and vouchers establishing such payment;
- (d) the Customer shall duly observe and conform to all valid requirements of any governmental authority relative to any of the Collateral and all covenants, terms and conditions upon or under which the Collateral is held;
- (e) the Customer shall keep proper books of account in accordance with sound accounting practice, shall furnish to the Bank such financial information and statements and such information and statements relating to the Collateral as the Bank may from time to time require, and the Customer shall permit the Bank or its authorized agents at any time at the expense of the Customer to examine all books of account and other financial records and reports relating to the Collateral and to make copies thereof and take extracts therefrom;
- (f) the Customer shall furnish to the Bank such information with respect to the Collateral and the insurance thereon as the Bank may from time to time require and shall give written notice to the Bank of all litigation before any court, administrative board or other tribunal affecting the Customer or the Collateral;
- (g) the Customer shall defend the title to the Collateral against all persons and shall keep the Collateral free and clear of all security interests, mortgages, charges, liens and other encumbrances except for those disclosed to the Bank in writing prior to the execution of this Agreement or hereafter approved in writing by the Bank prior to their creation or assumption;
- (h) the Customer shall, upon request by the Bank, execute and deliver all such financing statements, certificates, further assignments and documents and do all such further acts and things as may be considered by the Bank to be necessary or desirable to give effect to the intent of this Agreement and the Customer hereby irrevocably constitutes and appoints the Manager or Acting Manager for the time being of the Branch of the Bank mentioned in paragraph 1, the true and lawful attorney of the Customer, with full power of substitution, to do any of the foregoing in the name of the Customer whenever and wherever the Bank may consider it to be necessary or desirable;
- (i) the Customer shall promptly notify the Bank in writing of any event which occurs that would have a material adverse effect upon the Collateral or upon the financial condition of the Customer and immediately upon the Customer's acquisition of rights in any vehicle, mobile home, trailer, boat, outboard motor for a boat, aircraft or aircraft engine, shall promptly provide the Bank with full particulars, including serial number, of such Collateral; and
- (j) the Customer will not change its name or the location of its chief executive office or place of business or sell, exchange, transfer, assign or lease or otherwise dispose of or change the use of the Collateral or any interest therein or modify, amend or terminate any chattel paper, document of title, instrument, security, investment property or intangible, without the prior written consent of the Bank, except that the Customer may, until an event of default set out in paragraph 9 occurs, sell or lease inventory in the ordinary course of the Customer's business.

5. Until an event of default occurs, the Customer may use the Collateral in any lawful manner not inconsistent with this Agreement or any other agreement to which the Bank and the Customer are parties, but the Bank shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Bank may consider appropriate and the Customer agrees to furnish all assistance and information and to perform all such acts as the Bank may reasonably request in connection therewith, and for such purpose shall permit the Bank or its agents access to all places where Collateral may be located and to all premises occupied by the Customer to examine and inspect the Collateral and related records and documents.



6. Before or after an event of default occurs, the Bank may give notice to any or all account debtors of the Customer and to any or all persons liable to the Customer under an instrument to make all further payments to the Bank and any payments or other proceeds of Collateral received by the Customer from account debtors or from any persons liable to the Customer under an instrument, whether before or after such notice is given by the Bank, shall be held by the Customer in trust for the Bank and paid over to the Bank upon request. The Bank may take charge of all proceeds of Collateral and may apply any money taken as Collateral to the satisfaction of the Obligations secured hereby. The Bank may hold as additional security any increase or profits, except money, received from any Collateral in the Bank's possession, and may apply any money received from such Collateral to reduce the Obligations secured hereby and may hold any balance as additional security for such part of the Obligations as may not yet be due, whether absolute or contingent. The Bank will not be obligated to keep any Collateral separate or identifiable. In the case of any instrument, security, investment property or chattel paper comprising part of the Collateral, the Bank will not be obligated to take any necessary or other steps to preserve rights against other persons.

7. Before or after an event of default occurs, the Bank may have any Collateral comprising instruments, shares, stock, warrants, bonds, debentures, debenture stock, securities or other investment property, registered in its name or in the name of its nominee and shall be entitled but not bound or required to vote in respect of such Collateral at any meeting at which the holder thereof is entitled to vote and, generally, to exercise any of the rights which the holder of such Collateral may at any time have. The Customer will also take such steps as the Bank requires to enable the Bank to obtain and maintain control of any investment property, including but not limited to arranging for any issuer of uncertificated securities, securities intermediary or futures intermediary to enter into an agreement satisfactory to the Bank to enable the Bank to obtain and maintain control. The Bank shall not be responsible for any loss occasioned by the exercise of any of any rights contemplated in this paragraph or by failure to exercise the same within the time limited for the exercise thereof.

8. Upon the Customer's failure to perform any of its duties hereunder, the Bank may, but shall not be obliged to, perform any or all of such duties, without waiving any rights to enforce this Agreement, and the Customer shall pay to the Bank, forthwith upon written demand therefor, an amount equal to the costs, fees and expenses incurred by the Bank in so doing plus interest thereon from the date such costs, fees and expenses are incurred until paid at the rate of 3% per annum over the Prime Lending Rate of the Bank in effect from time to time. The "Prime Lending Rate of the Bank" means the variable per annum, reference rate of interest as announced and adjusted by the Bank from time to time for loans made by the Bank in Canada in Canadian dollars.

9. The happening of any one or more of the following events shall constitute an event of default under this Agreement:

- (a) if the Customer does not pay when due any of the Obligations;
- (b) if the Customer does not perform any provisions of this Agreement or of any other agreement to which the Customer and the Bank are parties;
- (c) if the Customer ceases or threatens to cease to carry on its business, commits an act of bankruptcy, becomes insolvent makes an assignment or proposal under the Bankruptcy and Insolvency Act, takes advantage of provisions for relief under the Companies' Creditors Arrangement Act or any other legislation for the benefit of insolvent debtors, transfers all or substantially all of its assets, or proposes a compromise or arrangement to its creditors;
- (d) if the Customer enters into any reconstruction, reorganization, amalgamation, merger or other similar arrangement;
- (e) if any proceeding is taken with respect to a compromise or arrangement or to have the Customer declared bankrupt or wound up, or if any proceeding is taken, whether in court or under the terms of any agreement or appointment in writing, to have a receiver appointed of any Collateral or if any encumbrance becomes enforceable against any Collateral;
- (f) if any execution, sequestration or extent or any other process of any court becomes enforceable against the Customer or if any distress or analogous process is levied upon any Collateral;
- (g) if the Bank in good faith believes and has commercially reasonable grounds for believing that the prospect of payment or performance of any Obligation is or is about to be impaired or that any Collateral is or is about to be in danger of being lost, damaged, confiscated or placed in jeopardy.

10. If an event of default occurs, the Bank may withhold any future advances and may declare that the Obligations shall immediately become due and payable in full, and the Bank may proceed to enforce payment of the Obligations and the Customer and the Bank shall have, in addition to any other rights and remedies provided by law, the rights and remedies of a debtor and a secured party respectively under the PPSA and other applicable legislation and those provided by this Agreement. The Bank may take possession of the Collateral, enter upon any premises of the Customer, otherwise enforce this Agreement, enforce its rights under any agreement with any issuer of uncertificated securities, securities intermediary or futures intermediary and enforce any rights of the Customer in respect of the Collateral by any manner permitted by law and may use the Collateral in the manner and to the extent that the Bank may consider appropriate and may hold, insure, repair, process, maintain, protect, preserve, prepare for disposition and dispose of the same and may require the Customer to assemble the Collateral and deliver or make the Collateral available to the Bank at a reasonably convenient place designated by the Bank.

11. Where required to do so by the PPSA, or other relevant legislation, the Bank shall give to the Customer the written notice required by the PPSA or such other relevant legislation of an intended enforcement or disposition of the Collateral by serving such notice personally on the Customer or by mailing such notice by registered mail to the last known post office address of the Customer or by electronic transmission to the last known electronic mailing or transmission address of the Customer or by any other method authorized or permitted by the PPSA or such other relevant legislation.

12. If an event of default occurs, the Bank may take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term shall include a receiver and manager) of the Collateral or may by appointment in writing appoint any person to be a receiver of the Collateral and may remove any receiver so appointed by the Bank and appoint another in his stead; and any such receiver appointed by instrument in writing shall, to the extent permitted by applicable law or to such lesser extent permitted, have all of the rights, benefits and powers of the Bank hereunder or under the PPSA or otherwise and without limitation have power (a) to take possession of the Collateral, (b) to carry on all or any part or parts of the business of the Customer, (c) to borrow money required for the seizure, retaking, repossession, holding, insurance, repairing, processing, maintaining, protecting, preserving, preparing for disposition, disposition of the Collateral and for any other enforcement of this Agreement or for the carrying on of the business of the Customer on the security of the Collateral in priority to the security interest created under this Agreement, and (d) to sell, lease or otherwise dispose of the whole or any part of the Collateral at public auction, by public tender or by private sale, lease or other disposition either for cash or upon credit, at such time and upon such terms and conditions as the receiver may determine provided that if any such disposition involves deferred payment the Bank will not be accountable for and the Customer will not be entitled to be credited with the proceeds of any such disposition until the monies therefore are actually received; and further provided that any such receiver shall be deemed the agent of the Customer and the Bank shall not be in any way responsible for any misconduct or negligence of any such receiver.

13. Any proceeds of any disposition of any Collateral may be applied by the Bank to the payment of expenses incurred or paid in connection with seizing, repossessing, retaking, holding, repairing, processing, insuring, preserving, preparing for disposition and disposing of the Collateral (including reasonable solicitor's fees and legal expenses and any other reasonable expenses), and any balance of such proceeds may be applied by the Bank towards the payment of the Obligations in such order of application as the Bank may from time to time effect. All such expenses and all amounts borrowed on the security of the Collateral under paragraph 12 shall bear interest at the rate of 3% per annum over the Prime Lending Rate of the Bank in effect from time to time, shall be payable by the Customer upon demand and shall be Obligations under this Agreement. If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement and the expenses incurred by the Bank, the Customer shall be liable to pay any deficiency to the Bank on demand.

14. The Customer and the Bank further agree that:

- (a) the Bank may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Customer, debtors of the Customer, sureties and others and with the Collateral or other security as the Bank may see fit without prejudice to the liability of the Customer and the Bank's rights under this Agreement
- (b) this Agreement shall not be considered as satisfied or discharged by any intermediate payment of all or any part of the Obligations but shall constitute and be a continuing security to the Bank for a current or running account and shall be in addition to and not in substitution for any other security now or hereafter held by the Bank;
- (c) nothing in this Agreement shall obligate the Bank to make any loan or accommodation to the Customer or extend the time for payment or satisfaction of the Obligations;
- (d) any failure by the Bank to exercise any right set out in this Agreement shall not constitute a waiver thereof; nothing in this Agreement or in the Obligations secured by this Agreement shall preclude any other remedy by action or otherwise for the enforcement of this Agreement or the payment in full of the Obligations secured by this Agreement;
- (e) all rights of the Bank under this Agreement shall be assignable and in any action brought by an assignee to enforce such rights, the Customer shall not assert against the assignee any claim or defence which the Customer now has or may hereafter have against the Bank;
- (f) all rights of the Bank under this Agreement shall enure to the benefit of its successors and assigns and all obligations of the Customer under this Agreement shall bind the Customer, his heirs, executors, administrators, successors and assigns;
- (g) if more than one Customer executes this Agreement their obligations under this Agreement shall be joint and several, and the Obligations shall include those of all or any one or more of them;
- (h) if the Customer is a corporation, The Limitation of Civil Rights Act of the province of Saskatchewan shall have no application to this Agreement or to any agreement or instrument renewing or extending or collateral to this Agreement or to the rights, powers or remedies of the Bank under this Agreement;
- (i) this Agreement shall be governed in all respects by the laws of the jurisdiction in which the Branch of the Bank mentioned in paragraph 1 is located;
- (j) the time for attachment of the security interest created hereby has not been postponed and is intended to attach when this Agreement is signed by the Customer and attaches at that time to Collateral in which the Customer then has any right, title or interest and attaches to Collateral in which the Customer subsequently acquires any right title or interest at the time when the Customer first acquires such right, title or interest.

The Customer acknowledges receiving a copy of this Agreement.

The Customer expressly waives the right to receive a copy of any financing statement or financing change statement which may be registered by the Bank in connection with this Agreement or any verification statement issued with respect thereto where such waiver is not otherwise prohibited by law.

Signed this 9<sup>TH</sup> day of JULY, 2018.

Customer: TribalScale Inc.

X [Signature]

X [Signature]

FULL NAME AND ADDRESS OF THE CUSTOMER (FOR INDIVIDUAL(S), INSERT FIRST GIVEN NAME, INITIAL OF SECOND GIVEN NAME, (FULL SECOND NAME IN ALBERTA, SASKATCHEWAN AND BRITISH COLUMBIA) IF ANY, THEN SURNAME)	IF GIVEN BY INDIVIDUAL(S) RECORD DATE OF BIRTH DAY MONTH YEAR	SEX	
		M	F
TRIBALSCALE INC., 200 WELLINGTON ST W, SUITE 900, TORONTO, ON M5V 3C7		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

### SCHEDULE "A"

(Description of Collateral)

If space is insufficient attach additional page headed Page 2 of Schedule "A".

GSA over all present and future personal property with appropriate insurance coverage, loss if any, payable to the bank.

### SCHEDULE "B"

(Location of Collateral)

If space is insufficient attach additional page headed Page 2 of Schedule "B".

200 Wellington Street West, Suite 900,  
Toronto, ON,  
M5V 3C7

DATE RECEIVED
.....
RECORDED ....
APPROVED ....
E.O. AUDITOR .....

THIS IS **EXHIBIT “H”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS



## GUARANTEE TO THE BANK OF NOVA SCOTIA

IN CONSIDERATION OF THE BANK OF NOVA SCOTIA (herein called the "Bank") agreeing to deal with or to continue to deal with

TribalScale Inc.

(herein called the "Customer") the undersigned and each of them, if more than one, hereby jointly and severally guarantees payment to the Bank of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Customer to the Bank or remaining unpaid by the Customer to the Bank, whether arising from dealings between the Bank and the Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatever a creditor of the Customer, and wherever incurred, and whether incurred by the Customer alone or with another or others and whether as principal or surety, including all interest, commissions, legal and other costs, charges and expenses (such debts and liabilities being herein called the "guaranteed liabilities"), the liability of the undersigned hereunder being limited to the sum of

Unlimited ..... dollars

Insert  
Limit,  
if any.

with interest from the date of demand for payment at the rate set out in paragraph 6 hereof.

AND THE UNDERSIGNED and each of them, if more than one, hereby jointly and severally agrees with the Bank as follows:

1. In this guarantee the word "Guarantor" shall mean the undersigned and, if there is more than one guarantor, it shall mean each of them.
2. This guarantee shall be a continuing guarantee of all the guaranteed liabilities and shall apply to and secure any ultimate balance due or remaining unpaid to the Bank; and this guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time of any sum of money for the time being due or remaining unpaid to the Bank.
3. The Bank shall not be bound to exhaust its recourse against the Customer or others or any securities or other guarantees it may at any time hold before being entitled to payment from the Guarantor, and the Guarantor renounces all benefits of discussion and division.
4. The Guarantor's liability to make payment under this guarantee shall arise forthwith after demand for payment has been made in writing on the undersigned or any one of them, if more than one, and such demand shall be deemed to have been effectually made when an envelope containing such demand addressed to the undersigned or such one of them at the address of the undersigned or such one of them last known to the Bank is posted, postage prepaid, in the post office; and the Guarantor's liability shall bear interest from the date of such demand at the rate set out in paragraph 6 hereof.
5. The service of demand for payment, by post, postage prepaid, in the post office, to a local agent of the Guarantor, said local agent being identified by name and located in the Province or jurisdiction where the Customer's main account is kept, shall be deemed to be service of demand on the Guarantor.
6. The rate of interest payable by the Guarantor from the date of a demand for payment under this guarantee shall be the Bank's prime rate applicable at the time of demand, PLUS 2% per annum. Prime rate is defined as the annual rate of interest expressed as a percentage per annum announced by the Bank on that day as its reference rate for commercial loans made by it in Canada in Canadian dollars. Interest is calculated and payable monthly on the 22nd day of each month following the day of demand and computed monthly on the same day when not so paid.
7. Upon default in payment of any sum owing by the Customer to the Bank at any time, the Bank may treat all guaranteed liabilities as due and payable and may forthwith collect from the Guarantor the total amount hereby guaranteed and may apply the sum so collected upon the guaranteed liabilities or may place it to the credit of a special account. A written statement of a Manager or Acting Manager of a branch of the Bank at which an account of the Customer is kept or of a General Manager of the Bank as to the amount remaining unpaid to the Bank at any time by the Customer shall, if agreed to by the Customer, be conclusive evidence and shall, in any event, be prima facie evidence against the Guarantor as to the amount remaining unpaid to the Bank at such time by the Customer.



8. This guarantee shall be in addition to and not in substitution for any other guarantees or other securities which the Bank may now or hereafter hold in respect of the guaranteed liabilities and the Bank shall be under no obligation to marshal in favour of the Guarantor any other guarantees or other securities or any moneys or other assets which the Bank may be entitled to receive or may have a claim upon; and no loss of or in respect of or unenforceability of any other guarantees or other securities which the Bank may now or hereafter hold in respect of the guaranteed liabilities, whether occasioned by the fault of the Bank or otherwise, shall in any way limit or lessen the Guarantor's liability.

9. Without prejudice to or in any way limiting or lessening the Guarantor's liability and without obtaining the consent of or giving notice to the Guarantor, the Bank may discontinue, reduce, increase or otherwise vary the credit of the Customer, may grant time, renewals, extensions, indulgences, releases and discharges to and accept compositions from or otherwise deal with the Customer and others, including the Guarantor and any other guarantor as the Bank may see fit, and the Bank may take, abstain from taking or perfecting, vary, exchange, renew, discharge, give up, realize on or otherwise deal with securities and guarantees in such manner as the Bank may see fit, and the Bank may apply all moneys received from the Customer or others or from securities or guarantees upon such parts of the guaranteed liabilities as the Bank may see fit and change any such application in whole or in part from time to time.

10. Until repayment in full of all the guaranteed liabilities, all dividends, compositions, proceeds of securities, securities valued or payments received by the Bank from the Customer or others or from estates in respect of the guaranteed liabilities shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim the benefit thereof in reduction of the liability under this guarantee, and the Guarantor shall not claim any set-off or counterclaim against the Customer in respect of any liability of the Customer to the Guarantor, claim or prove in the bankruptcy or insolvency of the Customer in competition with the Bank or have any right to be subrogated to the Bank.

11. This guarantee shall not be discharged or otherwise affected by the death or loss of capacity of the Customer, by any change in the name of the Customer, or in the membership of the Customer, if a partnership, or in the objects, capital structure or constitution of the Customer, if a corporation, or by the sale of the Customer's business or any part thereof or by the Customer being amalgamated with a corporation, but shall, notwithstanding any such event, continue to apply to all guaranteed liabilities whether theretofore or thereafter incurred; and in the case of a change in the membership of a Customer which is a partnership or in the case of the Customer being amalgamated with a corporation, this guarantee shall apply to the liabilities of the resulting partnership or corporation, and the term "Customer" shall include each such resulting partnership and corporation.

12. All advances, renewals and credits made or granted by the Bank purportedly to or for the Customer after the death, loss of capacity, bankruptcy or insolvency of the Customer, but before the Bank has received notice thereof shall be deemed to form part of the guaranteed liabilities; and all advances, renewals and credits obtained from the Bank purportedly by or on behalf of the Customer shall be deemed to form part of the guaranteed liabilities, notwithstanding any lack or limitation of power, incapacity or disability of the Customer or of the directors, partners or agents thereof, or that the Customer may not be a legal or suable entity, or any irregularity, defect or informality in the obtaining of such advance, renewals or credits, whether or not the Bank had knowledge thereof; and any such advance, renewal or credit which may not be recoverable from the undersigned as guarantor(s) shall be recoverable from the undersigned and each of them, if more than one, jointly and severally as principal debtor(s) in respect thereof and shall be paid to the Bank on demand with interest at the rate set out in paragraph 6 hereof.

13. All debts and liabilities, present and future, of the Customer to the Guarantor are hereby assigned to the Bank and postponed to the guaranteed liabilities, and all moneys received by the Guarantor in respect thereof shall be received in trust for the Bank and forthwith upon receipt shall be paid over to the Bank, the whole without in any way lessening or limiting the liability of the Guarantor under this guarantee; and this assignment and postponement is independent of the guarantee and shall remain in full force and effect until repayment in full to the Bank of all the guaranteed liabilities, notwithstanding that the liability of the undersigned or any of them under this guarantee may have been discharged or terminated.

14. The undersigned or any of them, if more than one, or his or their executors or administrators, by giving thirty days' notice in writing to the branch of the Bank at which the main account of the Customer is kept, may terminate his or their further liability under this guarantee in respect of liabilities of the Customer incurred or arising after the expiration of such thirty days, but not in respect of any guaranteed liabilities incurred or arising before the expiration of such thirty days even though not then matured; provided that notwithstanding receipt of any such notice the Bank may fulfill any requirements of the Customer based on agreements express or implied made prior to the expiration of such thirty days and any resulting liabilities shall be covered by this guarantee; and provided further that in the event of the termination of this guarantee as to one or more of the undersigned, if more than one, it shall remain a continuing guarantee as to the other or others of the undersigned.

15. This guarantee embodies all the agreements between the parties hereto relative to the guarantee, assignment and postponement and none of the parties shall be bound by any representation or promise made by any person relative thereto which is not embodied herein; and it is specifically agreed that the Bank shall not be bound by any representations or promises made by the Customer to the Guarantor.

16. Possession of this instrument by the Bank shall be conclusive evidence against the Guarantor that the instrument was not delivered in escrow or pursuant to any agreement that it should not be effective until any condition precedent or subsequent has been complied with and this guarantee shall be operative and binding notwithstanding the non-execution thereof by any proposed signatory.

17. This guarantee shall be governed in all respects by the laws of the Province or jurisdiction in which the Customer's main account with the Bank is kept.

18. This guarantee shall not be discharged or affected by the death or any disability of the undersigned or any of them, if more than one, and shall enure to the benefit of and be binding upon the Bank, its successors and assigns, and the Guarantor, his heirs, executors, administrators, successors and assigns.

AS WITNESS the hand and seal of the Guarantor at \_\_\_\_\_

this 9<sup>TH</sup> day of JULY, 2018.

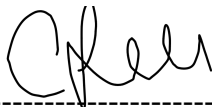
SIGNED SEALED AND DELIVERED

in the presence of

SIGNATURE AND SEAL

<p><u>SHEETAL JAITLEY</u></p> <p><u>SERRY LZN</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>TribalScale US Inc.</p> <p></p> <p>_____ SIGNATURE</p> <p></p> <p>_____ SIGNATURE</p> <p>_____ SIGNATURE</p> <p>_____ SIGNATURE</p> <p>_____ SIGNATURE</p> <p>_____ SIGNATURE</p>
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THIS IS **EXHIBIT "I"** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

## GENERAL SECURITY AGREEMENT

1. TribalScale US Inc.

(NAME OF CUSTOMER)

of 318 West 39 Street, Suite 500, New York, NY, 10018

(the "Customer")

(ADDRESS OF CUSTOMER)

for valuable consideration grants, assigns, transfers, sets over, mortgages and charges to THE BANK OF NOVA SCOTIA, at its Branch located at 4715 TAHOE BOULEVARD, MISSISSAUGA, ON L4W 0B4

(ADDRESS OF BRANCH)

(the "Bank") as and by way of a fixed and specific mortgage and charge, and grants to the Bank, a security interest in the present and after acquired undertaking and property (other than consumer goods) of the Customer including without limitation all the right title, interest and benefit which the Customer now has or may hereafter have in all property of the kinds hereinafter described (the "Collateral"):

- (a) all goods comprising the inventory of the Customer including but not limited to goods held for sale or lease or that have been leased or consigned to or by the Customer or furnished or to be furnished under a contract of service or that are raw materials, work in process or materials used or consumed in a business or profession or finished goods and timber cut or to be cut, oil, gas, hydrocarbons, and minerals extracted or to be extracted, all livestock and the young and unborn young thereof and all crops;
- (b) all goods which are not inventory or consumer goods, including but not limited to furniture, fixtures, equipment, machinery, plant, tools, vehicles and other tangible personal property, whether described in Schedule "A" hereto or not;
- (c) all accounts, including deposit accounts in banks, credit unions, trust companies and similar institutions, debts, demands and choses in action which are now due, owing or accruing due or which may hereafter become due, owing or accruing due to the Customer, and all claims of any kind which the Customer now has or may hereafter have including but not limited to claims against the Crown and claims under insurance policies;
- (d) all chattel paper;
- (e) all money;
- (f) all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (g) all instruments, including but not limited to bills, notes, cheques, letters of credit, and advices of credit;
- (h) all investment property, including but not limited to shares, stock, warrants, bonds, debentures, debenture stock and other securities (whether evidenced by a security certificate or an uncertificated security) and financial assets, security entitlements, securities accounts, futures contracts and futures accounts;
- (i) all intangibles including but not limited to contracts, agreements, options, clearing house options, permits, licences, consents, approvals, authorizations, orders, judgments, certificates, rulings, insurance policies, agricultural and other quotas, subsidies, franchises, immunities, privileges, and benefits and all goodwill, patents, trade marks, trade names, trade secrets, inventions, processes, copyrights and other industrial or intellectual property;
- (j) with respect to the personal property described in subparagraphs (a) to (i) inclusive, all books, accounts, invoices, letters, papers, documents, disks, and other records in any form, electronic or otherwise, evidencing or relating thereto; and all contracts, investment property, securities, instruments and other rights and benefits in respect thereof;
- (k) with respect to the personal property described in subparagraphs (a) to (j) inclusive, all parts, components, renewals, substitutions and replacements thereof and all attachments, accessories and increases, additions and accessions thereto; and
- (l) with respect to the personal property described in subparagraphs (a) to (k) inclusive, all proceeds therefrom (other than consumer goods), including personal property in any form or fixtures derived directly or indirectly from any dealing with such property or proceeds therefrom, and any insurance or other payment as indemnity or compensation for loss of or damage to such property or any right to such payment, and any payment made in total or partial discharge or redemption of an intangible, chattel paper, instrument, security or investment property; and

In this Agreement, the words "goods", "consumer goods", "account", "account debtor", "inventory", "crops", "equipment", "fixtures", "chattel paper", "document of title", "instrument", "money", "security", or "securities", "intangible", "receiver", "proceeds", "accessions", "certificated security", "clearing house option", "control", "financial asset", "futures account", "futures contract", "futures intermediary", "investment property", "securities account", "securities intermediary", "security certificate", "security entitlement", and "uncertificated security" shall have the same meanings as their defined meanings where such words are defined in the Personal Property Security Act of the province or territory in which the Branch of the Bank mentioned in paragraph 1 is located, such Act including any amendments thereto, being referred to in this Agreement as "the PPSA". In this Agreement "Collateral" shall refer to "Collateral or any item thereof".

2. The fixed and specific mortgages and charges and the security interest granted under this Agreement secure payment and performance of all obligations of the Customer to the Bank, including but not limited to all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Customer to the Bank in any currency or remaining unpaid by the Customer to the Bank in any currency, whether arising from dealings between the Bank and the



Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatever a creditor of the Customer and wherever incurred, and whether incurred by the Customer alone or with another or others and whether as principal or surety, including all interest, commissions, legal and other costs, charges and expenses (the "Obligations").

3. The Customer hereby represents and warrants to the Bank that:

- (a) all of the Collateral is, or when the Customer acquires any right, title or interest therein, will be the sole property of the Customer free and clear of all security interests, mortgages, charges, hypothecs, liens or other encumbrances except as disclosed by the Customer to the Bank in writing;
- (b) the Collateral insofar as it consists of goods (other than inventory enroute from suppliers or enroute to customers or on lease or consignment) will be kept at the locations specified in Schedule "B" hereto or at such other locations as the Customer shall specify in writing to the Bank and subject to the provisions of paragraph 4(j) none of the Collateral shall be moved therefrom without the prior written consent of the Bank;
- (c) the Customer's chief executive office is located at the address specified in paragraph 1;
- (d) none of the Collateral consists of consumer goods; and
- (e) this Agreement has been properly authorized and constitutes a legally valid and binding obligation of the Customer in accordance with its terms.

4. The Customer hereby agrees that:

- (a) the Customer shall diligently maintain, use and operate the Collateral and shall carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Collateral and the earnings, incomes, rents, issues and profits thereof;
- (b) the Customer shall cause the Collateral to be insured and kept insured to the full insurable value thereof with reputable insurers against loss or damage by fire and such other risks as the Bank may reasonably require and shall maintain such insurance with loss if any payable to the Bank and shall lodge such policies with the Bank;
- (c) the Customer shall pay all rents, taxes, levies, assessments and government fees or dues lawfully levied, assessed or imposed in respect of the Collateral or any part thereof as and when the same shall become due and payable, and shall exhibit to the Bank, when required, the receipts and vouchers establishing such payment;
- (d) the Customer shall duly observe and conform to all valid requirements of any governmental authority relative to any of the Collateral and all covenants, terms and conditions upon or under which the Collateral is held;
- (e) the Customer shall keep proper books of account in accordance with sound accounting practice, shall furnish to the Bank such financial information and statements and such information and statements relating to the Collateral as the Bank may from time to time require, and the Customer shall permit the Bank or its authorized agents at any time at the expense of the Customer to examine all books of account and other financial records and reports relating to the Collateral and to make copies thereof and take extracts therefrom;
- (f) the Customer shall furnish to the Bank such information with respect to the Collateral and the insurance thereon as the Bank may from time to time require and shall give written notice to the Bank of all litigation before any court, administrative board or other tribunal affecting the Customer or the Collateral;
- (g) the Customer shall defend the title to the Collateral against all persons and shall keep the Collateral free and clear of all security interests, mortgages, charges, liens and other encumbrances except for those disclosed to the Bank in writing prior to the execution of this Agreement or hereafter approved in writing by the Bank prior to their creation or assumption;
- (h) the Customer shall, upon request by the Bank, execute and deliver all such financing statements, certificates, further assignments and documents and do all such further acts and things as may be considered by the Bank to be necessary or desirable to give effect to the intent of this Agreement and the Customer hereby irrevocably constitutes and appoints the Manager or Acting Manager for the time being of the Branch of the Bank mentioned in paragraph 1, the true and lawful attorney of the Customer, with full power of substitution, to do any of the foregoing in the name of the Customer whenever and wherever the Bank may consider it to be necessary or desirable;
- (i) the Customer shall promptly notify the Bank in writing of any event which occurs that would have a material adverse effect upon the Collateral or upon the financial condition of the Customer and immediately upon the Customer's acquisition of rights in any vehicle, mobile home, trailer, boat, outboard motor for a boat, aircraft or aircraft engine, shall promptly provide the Bank with full particulars, including serial number, of such Collateral; and
- (j) the Customer will not change its name or the location of its chief executive office or place of business or sell, exchange, transfer, assign or lease or otherwise dispose of or change the use of the Collateral or any interest therein or modify, amend or terminate any chattel paper, document of title, instrument, security, investment property or intangible, without the prior written consent of the Bank, except that the Customer may, until an event of default set out in paragraph 9 occurs, sell or lease inventory in the ordinary course of the Customer's business.

5. Until an event of default occurs, the Customer may use the Collateral in any lawful manner not inconsistent with this Agreement or any other agreement to which the Bank and the Customer are parties, but the Bank shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Bank may consider appropriate and the Customer agrees to furnish all assistance and information and to perform all such acts as the Bank may reasonably request in connection therewith, and for such purpose shall permit the Bank or its agents access to all places where Collateral may be located and to all premises occupied by the Customer to examine and inspect the Collateral and related records and documents.

6. Before or after an event of default occurs, the Bank may give notice to any or all account debtors of the Customer and to any or all persons liable to the Customer under an instrument to make all further payments to the Bank and any payments or other proceeds of Collateral received by the Customer from account debtors or from any persons liable to the Customer under an instrument, whether before or after such notice is given by the Bank, shall be held by the Customer in trust for the Bank and paid over to the Bank upon request. The Bank may take charge of all proceeds of Collateral and may apply any money taken as Collateral to the satisfaction of the Obligations secured hereby. The Bank may hold as additional security any increase or profits, except money, received from any Collateral in the Bank's possession, and may apply any money received from such Collateral to reduce the Obligations secured hereby and may hold any balance as additional security for such part of the Obligations as may not yet be due, whether absolute or contingent. The Bank will not be obligated to keep any Collateral separate or identifiable. In the case of any instrument, security, investment property or chattel paper comprising part of the Collateral, the Bank will not be obligated to take any necessary or other steps to preserve rights against other persons.

7. Before or after an event of default occurs, the Bank may have any Collateral comprising instruments, shares, stock, warrants, bonds, debentures, debenture stock, securities or other investment property, registered in its name or in the name of its nominee and shall be entitled but not bound or required to vote in respect of such Collateral at any meeting at which the holder thereof is entitled to vote and, generally, to exercise any of the rights which the holder of such Collateral may at any time have. The Customer will also take such steps as the Bank requires to enable the Bank to obtain and maintain control of any investment property, including but not limited to arranging for any issuer of uncertificated securities, securities intermediary or futures intermediary to enter into an agreement satisfactory to the Bank to enable the Bank to obtain and maintain control. The Bank shall not be responsible for any loss occasioned by the exercise of any of any rights contemplated in this paragraph or by failure to exercise the same within the time limited for the exercise thereof.

8. Upon the Customer's failure to perform any of its duties hereunder, the Bank may, but shall not be obliged to, perform any or all of such duties, without waiving any rights to enforce this Agreement, and the Customer shall pay to the Bank, forthwith upon written demand therefor, an amount equal to the costs, fees and expenses incurred by the Bank in so doing plus interest thereon from the date such costs, fees and expenses are incurred until paid at the rate of 3% per annum over the Prime Lending Rate of the Bank in effect from time to time. The "Prime Lending Rate of the Bank" means the variable per annum, reference rate of interest as announced and adjusted by the Bank from time to time for loans made by the Bank in Canada in Canadian dollars.

9. The happening of any one or more of the following events shall constitute an event of default under this Agreement:

- (a) if the Customer does not pay when due any of the Obligations;
- (b) if the Customer does not perform any provisions of this Agreement or of any other agreement to which the Customer and the Bank are parties;
- (c) if the Customer ceases or threatens to cease to carry on its business, commits an act of bankruptcy, becomes insolvent makes an assignment or proposal under the Bankruptcy and Insolvency Act, takes advantage of provisions for relief under the Companies' Creditors Arrangement Act or any other legislation for the benefit of insolvent debtors, transfers all or substantially all of its assets, or proposes a compromise or arrangement to its creditors;
- (d) if the Customer enters into any reconstruction, reorganization, amalgamation, merger or other similar arrangement;
- (e) if any proceeding is taken with respect to a compromise or arrangement or to have the Customer declared bankrupt or wound up, or if any proceeding is taken, whether in court or under the terms of any agreement or appointment in writing, to have a receiver appointed of any Collateral or if any encumbrance becomes enforceable against any Collateral;
- (f) if any execution, sequestration or extent or any other process of any court becomes enforceable against the Customer or if any distress or analogous process is levied upon any Collateral;
- (g) if the Bank in good faith believes and has commercially reasonable grounds for believing that the prospect of payment or performance of any Obligation is or is about to be impaired or that any Collateral is or is about to be in danger of being lost, damaged, confiscated or placed in jeopardy.

10. If an event of default occurs, the Bank may withhold any future advances and may declare that the Obligations shall immediately become due and payable in full, and the Bank may proceed to enforce payment of the Obligations and the Customer and the Bank shall have, in addition to any other rights and remedies provided by law, the rights and remedies of a debtor and a secured party respectively under the PPSA and other applicable legislation and those provided by this Agreement. The Bank may take possession of the Collateral, enter upon any premises of the Customer, otherwise enforce this Agreement, enforce its rights under any agreement with any issuer of uncertificated securities, securities intermediary or futures intermediary and enforce any rights of the Customer in respect of the Collateral by any manner permitted by law and may use the Collateral in the manner and to the extent that the Bank may consider appropriate and may hold, insure, repair, process, maintain, protect, preserve, prepare for disposition and dispose of the same and may require the Customer to assemble the Collateral and deliver or make the Collateral available to the Bank at a reasonably convenient place designated by the Bank.

11. Where required to do so by the PPSA, or other relevant legislation, the Bank shall give to the Customer the written notice required by the PPSA or such other relevant legislation of an intended enforcement or disposition of the Collateral by serving such notice personally on the Customer or by mailing such notice by registered mail to the last known post office address of the Customer or by electronic transmission to the last known electronic mailing or transmission address of the Customer or by any other method authorized or permitted by the PPSA or such other relevant legislation.

12. If an event of default occurs, the Bank may take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term shall include a receiver and manager) of the Collateral or may by appointment in writing appoint any person to be a receiver of the Collateral and may remove any receiver so appointed by the Bank and appoint another in his stead; and any such receiver appointed by instrument in writing shall, to the extent permitted by applicable law or to such lesser extent permitted, have all of the rights, benefits and powers of the Bank hereunder or under the PPSA or otherwise and without limitation have power (a) to take possession of the Collateral, (b) to carry on all or any part or parts of the business of the Customer, (c) to borrow money required for the seizure, retaking, repossession, holding, insurance, repairing, processing, maintaining, protecting, preserving, preparing for disposition, disposition of the Collateral and for any other enforcement of this Agreement or for the carrying on of the business of the Customer on the security of the Collateral in priority to the security interest created under this Agreement, and (d) to sell, lease or otherwise dispose of the whole or any part of the Collateral at public auction, by public tender or by private sale, lease or other disposition either for cash or upon credit, at such time and upon such terms and conditions as the receiver may determine provided that if any such disposition involves deferred payment the Bank will not be accountable for and the Customer will not be entitled to be credited with the proceeds of any such disposition until the monies therefore are actually received; and further provided that any such receiver shall be deemed the agent of the Customer and the Bank shall not be in any way responsible for any misconduct or negligence of any such receiver.

13. Any proceeds of any disposition of any Collateral may be applied by the Bank to the payment of expenses incurred or paid in connection with seizing, repossessing, retaking, holding, repairing, processing, insuring, preserving, preparing for disposition and disposing of the Collateral (including reasonable solicitor's fees and legal expenses and any other reasonable expenses), and any balance of such proceeds may be applied by the Bank towards the payment of the Obligations in such order of application as the Bank may from time to time effect. All such expenses and all amounts borrowed on the security of the Collateral under paragraph 12 shall bear interest at the rate of 3% per annum over the Prime Lending Rate of the Bank in effect from time to time, shall be payable by the Customer upon demand and shall be Obligations under this Agreement. If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement and the expenses incurred by the Bank, the Customer shall be liable to pay any deficiency to the Bank on demand.

14. The Customer and the Bank further agree that:

- (a) the Bank may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Customer, debtors of the Customer, sureties and others and with the Collateral or other security as the Bank may see fit without prejudice to the liability of the Customer and the Bank's rights under this Agreement
- (b) this Agreement shall not be considered as satisfied or discharged by any intermediate payment of all or any part of the Obligations but shall constitute and be a continuing security to the Bank for a current or running account and shall be in addition to and not in substitution for any other security now or hereafter held by the Bank;
- (c) nothing in this Agreement shall obligate the Bank to make any loan or accommodation to the Customer or extend the time for payment or satisfaction of the Obligations;
- (d) any failure by the Bank to exercise any right set out in this Agreement shall not constitute a waiver thereof; nothing in this Agreement or in the Obligations secured by this Agreement shall preclude any other remedy by action or otherwise for the enforcement of this Agreement or the payment in full of the Obligations secured by this Agreement;
- (e) all rights of the Bank under this Agreement shall be assignable and in any action brought by an assignee to enforce such rights, the Customer shall not assert against the assignee any claim or defence which the Customer now has or may hereafter have against the Bank;
- (f) all rights of the Bank under this Agreement shall enure to the benefit of its successors and assigns and all obligations of the Customer under this Agreement shall bind the Customer, his heirs, executors, administrators, successors and assigns;
- (g) if more than one Customer executes this Agreement their obligations under this Agreement shall be joint and several, and the Obligations shall include those of all or any one or more of them;
- (h) if the Customer is a corporation, The Limitation of Civil Rights Act of the province of Saskatchewan shall have no application to this Agreement or to any agreement or instrument renewing or extending or collateral to this Agreement or to the rights, powers or remedies of the Bank under this Agreement;
- (i) this Agreement shall be governed in all respects by the laws of the jurisdiction in which the Branch of the Bank mentioned in paragraph 1 is located;
- (j) the time for attachment of the security interest created hereby has not been postponed and is intended to attach when this Agreement is signed by the Customer and attaches at that time to Collateral in which the Customer then has any right, title or interest and attaches to Collateral in which the Customer subsequently acquires any right title or interest at the time when the Customer first acquires such right, title or interest.

The Customer acknowledges receiving a copy of this Agreement.

The Customer expressly waives the right to receive a copy of any financing statement or financing change statement which may be registered by the Bank in connection with this Agreement or any verification statement issued with respect thereto where such waiver is not otherwise prohibited by law.

Signed this 10th day of July, 2018.

Customer: TribalScale US Inc.

X   
X 

FULL NAME AND ADDRESS OF THE CUSTOMER (FOR INDIVIDUAL(S), INSERT FIRST GIVEN NAME, INITIAL OF SECOND GIVEN NAME, (FULL SECOND NAME IN ALBERTA, SASKATCHEWAN AND BRITISH COLUMBIA) IF ANY, THEN SURNAME)	IF GIVEN BY INDIVIDUAL(S) RECORD DATE OF BIRTH DAY MONTH YEAR	SEX	
		M	F
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

## SCHEDULE "A"

(Description of Collateral)

If space is insufficient attach additional page headed Page 2 of Schedule "A".

GSA over all present and future personal property with appropriate insurance coverage, loss if any, payable to the bank.

## SCHEDULE "B"

(Location of Collateral)

If space is insufficient attach additional page headed Page 2 of Schedule "B".

318 West 39 Street, Suite 500  
New York, 10018

DATE RECEIVED .....
RECORDED ....
APPROVED ....
E.O. AUDITOR .....



THIS IS **EXHIBIT “J”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
SEARCH RESULTS

Date Search Conducted: 6/30/2020  
File Currency Date: 06/29/2020  
Family(ies): 5  
Page(s): 7

SEARCH : Business Debtor : TRIBALSCALE INC.

The attached report has been created based on the data received by Cyberbahn, a Thomson Reuters business from the Province of Ontario, Ministry of Government Services. No liability is assumed by Cyberbahn regarding its correctness, timeliness, completeness or the interpretation and use of the report. Use of the Cyberbahn service, including this report is subject to the terms and conditions of Cyberbahn's subscription agreement.

PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
SEARCH RESULTS

Date Search Conducted: 6/30/2020  
File Currency Date: 06/29/2020  
Family(ies): 5  
Page(s): 7

SEARCH : Business Debtor : TRIBALSCALE INC.

FAMILY : 1 OF 5 ENQUIRY PAGE : 1 OF 7  
SEARCH : BD : TRIBALSCALE INC.

00 FILE NUMBER : 726996816 EXPIRY DATE : 27APR 2028 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20170427 0915 2611 2055 REG TYP: P PPSA REG PERIOD: 11  
02 IND DOB : IND NAME:  
03 BUS NAME: TRIBALSCALE INC.

OCN :

04 ADDRESS : 8 KING STREET EAST, SUITE 1410  
CITY : TORONTO PROV: ON POSTAL CODE: M5C 1B5  
05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :

07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
BUSINESS DEVELOPMENT BANK OF CANADA  
09 ADDRESS : 305 MILNER AVENUE, SUITE 112  
CITY : SCARBOROUGH PROV: ON POSTAL CODE: M5H 3T9  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X X X X  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: BDC LEGAL-MP (123145-01)

17 ADDRESS : 1200-121 KING STREET WEST  
CITY : TORONTO PROV: ON POSTAL CODE: M5H 3T9

FAMILY : 2 OF 5 ENQUIRY PAGE : 2 OF 7  
 SEARCH : BD : TRIBALSCALE INC.

00 FILE NUMBER : 741792321 EXPIRY DATE : 19JUL 2023 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20180719 1502 1590 4928 REG TYP: P PPSA REG PERIOD: 5  
 02 IND DOB : IND NAME:  
 03 BUS NAME: TRIBALSCALE INC.

OCN :  
 04 ADDRESS : 200 WELLINGTON STREET WEST, SUITE 900  
 CITY : TORONTO PROV: ON POSTAL CODE: M5V 3C7  
 05 IND DOB : IND NAME:  
 06 BUS NAME:

OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 THE BANK OF NOVA SCOTIA  
 09 ADDRESS : 4715 TAHOE BOULEVARD  
 CITY : MISSISSAUGA PROV: ON POSTAL CODE: L4W 0B4  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X X X X  
 YEAR MAKE MODEL V.I.N.

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 GENERAL COLLATERAL DESCRIPTION  
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16 AGENT: GARDINER ROBERTS LLP (AE)  
 17 ADDRESS : 3600-22 ADELAIDE STREET WEST  
 CITY : TORONTO PROV: ON POSTAL CODE: M5H 4E3

FAMILY : 2 OF 5  
 SEARCH : BD : TRIBALSCALE INC.

ENQUIRY PAGE : 3 OF 7

FILE NUMBER 741792321  
 PAGE TOT REGISTRATION NUM REG TYPE  
 01 CAUTION : 001 OF 1 MV SCHED: 20200512 1045 1590 3411  
 21 REFERENCE FILE NUMBER : 741792321  
 22 AMEND PAGE: NO PAGE: CHANGE: D ASSGNMT REN YEARS: CORR PER:  
 23 REFERENCE DEBTOR/ IND NAME:  
 24 TRANSFEROR: BUS NAME: TRIBALSCALE INC.

25 OTHER CHANGE:  
 26 REASON:  
 27 /DESCR:  
 28 :  
 02/05 IND/TRANSFEE:  
 03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:  
 CITY: PROV: POSTAL CODE:  
 29 ASSIGNOR:

THE BANK OF NOVA SCOTIA  
 08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :  
 1924191 ONTARIO INC.

09 ADDRESS : 390 MIDWEST ROAD  
 CITY : TORONTO PROV : ON POSTAL CODE : M1P 3B5  
 CONS. MV DATE OF NO FIXED  
 GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME : GOLDMAN SLOAN NASH & HABER LLP (FORTE/MMC)  
 17 ADDRESS : 480 UNIVERSITY AVE, SUITE 1600  
 CITY : TORONTO PROV : ON POSTAL CODE : M5G 1V2

FAMILY : 3 OF 5  
 SEARCH : BD : TRIBALSCALE INC.

ENQUIRY PAGE : 4 OF 7

00 FILE NUMBER : 741792384 EXPIRY DATE : 19JUL 2023 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20180719 1503 1590 4930 REG TYP: P PPSA REG PERIOD: 5  
 02 IND DOB : IND NAME:  
 03 BUS NAME: TRIBALSCALE INC.

OCN :  
 04 ADDRESS : 200 WELLINGTON STREET WEST, SUITE 900  
 CITY : TORONTO PROV: ON POSTAL CODE: M5V 3C7  
 05 IND DOB : IND NAME:  
 06 BUS NAME:

OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 ROYNAT CAPITAL INC.

09 ADDRESS : 5500 NORTH SERVICE ROAD, SUITE 650  
 CITY : BURLINGTON PROV: ON POSTAL CODE: L7L 6W6  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X X X X  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: GARDINER ROBERTS LLP (AE)

17 ADDRESS : 3600-22 ADELAIDE STREET WEST  
 CITY : TORONTO PROV: ON POSTAL CODE: M5H 4E3

FAMILY : 4 OF 5  
 SEARCH : BD : TRIBALSCALE INC.

ENQUIRY PAGE : 5 OF 7

00 FILE NUMBER : 746040357 EXPIRY DATE : 20NOV 2024 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20181120 1748 1532 4200 REG TYP: P PPSA REG PERIOD: 6  
 02 IND DOB : IND NAME:  
 03 BUS NAME: TRIBALSCALE INC.

OCN :  
 04 ADDRESS : 200 WELLINGTON ST. WEST, 9TH FLOOR  
 CITY : TORONTO PROV: ON POSTAL CODE: M5V 3C7  
 05 IND DOB : IND NAME:  
 06 BUS NAME:

OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 THE BANK OF NOVA SCOTIA  
 09 ADDRESS : 44 KING STREET WEST  
 CITY : TORONTO PROV: ON POSTAL CODE: M5H 1H1  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X  
 YEAR MAKE MODEL V.I.N.

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 GENERAL COLLATERAL DESCRIPTION  
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 16 AGENT: CSRS  
 17 ADDRESS : 4126 NORLAND AVE  
 CITY : BURNABY PROV: BC POSTAL CODE: V5G 3S8

FAMILY : 4 OF 5  
 SEARCH : BD : TRIBALSCALE INC.

ENQUIRY PAGE : 6 OF 7

FILE NUMBER 746040357  
 PAGE TOT REGISTRATION NUM REG TYPE  
 01 CAUTION : 001 OF 1 MV SCHED: 20200512 1045 1590 3412  
 21 REFERENCE FILE NUMBER : 746040357  
 22 AMEND PAGE: NO PAGE: CHANGE: D ASSGNMT REN YEARS: CORR PER:  
 23 REFERENCE DEBTOR/ IND NAME:  
 24 TRANSFEROR: BUS NAME: TRIBALSCALE INC.

25 OTHER CHANGE:  
 26 REASON:  
 27 /DESCR:  
 28 :  
 02/05 IND/TRANSFEE:  
 03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:  
 CITY: PROV: POSTAL CODE:  
 29 ASSIGNOR:

THE BANK OF NOVA SCOTIA  
 08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :  
 1924191 ONTARIO INC.

09 ADDRESS : 390 MIDWEST ROAD  
 CITY : TORONTO PROV : ON POSTAL CODE : M1P 3B5  
 CONS. MV DATE OF NO FIXED  
 GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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 11  
 12  
 13  
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16 NAME : GOLDMAN SLOAN NASH & HABER LLP (FORTE/MMC)  
 17 ADDRESS : 480 UNIVERSITY AVE, SUITE 1600  
 CITY : TORONTO PROV : ON POSTAL CODE : M5G 1V2



FAMILY : 5 OF 5  
 SEARCH : BD : TRIBALSCALE INC.

ENQUIRY PAGE : 7 OF 7

00 FILE NUMBER : 750436389 EXPIRY DATE : 23APR 2022 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20190423 1600 1901 9035 REG TYP: P PPSA REG PERIOD: 03  
 02 IND DOB : IND NAME:  
 03 BUS NAME: TRIBALSCALE INC.

OCN :  
 04 ADDRESS : 200 WELLINGTON STREET WEST, SUITE 900  
 CITY : TORONTO PROV: ON POSTAL CODE: M5V 3C7  
 05 IND DOB : IND NAME:  
 06 BUS NAME:

OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 FUNDTHROUGH

09 ADDRESS : 260 SPADINA AVE  
 CITY : TORONTO PROV: ON POSTAL CODE: M5T 2E4  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X X X X  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 ALL ASSETS, ACCOUNTS, INVENTORY, INTANGIBLES, OTHER  
 14  
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16 AGENT: ESC CORPORATE SERVICES LTD.

17 ADDRESS : 445 KING STREET WEST, SUITE 400  
 CITY : TORONTO PROV: ON POSTAL CODE: M5V 1K4

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



---

A COMMISSIONER FOR TAKING AFFIDAVITS

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this “Agreement”), effective as of April 26<sup>th</sup>, 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](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, 11<sup>th</sup> 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 24<sup>TH</sup> DAY OF JULY, 2020

A handwritten signature in black ink, appearing to read "C. J. Dell", is written over a horizontal dashed line.

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 26<sup>th</sup>, 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



## Sirius XM Connected Vehicle Services Inc. Confidential and Proprietary

- 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

- 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.

## Sirius XM Connected Vehicle Services Inc. Confidential and Proprietary

**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
<b>TOTAL</b>					<b>\$1,864,020</b>

\*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

## Sirius XM Connected Vehicle Services Inc. Confidential and Proprietary

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:

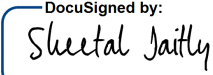
- Weekly touch points to review progress
- Knowledgeable Sirius XM team members available to answer questions as needed
- Timely meetings with key stakeholders (including Sirius XM/third party agencies), delivery of necessary content, assets and instructions, and timely feedback to any outstanding questions
- 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.

- **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 “M”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



---

A COMMISSIONER FOR TAKING AFFIDAVITS

# TRIBAL<sup>7</sup> SCALE

## Invoice 2061

**Sold To**

Sirius XM  
John Swanagon  
8550 Freeport Parkway  
Irving, Texas 75063  
USA

**Date**
**1/31/2020**

P.O. No.

SOW#2

Terms

Net 45

Project

SIR0020 - Project Constellation

Contact

Phone

**HST # : 80788 8565 RT0001 | D-U-N-S # : 203277215**

Item	Description	Qty	Rate	Amount
140-010.PS	PM (Trevor Buckerfield)	172	200.00	34,400.00
140-010.PS	PM (Adrian Gazzoli)	160	100.00	16,000.00
140-010.PS	Design (Ailsa Blair/Irina Choi)	80.5	160.00	12,880.00
140-010.PS	Engineering Lead (Jason Mills/Leire)	75	200.00	15,000.00
140-010.PS	Engineering Pairs (1-3):		0.00	0.00
140-010.PS	Serguey Martinez	112	180.00	20,160.00
140-010.PS	Pratik Bidkar	141.5	180.00	25,470.00
140-010.PS	Lalit Agarwal	88	180.00	15,840.00
140-010.PS	Alice Mao	152	180.00	27,360.00
140-010.PS	Jack Mo	160	180.00	28,800.00
140-010.PS	Rahul Gupta	128	180.00	23,040.00
140-010.PS	Marc Bouchard	160	180.00	28,800.00
140-010.PS	Engineering 4 Pair		0.00	0.00
140-010.PS	Uday Patail	112	170.00	19,040.00
140-010.PS	QA (Amrinder Singh)	50	160.00	8,000.00
140-010.PS	QA (Sohum Rajguru)	20	160.00	3,200.00
	Services Performed 01 Jan, 2020 - 31 Jan, 2020			0.00
		<b>Subtotal</b> USD 277,990.00		
<b>Sales Tax Summary</b>		<b>Sales Tax</b> USD 0.00		
Total Tax USD 0.00		<b>Total</b> <b>USD 277,990.00</b>		

1. Please make cheques payable to : **TribalScale Inc.**

2. Accounts Receivable : 200 Wellington St W, Suite 900, Toronto, ON M5V 3C7 Canada  
Phone (416) 800-0918 Email : accounting@tribalscale.com

3. TERMS:

\* Please notify TribalScale in writing of any discrepancies within 5 business days of receipt of invoice.

\* Unless otherwise agreed, all overdue invoices are subject to 2% monthly (24% annual) finance charge.

\* TribalScale reserves the right to correct tax rates and / or collect sales tax assessed by additional provinces / states as required by law without notice.

# TRIBAL<sup>7</sup> SCALE

## Invoice 2076

**Sold To**

Sirius XM  
John Swanagon  
8550 Freeport Parkway  
Irving, Texas 75063  
USA

**Date**
**2/29/2020**

P.O. No. SOW#2

Terms Net 45

Project SIR0020 - Project Constellation

Contact

Phone

**HST # : 80788 8565 RT0001 | D-U-N-S # : 203277215**

Item	Description	Qty	Rate	Amount
140-010.PS	PM (Trevor Buckerfield)	136	200.00	27,200.00
140-010.PS	PM (Adrian Gazzoli)	142	100.00	14,200.00
140-010.PS	Design (Ailsa Blair/Irina Choi)	52	160.00	8,320.00
140-010.PS	Engineering Lead (Jason Mills/Leire)	59	200.00	11,800.00
140-010.PS	Engineering Pairs (1-3):		0.00	0.00
140-010.PS	Serguey Martinez	134	180.00	24,120.00
140-010.PS	Pratik Bidkar	56	180.00	10,080.00
140-010.PS	Lalit Agarwal	0	180.00	0.00
140-010.PS	Alice Mao	104	180.00	18,720.00
140-010.PS	Jack Mo	144	180.00	25,920.00
140-010.PS	Rahul Gupta	40	180.00	7,200.00
140-010.PS	Marc Bouchard	120	180.00	21,600.00
140-010.PS	Engineering 4 Pair		0.00	0.00
140-010.PS	Uday Patail	152	170.00	25,840.00
140-010.PS	Vaibhav Vijay	112	170.00	19,040.00
140-010.PS	QA (Amrinder Singh)	41	160.00	6,560.00
140-010.PS	QA (Sohum Rajguru)	8	160.00	1,280.00
	Services Performed Feb 1 - 29, 2020			0.00
		<b>Subtotal</b> USD 221,880.00		
<b>Sales Tax Summary</b>		<b>Sales Tax</b> USD 0.00		
Total Tax USD 0.00		<b>Total</b> <b>USD 221,880.00</b>		

1. Please make cheques payable to :**TribalScale Inc.**

2. Accounts Receivable : 200 Wellington St W, Suite 900, Toronto, ON M5V 3C7 Canada  
Phone (416) 800-0918 Email : accounting@tribalscale.com

3. TERMS:

\* Please notify TribalScale in writing of any discrepancies within 5 business days of receipt of invoice.

\* Unless otherwise agreed, all overdue invoices are subject to 2% monthly (24% annual) finance charge.

\* TribalScale reserves the right to correct tax rates and / or collect sales tax assessed by additional provinces / states as required by law without notice.

# TRIBAL<sup>7</sup> SCALE

## Invoice 2102

**Sold To**

Sirius XM  
John Swanagon  
8550 Freeport Parkway  
Irving, Texas 75063  
USA

**Date**

4/6/2020

P.O. No.

Terms

Project

Contact

Phone

Due on Receipt

SIR0030 - Reimbursment

HST # : 80788 8565 RT0001 | D-U-N-S # : 203277215

Item	Description	Qty	Rate	Amount
140-310	Amazon Web Services chargebacks (Jun 2019 - Mar 2020) See attached	1	4,312.77	4,312.77
		<b>Subtotal</b>	USD 4,312.77	
<b>Sales Tax Summary</b>		<b>Sales Tax</b>	USD 0.00	
Total Tax USD 0.00		<b>Total</b>	<b>USD 4,312.77</b>	

1. Please make cheques payable to : **TribalScale Inc.**

2. Accounts Receivable : 200 Wellington St W, Suite 900, Toronto, ON M5V 3C7 Canada  
Phone (416) 800-0918 Email : accounting@tribalscale.com

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THIS IS **EXHIBIT “N”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS

T R I B A L  
S C A L E

# SiriusXM & TribalScale Project Issues

April 23, 2020

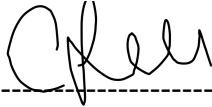
- The SXM team failed to give us, TribalScale, access and documentation for the IDM, which caused major delays in the project's timeline. The team had to work around this limitation and mock-up UI designs and endpoints to accommodate this. Once credentials were given to us for the IDM, the team had to decipher how to integrate with it because we received very poor "documentation" from Neal. Essentially this was a list of curl requests without any explanation or "documentation". The IDM availability issues were highlighted every single week as a **major blocker** in our weekly status emails to the whole project team at SXM.
- The SXM team failed to provide any feedback on the progress of the project in which everyone on the SXM side seemed very disconnected from what was happening or why key decisions were being made by Paul on their side.
- Instead of providing feedback to TribalScale and correcting any issues that SXM had with our codebase, SXM forked our codebase without our knowledge and began developing on top of the existing code for several months. This seems very counterintuitive given the scale of this project and how many engineers TribalScale had to work on the project that could have aided their problems very easily.
- The SXM team had many issues with getting our codebase up and running in their environment in which we offered our assistance. We were told that we would be given PCs that had internal network access to assist them but John never gave them to us with numerous follow-ups.
- The SXM suddenly and unexpectedly halted the project with only one week's notice. The week commenced as per the following:
  - Anatoli had requested a knowledge transfer meeting with Rohit to go over the code and architecture which was held very last minute on the second last day of the project;
  - From that meeting, SXM has asked for more up-to-date architecture diagrams a day before the project ends. Given how much has changed since they were created, the team would need more than one day to complete this (along with their active feature work). The most up-to-date diagram has been shared with SXM that includes any work the team has made. Neal has questioned why this was completed in a 24-hour time frame;
  - We held our weekly demo with SXM with Neal and Rohit on the call where the team seemed to not understand fully about why we made certain design decisions on the project. This seemed very unprofessional, given that these designs have been shown every week during the

T R I B A L<sup>7</sup>  
S C A L E

development project and both had a walkthrough and approval from Paul during the design phase of the project;

- Neal also had questioned why many of the IDM integrations features were not completed given the length of this project, which we let Neal know that we only received access to the IDM towards the end of the project, which was communicated clearly with every status email.
- Neal questioned why we did not Mock many of the endpoints that the IDM would provide. This would have taken a lot of development time to create these Mock endpoints and wasn't feasible given the uncertainty on how the IDM would function;
- Rohit emailed in the morning asking why "there are no loading bars after each button click/API calls, as a user it is not clear on what is happening after I click a button, please check this issue as well along with proper error handling." This is something that was already discussed with Paul. Irina has already created loading bar designs and has shown these designs to Paul. It was decided that this was something that we would push to after the IDM integrations features;
- There is a huge disconnect between the technical team (Rohit and Neal) and Paul who is on the product side. Rohit and Neal do not seem to understand why we have decided to prioritize certain features and it is very unprofessional to call these out on the last day on the project.
- After having follow up meetings with SXM we discovered what they had done with our codebase that came as a huge surprise to the TribalScale team.
- SiriusXM had removed approximately 90 total BDD/TDD (integration) scenarios and 160 unit tests that were developed since the beginning of the engagement. This poses a huge risk because SiriusXM is trying to develop production-ready software without the hours spent creating TDD and BDD tests to ensure that the production-ready code is stable. The entire codebase was filled with tests to ensure basic stabilization. Essentially, countless hours that were used to create tests have not been utilized to ensure production-ready software. We automated this process so having people do this manually is backtracking. For SiriusXM to stay ahead of this they would need a considerable amount of functional testers.
- In terms of how the refactoring was done, SiriusXM simply split our codebase into separate bitbucket repositories. The microservices were already in place in the previous codebase as well (gas, parking, wallet).

THIS IS **EXHIBIT “O”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS



May 26, 2020

**SENT BY ELECTRONIC MAIL**

Sirius XM Connected Vehicle Services  
8550 Freeport Parkway  
Irving, Texas 75063  
United States of America

**Attention: John Swanagon**

Dear Mr. Swanagon,

**RE: TribalScale Inc. Professional Services Agreement  
Project Constellation (SIR0020) – SOW #2**

We are counsel to TribalScale Inc. (“**TribalScale**”). We are writing to you with respect to the Professional Services Agreement (“**PSA**”) and related Statements of Work (“**SOWs**”) entered into between TribalScale and Sirius XM Connected Vehicle Services (“**Sirius**”) dated April 26, 2019.

Pursuant to the PSA and SOW #2, Sirius engaged TribalScale to develop an in-vehicle E-commerce solution (the “**Project**”) and TribalScale was to deliver software to Sirius according to the requirements set out in sections 3.2 - 3.3 and the timeline established at section 4.1 of SOW #2 (the “**Deliverables**”).

TribalScale has fulfilled each of its obligations with respect to the Project and provided the Deliverables on time, in a good workmanlike manner. We understand that Sirius regularly reviewed and approved iterative updates to the Deliverables in accordance with the Agile Development process stipulated under section 3.3 of SOW #2. Upon the completion, TribalScale rendered invoices pursuant to section 7 of the PSA.

As of the date hereof, Sirius currently owes TribalScale **\$504,182.77 USD** for TribalScale’s invoices numbered **2061, 2076, and 2102** (the “**Outstanding Fees**”).

Notwithstanding the Outstanding Fees, we understand that Sirius has provided the software Deliverables for use to Sirius’ third-party clients. However, until the Outstanding Fees are paid, the Deliverables and any other work product provided to Sirius under the PSA and SOWs remain the exclusive intellectual property of TribalScale. The unauthorized use of TribalScale’s intellectual property, including, but not limited to the use of proprietary source code on the servers of Sirius and/or its customers constitutes a breach of TribalScale’s intellectual property rights and

until payment of the Outstanding Fees is made to Tribalscale, Sirius must immediately cease and desist and have its customers cease and desist, using Tribalscale's source code.

**You are hereby required to remit payment of \$504,182.77 USD to TribalScale by 4:00pm on Friday, May 29<sup>th</sup>. If you fail to do so, TribalScale reserves all rights available to it by law and equity. In addition, Tribalscale will be reaching out to Sirius' customers to notify them of Sirius' non-payment and for these customers to cease and desist using Tribalscale's intellectual property.**

Yours very truly,

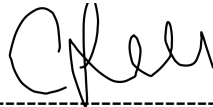
**WEISZ FELL KOUR LLP**



Caitlin Fell  
CF/cp

- c. Sharon Kour, *Weisz Fell Kour LLP*, [skour@wfkllaw.ca](mailto:skour@wfkllaw.ca)  
John Jasper, *Sirius XM*, [John.Jasper@siriusxm.com](mailto:John.Jasper@siriusxm.com)  
Jim Meyer, *Sirius XM*, [Jim.Meyer@siriusxm.com](mailto:Jim.Meyer@siriusxm.com)  
Alex MacFarlane, *Borden Ladner Gervais LLP*, [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)  
Sheldon Title, *MNP Ltd.* [Sheldon.Title@mnp.ca](mailto:Sheldon.Title@mnp.ca),

THIS IS **EXHIBIT “P”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



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A COMMISSIONER FOR TAKING AFFIDAVITS



June 1, 2020

VIA EMAIL to cfell@wfkllaw.ca

Caitlin Fell  
Weisz Fell Kour  
100 King St West, Ste. 5600  
Toronto, Ontario M5X 1C9  
CANADA

RE: TribalScale Inc.

Dear Ms. Fell:

Sirius XM Connected Vehicle Services Inc. ("SXMCV") received your letter dated May 26, 2020. SXMCV disagrees that it owes any amounts to TribalScale pursuant to the Professional Services Agreement ("PSA") between SXMCV and TribalScale.

TribalScale has NOT fulfilled its obligations with respect to the eCommerce solution and SOW#2. In a letter dated May 13, 2020, SXMCV explained TribalScale's performance deficiencies with respect to the eCommerce solution which is the subject of SOW#2 between SXMCV and TribalScale. Specifically, Section 3.2 of SOW#2 details 23 in scope deliverables, which TribalScale committed to complete within an estimated 26-week project period. Consistent with the Agile development methodology required by SOW#2, six of the deliverables were removed from scope, and two new deliverables were added, resulting in a net of nineteen deliverables due under SOW #2. TribalScale delivered only six full and one partial of those 19 deliverables in conformance to specifications. Two deliverables failed to conform to specification. Ten deliverables were not delivered because TribalScale ran out of time to complete them notwithstanding the reduced set of deliverables. A list of the deliverables under SOW#2 and their final status is attached as an exhibit to this letter.

Notwithstanding this gross under-delivery of the services contemplated by the SOW, SXMCV has paid TribalScale over \$1 million in fees for the project. This amount is substantially more than is owed by SXMCV to TribalScale under SOW#2. Only a small portion of the required deliverables were properly performed by TribalScale. Section 2.2(c) of the PSA limits SXMCV's maximum obligations for fees to those "Services properly performed under the applicable Statement of Work." If this dispute cannot be resolved informally, SXMCV will seek to recover from TribalScale the excess amounts it improperly paid under the PSA and SOW#2.

The assertion that TribalScale is the holder of intellectual property rights in and to the deliverables is simply untrue. The PSA clearly and unequivocally vests all intellectual property rights in and to the Work Product (as defined in the PSA) in SXMCV, without any condition, including payment.

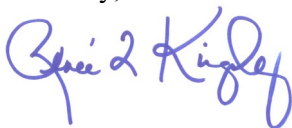
Section 10.1 of the PSA states “Contractor covenants and agrees that all right, title and interest in any Work Product shall be and shall remain the exclusive property of SXMCV.” Section 10.2 further reinforces SXMCV’s absolute ownership:

“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.”

All non-public information about SXMCV’s relationship to and interaction with its customers is Confidential Information as that term is defined under the PSA. TribalScale is well aware that the details of the eCommerce solution and SXMCV’s engagement in proof of concept activities with its customers is sensitive, non-public information. Any statements by TribalScale, or its officers, directors, employees or agents, to SXMCV’s customers in breach of the provisions of the PSA, especially any false statements, will result in SXMCV pursuing all available legal and equitable remedies to enforce its rights against TribalScale and the individuals involved.

As you have been advised by my colleague, SXMCV is represented by counsel, and I remind you to direct any communications with respect to this dispute to me or another SXMCV attorney. Should you wish to discuss this matter further, you may call me at +1-972-753-6204.

Sincerely,



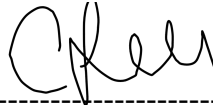
Renée T. Kingsley  
General Counsel  
Sirius XM Connected Vehicle Services

**Exhibit**

Deliverable	Status	Conforms to Spec
<b>Onboarding</b>		
1. User profile rapid registration, including integration with Sirius XM IDM	Delivered	No – not integrated with Contentful
2. Integration of token provider widget to capture and tokenize payment method	Delivered	Yes, with reduced scope
3. Integration with Wallet system to store generated tokens or token mapping	De-scoped by SXMCV	N/A
<b>Profile/Role Management</b>		
4. Ability for users to manage and change their profile data.	Delivered	No – not integrated with Contentful
5. 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.	De-scoped by SXMCV	N/A
<b>Wallet</b>		
6. Token data store, and Merchant-Token mapping	De-scoped by SXMCV	N/A
7. APIs to add, retrieve, update, delete one or more tokens to the wallet	De-scoped by SXMCV	N/A
8. APIs to generate cryptogram per transaction for a specific token to be able to process a payment	De-scoped by SXMCV	N/A
9. Integration with SiriusXM selected Token Management Service (TMS)/Token Gateway (TG)/Token Service Provider (TSP) APIs for token lifecycle management	De-scoped by SXMCV	N/A
10. Integration with P97 wallet and payments, as an intermediate solution.	Delivered	Yes
11. Frontend interfaces for users to manage their wallet	Partially Delivered	Yes – for add and view, but no manage wallet capability
<b>User Preferences</b>		
12. User preference data store	Not Delivered	N/A
13. APIs to add, retrieve, update, delete user preferences	Not Delivered	N/A
14. Frontend interfaces for users to manage their preferences	Not Delivered	N/A
15. Update the search API to flag locations matching the user's preferences in the returned result set	Not Delivered	N/A
16. 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	Not Delivered	N/A

Deliverable	Status	Conforms to Spec
<b>Loyalty Programs</b>		
17. Loyalty program data store	Not Delivered	N/A
18. APIs to add, retrieve, update, delete user's loyalty programs	Not Delivered	N/A
19. Frontend interfaces for users to link their loyalty accounts to their Sirius XM Constellation account, and manage their loyalty programs	Not Delivered	N/A
20. Update the E- Commerce Order process to include loyalty account data when placing orders	Not Delivered	N/A
<b>Service Integrations</b>		
21. Continue Arrive integration for Parking to cover placing orders to book parking spots.	Delivered	Yes
22. Integrate TravelLink/Infotainment API into search process, to cover more locations for Gas and Parking.	Delivered	Yes
23. Integrate PayTollo service into Constellation platform for toll gate payments.	Not Delivered	N/A
<b>Proof of Concept (agreed supplemental work)</b>		
+1. Gas	Delivered	Yes
+2. Parking	Delivered	Yes

THIS IS **EXHIBIT “Q”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



-----  
A COMMISSIONER FOR TAKING AFFIDAVITS





Caitlin Fell  
Partner  
T: 416-613-8282  
F: 416-613-8290  
E: cfell@wfkllaw.ca

June 9, 2020

**SENT BY ELECTRONIC MAIL**

Sirius XM Connected Vehicle Services  
8550 Freeport Parkway  
Irving, Texas 75063  
United States of America

**Attention: Renée T. Kingsley**

Dear Ms. Kingsley,

**RE: TribalScale Inc. Professional Services Agreement  
Project Constellation (SIR0020) – SOW #2**

We are in receipt of your letter dated June 1, 2020 in which you claimed that Sirius XM Connected Vehicle Services (“**Sirius**”) is not required to pay our client, TribalScale Inc. (“**TribalScale**”), the outstanding amounts of \$504,182.77 USD pursuant to the Professional Services Agreement (“**PSA**”) and related Statements of Work (“**SOWs**”), dated April 26, 2019.

The basis of Sirius’ claim is that TribalScale purportedly failed to produce a number of deliverables specified under section 3.2 of SOW #2. This position misrepresents the essential nature of the development process as agreed to in the PSA and SOW.

The deliverable ‘product epics’ specified under section 3.2 of SOW #2 are development end-goals which require the completion of numerous discrete tasks (the “**Deliverable Tasks**”). Pursuant to the Agile Development process described under section 3.3.1 of SOW #2, the Deliverable Tasks were to be particularized in a fluid “**backlog**” by Sirius, which permitted Sirius to change the Deliverable Tasks and development priorities at any time.

The development process, including the prioritization of items on the Backlog, was a highly collaborative arrangement between TribalScale and Sirius. The parties agreed that TribalScale would complete tasks set out in the backlog according to a “mutually agreeable cadence of either 1 or 2 weeks” (SOW #2, s. 3.3.1). At the beginning and end of each 1-2 week segment (referred to as a “**sprint**”), TribalScale would report to Sirius to discuss the backlog, flag issues, and field questions and concerns. Despite the *estimated* project duration stipulated in the SOW, the ultimate delivery deadline for the Deliverable Tasks was, at all times, subject to acceptance testing by Sirius, as stipulated under s. 1.2 of the PSA.

Sirius designated a product owner in this development process, and at all times, and every week, the product owner employed by Sirius agreed to the backlog and accepted every story in the weekly sprint as complete.

With respect to the IDM story, Sirius failed to provide TribalScale with access and documentation for Sirius' IDM for an extended period of time, materially impacting TribalScale's ability to work on the project. Once access was provided, there was insufficient explanation about how this system could integrate with existing work product code. As you are no doubt aware, this concern was explicitly flagged by TribalScale in a document titled "SiriusXM & TribalScale Project Issues", dated April 23, 2020. As a result of this and other issues, it is TribalScale's position that Sirius failed to fulfil its obligations in the development relationship, as set out under section 5 of SOW #2.

At all times during the effective period of the PSA, Sirius accepted all stories completed within the sprint, and therefore, TribalScale fulfilled its obligations to the greatest possible extent. Regular status reports were provided to Sirius by TribalScale between September 16, 2019 and February 24, 2020. At no point during this reporting cycle did Sirius raise the concerns it now claims. Even today, Sirius has not communicated to TribalScale what exactly is not working with any of the software provided. In the context of an iterative development process, Sirius' failure to raise any material concerns with the work product on any of the reporting dates was tantamount to acceptance of the delivered product. Sirius cannot now assert that a significant number of the Deliverable Tasks were deficient.

We acknowledge your assertion that the PSA vests the intellectual property rights in the Work Product in Sirius. This is a correct reading of the PSA. However, in the circumstances where Sirius has failed to discharge its main obligation to pay TribalScale, it is not entitled to rely on PSA to enforce these rights against TribalScale. Therefore, until TribalScale is paid, it continues to assert ownership of the as-yet-unvested intellectual property.

We trust that Sirius will reconsider its position in light of these facts, failing which we will bring a motion before the Ontario Superior Court of Justice [Commercial List] in the proposal proceedings of TribalScale brought under the *Bankruptcy & Insolvency Act*.



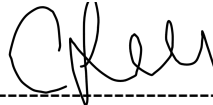
Yours very truly,

**WEISZ FELL KOUR LLP**

Caitlin Fell  
CF/cp

- c. Sharon Kour, *Weisz Fell Kour LLP*, [skour@wfklaw.ca](mailto:skour@wfklaw.ca)  
John Jasper, *Sirius XM*, [John.Jasper@siriusxm.com](mailto:John.Jasper@siriusxm.com)  
Jim Meyer, *Sirius XM*, [Jim.Meyer@siriusxm.com](mailto:Jim.Meyer@siriusxm.com)  
Alex MacFarlane, *Borden Ladner Gervais LLP*, [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)  
Sheldon Title, *MNP Ltd.* [Sheldon.Title@mnp.ca](mailto:Sheldon.Title@mnp.ca),

THIS IS **EXHIBIT “R”** REFERRED TO IN THE  
AFFIDAVIT OF SHEETAL JAITLEY SWORN BEFORE ME,  
THIS 24<sup>TH</sup> DAY OF JULY, 2020



-----  
A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. \_\_\_\_\_

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**  
**(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.** (the “**Applicant**”)

**CONSENT**

**MNP LTD** hereby consents to act as the court-appointed monitor of the Applicant in connection with its proceedings pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 and pursuant to the terms of an order substantially in the form filed.

DATED this 24<sup>th</sup> day of July, 2020

**MNP LTD**



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Name:	<b>Sheldon Title</b>
Title:	<b>Senior Vice-President</b>

# TAB 3

Court File No. \_\_\_\_\_

**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.** (the “**Applicant**”)

**NOTICE OF APPLICATION**

**TO THE RESPONDENT(S)**

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on a date to be fixed by the Court at 10 a.m., at the Ontario Superior Court of Justice (Commercial List), 330 University Avenue, Toronto ON M5G 1R8.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant’s lawyer, or where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your other lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant’s lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: July 31, 2020

Issued by: \_\_\_\_\_

Address of court office:

Ontario Superior Court of Justice  
(Commercial List)  
330 University Avenue,  
Toronto, ON M5G 1R8

**TO: THIS HONOURABLE COURT**

**AND TO: THE ATTACHED SERVICE LIST AT SCHEDULE "A"**



## APPLICATION

### THE APPLICANT MAKES AN APPLICATION FOR:

1. An Order substantially in the form of the draft order attached at Tab 4 of the Motion Record of TribalScale Inc., returnable July 31, 2020; and,
2. Such further and other relief as counsel may advise and this Honourable Court deems just.

### THE GROUNDS FOR THIS APPLICATION ARE:

3. TribalScale Inc. (“**TribalScale**” or the “**Applicant**”) is insolvent and has committed an act of bankruptcy;
4. The Applicant is a company to which the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) applies;
5. The Applicant has liabilities in excess of \$5 million;
6. The factual circumstances as set out in the Affidavit of Sheetal Jaitley, sworn July 24, 2020;
7. The consent of MNP to act as the Monitor in the CCAA proceedings;
8. The provisions of the CCAA, including without limitation, section 11.6, and the statutory, inherent and equitable jurisdiction of this Honourable Court;

#### ***Further Grounds***

9. Rules 1.04, 2.03, 3.02, 16.04, 37, and 38 of the *Rules of Civil Procedure*, RRO 1990, Reg 194, as amended; and,
10. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

11. The Affidavit of Sheetal Jaitley, sworn July 25, 2020, with Exhibits attached thereto;
12. The consent of MNP to act as Monitor in the CCAA proceedings;
13. The Report of the Proposal Trustee, to be filed; and,
14. Such further and other materials as counsel may advise and this Honourable Court may permit.

July 31, 2020

**WEISZ FELL KOUR LLP**  
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**Lawyers for TribalScale Inc.**

**SCHEDULE “A”**  
*Service List*

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

**SERVICE LIST**  
(July 24, 2020)

<p><b>WEISZ FELL KOUR LLP</b> 100 King Street West, Suite 5600 Toronto, ON M5X 1C9</p> <p><b>Caitlin Fell - LSO No. 60091H</b> Tel: 416.613.8282 Email: cfell@wfkllaw.ca</p> <p><b>Sharon Kour - LSO No. 58328D</b> Tel: 416.613.8283 Email: skour@wfkllaw.ca</p> <p>Fax: 416.613.8290</p> <p><b>Lawyers for TribalScale Inc.</b></p>	<p><b>TRIBALSCALE INC.</b> 900 – 200 Wellington St. W., Toronto, ON M5V 3C7</p> <p><b>Sheetal Jaitly</b> Tel: 416.908.9995 Email: sheetal@tribalscale.com</p>
<p><b>MNP LTD</b> 111 Richmond Street West, Suite 300 Toronto, ON M5H 2G4</p> <p><b>Sheldon Title</b> Tel: 416.263.6945 Email: sheldon.title@mnp.ca</p> <p><b>Proposal Trustee</b></p>	<p><b>BORDEN LADNER GERVAIS LLP</b> Bay Adelaide Centre, East Tower 3400 – 22 Adelaide Street West, Toronto, ON M5H 4E3</p> <p><b>Alex MacFarlane - LSO No. 28133Q</b> Tel: 416.367.6305 Email: AMacFarlane@blg.com</p> <p><b>Lawyers for the Proposal Trustee</b></p>

<p><b>GOLDMAN SLOAN NASH &amp; HABER</b> 480 University Ave. Toronto, ON M5G 1V2</p> <p><b>Mario Forte – 27293F</b> Tel: 416-597-6477 Email: forte@gsnh.com</p> <p><b>Lawyers for the Secured Creditor, 1924191 Ontario Inc.</b></p>	<p><b>1924191 ONTARIO INC.</b> 390 Midwest Road Toronto, ON M1P 3B5</p> <p>Email: brij@bdsfleet.ca</p>
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<p><b>SIRIUS XM CONNECTED VEHICLE SERVICES</b> 8550 Freeport Parkway Irving, Texas 75063 United States of America</p> <p><b>John Swanagon</b> Email: John.Swanagon@siriusxm.com</p> <p><b>Renee Kingsley</b> Email: renee.kingsley@siriusxm.com</p>	<p><b>ATTORNEY GENERAL OF CANADA</b> Department of Justice Canada Ontario Regional Office – Tax Law Section The Exchange Tower, 3400 –130 King Street West, Box 36 Toronto, ON M5X 1K6</p> <p><b>Diane Winters</b> Tel: 416.973.3172 Email: diane.winters@justice.gc.ca</p> <p><b>Michael Bader</b> Tel: 647.256.7328 Email: michael.bader@justice.gc.ca</p> <p>Fax: 416.973.0809</p>

<b>BDC LEASE LOAN</b> Metro East Corporate Centre 305 Milner Avenue, Suite 112 Toronto, ON M1B 3V4  <b>Shane Lee</b> Email: Shane.LEE@bdc.ca  <b>Aaron Boles</b> Email: Aaron.BOLES@bdc.ca	<b>1 DEGREE SHIFT INC.</b> 99 Yorkville Ave., Suite 239 Toronto, ON M5R 3K5  Email: info@1-degree.ca
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### ELECTRONIC SERVICE LIST

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# TAB 4



Court File No. CV-●

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

THE HONOURABLE MADAM	)	FRIDAY, THE 31 <sup>st</sup>
	)	
JUSTICE GILMORE	)	DAY OF JULY, 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.** (the “**Applicant**”)

**INITIAL ORDER**

**THIS APPLICATION**, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day by video conference due to the COVID-19 crisis.

**ON READING** the affidavit of Sheetal Jaitley sworn July 3, 2020 (the “**Jaitley Affidavit**”) and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and MNP LTD (“**MNP**”), in its capacity as proposed proposal trustee (the “**Proposal Trustee**”) as well as any person listed on the counsel slip and on reading the consent of MNP to act as the monitor (the “**Monitor**”),

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies and the Applicant shall be extended the benefits of the protection and authorization provided to the Applicant by this Order.

3. **THIS COURT ORDERS AND DECLARES** that effective July 31, 2020, the Applicant's proposal proceedings (the "**Proposal Proceedings**") commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (as amended) (the "**BIA**") are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to the Applicant, save that any and all steps, agreements and procedures validly taken, done or entered into by the Applicant during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to take all necessary steps in furtherance of its discharge as Proposal Trustee in the Proposal Proceedings, including the taxation of its fees and disbursements and those of its counsel.

## PLAN OF ARRANGEMENT

5. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## POSSESSION OF PROPERTY AND OPERATIONS

6. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), without limitation including

any licences held by the Applicant and any fees or receivables owing under any contract. Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Jaitley Affidavit or to replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

8. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee benefits, vacation pay and reimbursement expenses (including, without limitation, amounts charged to credit cards), in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements or with approval of the Monitor; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

10. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

11. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

13. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and,
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

each of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

14. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant' claim to the fixtures in dispute.

15. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

16. **THIS COURT ORDERS** that until and including October 31, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

## **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, including but not limited to the payment of amounts due under contract, except with the written consent of the Applicant and the Monitor, or leave of this Court.

## **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal

payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$125,000, as security for the indemnity



provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 35 and 37 herein.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

#### **APPOINTMENT OF MONITOR**

25. **THIS COURT ORDERS** that MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that the Monitor is hereby relieved of any obligation to publish a notice to creditors as prescribed in Section 23(1)(a)(i) of the CCAA.

30. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis and, in addition, the Applicant is hereby authorized but not required to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant retainers in the amounts of \$● respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicant' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount

of \$125,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 35 and 37 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

35. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$125,000); and,

Second – Directors' Charge (to the maximum amount of \$125,000).

36. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

37. **THIS COURT ORDERS** that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

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

39. **THIS COURT ORDERS** that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees

entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and,
- (c) the payments made by the Applicant pursuant to this Order, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

40. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

## **SERVICE AND NOTICE**

41. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

42. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<<https://mnpdebt.ca/en/corporate/engagements/tribalscale-inc>>’.

43. **THIS COURT ORDERS** the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant’s creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## **GENERAL**

44. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

45. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

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 Order and any Order subsequently made in this proceeding, and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order and any Order subsequently made in this proceeding. 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 and any Order subsequently made in this proceeding, 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 and any Order subsequently made in this proceeding.

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 Order and for assistance in carrying out the terms of this 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 the Applicant or the Monitor may, from time to time, apply to this Court to vary or amend this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation or application of this Order.

49. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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# TAB 5



Revised: January 21, 2014

Court File No. CV-●

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

THE HONOURABLE MADAM ) ~~WEEKDAY~~FRIDAY, THE #31<sup>st</sup>  
JUSTICE GILMORE ) DAY OF ~~MONTH~~JULY, ~~20YR~~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 ~~[APPLICANT'S NAME]~~TRIBALSCALE  
INC. (the "Applicant")

**INITIAL ORDER**

**THIS APPLICATION**, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by video conference due to the COVID-19 crisis.

**ON READING** the affidavit of ~~[NAME]~~Sheetal Jaitley sworn ~~[DATE]~~July 3, 2020 (the "Jaitley Affidavit") and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for ~~[NAMES], no one appearing for [NAME]<sup>1</sup> although duly served as appears from the affidavit of service of [NAME] sworn [DATE]~~the Applicant and MNP LTD ("MNP"), in its capacity as proposed proposal trustee (the "Proposal Trustee") as well as any person listed on the counsel slip and on reading the consent of ~~[MONITOR'S NAME]~~MNP to act as the monitor (the "Monitor"),

<sup>1</sup> ~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated<sup>2</sup> so that this Application is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

### CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies and the Applicant shall be extended the benefits of the protection and authorization provided to the Applicant by this Order.

3. **THIS COURT ORDERS AND DECLARES** that effective July 31, 2020, the Applicant's proposal proceedings (the "Proposal Proceedings") commenced under Part III of the Bankruptcy and Insolvency Act, R.S.C. 1985 c. B-3 (as amended) (the "BIA") are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to the Applicant, save that any and all steps, agreements and procedures validly taken, done or entered into by the Applicant during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to take all necessary steps in furtherance of its discharge as Proposal Trustee in the Proposal Proceedings, including the taxation of its fees and disbursements and those of its counsel.

## PLAN OF ARRANGEMENT

5. ~~3.~~ **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the ~~"Plan"~~ **"Plan"**).

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<sup>2</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

## POSSESSION OF PROPERTY AND OPERATIONS

6. ~~4.~~ **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), without limitation including any licences held by the Applicant and any fees or receivables owing under any contract. Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively ~~"Assistants"~~) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. ~~5.~~ **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system<sup>3</sup> currently in place as described in the Jaitley Affidavit ~~of~~ ~~[NAME]~~ ~~sworn~~ ~~[DATE]~~ ~~or~~ to replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.}

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<sup>3</sup> ~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross-border and inter-company transfers of cash.~~

8. ~~6.~~ **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee ~~and pension~~ benefits, vacation pay and reimbursement expenses ~~payable on or after the date of this Order~~ (including, without limitation, amounts charged to credit cards), in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements or with approval of the Monitor; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

9. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

10. ~~8.~~ **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and

- services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

11. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for resiliated~~<sup>4</sup> in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

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<sup>4</sup> ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

## RESTRUCTURING

13. ~~11.~~ **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA ~~and such covenants as may be contained in the Definitive Documents (as hereinafter defined)~~, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding \$~~100,000~~ in any one transaction or \$~~250,000~~ in the aggregate<sup>5</sup>;
- (b) ~~terminate~~ the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate~~;~~ and<sub>2</sub>
- (c) pursue all avenues of refinancing of ~~its~~their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

~~all~~each of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "Restructuring").

14. ~~12.~~ **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims ~~for resiliates~~ the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period

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<sup>5</sup> ~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

provided for in Section 32(5) of the CCAA), and the disclaimer ~~for resiliation~~ of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

15. ~~13.~~ **THIS COURT ORDERS** that if a notice of disclaimer ~~for resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for resiliation~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

16. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE—MAX. 30 DAYS]~~ October 31, 2020, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

17. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a

regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

## NO INTERFERENCE WITH RIGHTS

18. ~~16.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, including but not limited to the payment of amounts due under contract, except with the written consent of the Applicant and the Monitor, or leave of this Court.

## CONTINUATION OF SERVICES

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

## NON-DEROGATION OF RIGHTS

20. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance



any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

## DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. ~~20.~~ **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings,<sup>7</sup> except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. ~~21.~~ **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")<sup>8</sup> on the Property, which charge shall not exceed an aggregate amount of \$~~125,000~~125,000, as security for the

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<sup>6</sup> ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

<sup>7</sup> ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

<sup>8</sup> ~~Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

indemnity provided in paragraph ~~{20}~~22 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{38}~~35 and ~~{40}~~37 herein.

24. ~~22.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's~~'s'~~ directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}~~22 of this Order.

#### **APPOINTMENT OF MONITOR**

25. ~~23.~~ **THIS COURT ORDERS** that ~~{MONITOR'S NAME}~~MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. ~~24.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's~~'s'~~ receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- ~~(c) —assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;~~

- (c) ~~(d)~~ advise the Applicant in its preparation of the Applicant's cash flow statements ~~and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~
- (d) ~~(e)~~ advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) ~~(f)~~ assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) ~~(g)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's s business and financial affairs or to perform its duties arising under this Order;
- (g) ~~(h)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

27. ~~25.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. ~~26.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*,

the Ontario *Environmental Protection Act*, the Ontario *Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. THIS COURT ORDERS that the Monitor is hereby relieved of any obligation to publish a notice to creditors as prescribed in Section 23(1)(a)(i) of the CCAA.

30. ~~27.~~ THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant ~~and the DIP Lender~~ with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

31. ~~28.~~ THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

32. ~~29.~~ THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a ~~{TIME INTERVAL}~~ weekly basis and, in addition, the Applicant is hereby authorized but not required to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the

~~amount[s]~~amounts of \$~~●-£~~, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. ~~30.~~ **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$~~●~~125,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~38~~35 and ~~40~~37 hereof.

## **DIP FINANCING**

~~32. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. — THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.~~

35. ~~THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs [38] and [40] hereof.~~

36. ~~THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~

- ~~(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~
- ~~(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~
- ~~(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

37. ~~THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.~~

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

35. ~~38.~~ **THIS COURT ORDERS** that the priorities of the Directors' Charge, and the Administration ~~Charge and the DIP Lender's~~ Charge, as among them, shall be as follows<sup>9</sup>:

First – Administration Charge (to the maximum amount of \$●125,000); and,

Second ~~—DIP Lender's Charge; and~~

~~Third~~ – Directors' Charge (to the maximum amount of \$●125,000).

36. ~~39.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, or the Administration ~~Charge or the DIP Lender's~~ Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

37. ~~40.~~ **THIS COURT ORDERS** that each of the Directors' Charge, and the Administration ~~Charge and the DIP Lender's~~ Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

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

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<sup>9</sup> ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

the Monitor, ~~the DIP Lender and~~ the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

39. ~~42.~~ **THIS COURT ORDERS** that the Directors' Charge, and the Administration Charge, ~~the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~ shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") ~~and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) ~~neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents~~ shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from ~~the Applicant entering into the Commitment Letter,~~ the creation of the Charges, ~~or the execution, delivery or performance of the Definitive Documents;~~ and,
- (c) the payments made by the Applicant pursuant to this Order, ~~the Commitment Letter or the Definitive Documents, and the granting of the Charges,~~ do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

40. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.



## SERVICE AND NOTICE

41. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~ The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

42. ~~45.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<[@https://mnpdebt.ca/en/corporate/engagements/tribalscale-inc](https://mnpdebt.ca/en/corporate/engagements/tribalscale-inc)>’.

43. ~~46.~~ **THIS COURT ORDERS** ~~that if the service or distribution of documents in accordance with the Protocol is not practicable,~~ the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by ~~prepaid ordinary mail, courier, personal delivery or facsimile transmission~~ electronic message to the Applicant's creditors or other interested parties ~~at and~~ and their ~~respective addresses as last shown on the records of the Applicant and that advisors. For greater certainty,~~ any such ~~service or distribution by courier, personal delivery or facsimile transmission or service~~ shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing in

satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## GENERAL

44. ~~47.~~ **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

45. ~~48.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

46. ~~49.~~ **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 Order and any Order subsequently made in this proceeding, and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order and any Order subsequently made in this proceeding. 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 and any Order subsequently made in this proceeding, 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 and any Order subsequently made in this proceeding.

47. ~~50.~~ **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 Order and for assistance in carrying out the terms of this 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. ~~51.~~ **THIS COURT ORDERS** that ~~any interested party (including~~ the Applicant ~~and/or~~ the Monitor) may, from time to time, apply to this Court to vary or amend this Order ~~on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon~~

~~such other notice, if any, as~~ or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation or application of this ~~Court may order~~ Order.

49.     ~~52.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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Moved to	2
Style change	0
Format changed	0
Total changes	355

IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRIBALSCALE INC.

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

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

*Proceedings commenced at Toronto*

**MOTION RECORD**

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