

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



THE HONOURABLE)
JUSTICE CAVANAGH)

MONDAY, THE 11TH
DAY OF JANUARY, 2021

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

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

Applicant

SANCTION ORDER

THIS MOTION, made by TribalScale Inc. ("**TribalScale**" or the "**Applicant**") for an order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), among other things, sanctioning the Amended Plan of Compromise and Arrangement dated January 4, 2021 (as amended, varied or supplemented from time to time in accordance with the terms thereof, and together with all schedules thereto, the "**Plan**"), which Plan is attached as **Schedule "A"** hereto; and granting related relief.

ON READING the Notice of Motion, the Affidavit of Sheetal Jaitly sworn January 6, 2021, the Third Report of MNP Inc. in its capacity as monitor of the Applicant (the "**Monitor**"), and the Second Report of the Monitor; and on hearing the submissions of respective counsel for the Applicant, the Monitor, and such other counsel as were present, and on being advised that the Service List was served with the Motion Record herein:

DEFINED TERMS

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Order shall have the meanings ascribed to such terms in the Plan.

SERVICE, NOTICE AND MEETINGS

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.
3. **THIS COURT ORDERS** that there has been good and sufficient notice, service and delivery of the Voting Materials (as defined in the Meeting Order granted by this Court on November 25, 2020 (the “**Meeting Order**”)), the Meeting Order and the Plan to all Persons upon which notice, service and delivery were required.
4. **THIS COURT ORDERS** that the Creditors’ Meeting was duly called, convened, held and conducted, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceedings, including, without limitation, the Meeting Order.

SANCTION OF THE PLAN

5. **THIS COURT ORDERS** that the Plan, in the form appended here as **Schedule “A”**, is accepted for filing and replaces the plan of compromise and arrangement appended to the Meeting Order.

6. **THIS COURT ORDERS** that:

- (a) the Plan has been approved by the Required Majorities of Affected Secured Creditors as required by the Meeting Order, and in conformity with the CCAA;
- (b) the Applicant has complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects;
- (c) the Court is satisfied that the Applicant has not done or purported to do anything that is not authorized by the CCAA; and
- (d) the Applicant has acted in good faith and with due diligence, and the Plan and the transactions, terms and conditions contemplated therein are fair and reasonable.

7. **THIS COURT ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases contemplated therein are hereby sanctioned and approved pursuant to Section 6 of the CCAA.

PLAN IMPLEMENTATION

8. **THIS COURT ORDERS** that each of the Applicant, Newco, their respective directors and officers, and the Monitor is authorized and directed to take all steps and actions (including, without limitation, the Implementation Date Transactions), and to do all things, necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. None of the Applicant, Newco, or their respective directors and officers, or the Monitor shall incur any liability as a result of acting in accordance with the

terms of the Plan and this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of such parties.

9. **THIS COURT ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases and reorganizations effected thereby (including, without limitation, the Implementation Date Transactions) are hereby approved, shall be deemed to be implemented without the need for any corporate formality and shall be binding and effective as of the Effective Time in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon the Applicant, Newco, the Affected Secured Creditors, the Released Parties, and all other Persons and parties named or referred to in, affected by, or subject to the Plan.
10. **THIS COURT ORDERS** that: (i) the Applicants and the Monitor, and any other Person required to make any distributions, deliveries or allocations or take any steps or actions related thereto pursuant to the Plan are hereby authorized and directed to complete such distributions, deliveries or allocations and to take any such related steps or actions, as the case may be, in accordance with the terms of the Plan, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved; and (ii) such distributions, deliveries or allocations shall be free and clear of all claims, rights and interests of any Person, including, without limitation, any super-priority CCAA charges.
11. **THIS COURT ORDERS** that upon delivery to the Monitor of written notice by the Applicant and the Supporting Creditor of the fulfilment or waiver of the conditions precedent to implementation of the Plan, the Monitor shall deliver to the Applicant a certificate signed by the Monitor confirming that all of the conditions precedent set out in

Article 6 of the Plan have been satisfied or waived, as applicable, in accordance with paragraph 7.3 of the Plan, and that the Implementation Date has occurred and the Plan is effective in accordance with its terms and the terms of this Order (the “**Monitor’s Implementation Date Certificate**”), a form of which is appended here as **Schedule “B”**. The Monitor is hereby directed to file the Monitor’s Implementation Date Certificate with the Court as soon as reasonably practicable on or forthwith following the Implementation Date after delivery thereof and shall post a copy of same, once filed, on the Website and provide a copy to the Service List.

12. **THIS COURT ORDERS** that the form of Monitor’s Implementation Date Certificate is hereby approved.
13. **THIS COURT ORDERS** that (i) the existing shareholder rights agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, as amended, (ii) the Right of First Refusal and Co-Sale Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, and (iii) the Voting Agreement among TribalScale and all of the shareholders of TribalScale dated December 8, 2015, shall be deemed to be terminated.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

14. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Plan, on the Implementation Date, all Released Claims shall be fully, finally, irrevocably and forever compromised, discharged and released with prejudice, and the ability of any Person to proceed against the Released Parties in respect of or relating to any such Affected Claims shall be and shall be deemed forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims shall

permanently be stayed against the Released Parties, subject only to the right of Affected Secured Creditors to receive the distributions and deliveries pursuant to the Plan and this Order in respect of their Proven Claims, in the manner and to the extent provided for in the Plan. For the avoidance of doubt, the terms “distributions” and “deliveries” shall include all elements of the transactions contemplated in the Plan and this Order to be issued or delivered to an Affected Secured Creditor including the New Senior Secured Note and General Security Agreement.

15. **THIS COURT ORDERS** that the determination of Proven Claims shall be final and binding on the Applicant and all Affected Secured Creditors.
16. **THIS COURT ORDERS** that nothing in the Plan extends to or shall be interpreted as extending, amending, or giving any rights to any Person in respect of Claims that have been barred or extinguished.
17. **THIS COURT ORDERS** that each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have consented and agreed to all of the provisions in the Plan, in its entirety, and each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have executed and delivered to the Applicant all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.
18. **THIS COURT ORDERS AND DECLARES** that all distributions or payments to Affected Secured Creditors under the Plan are for the account of the Applicant and the fulfillment of its obligations under the Plan.
19. **THIS COURT ORDERS** that sections 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances or transfers at undervalue,

shall not apply to the Plan or to any transactions, distributions or settlement payments implemented pursuant to the Plan.

20. **THIS COURT ORDERS AND DECLARES** that the Applicant shall be authorized, in connection with the making of any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Governmental Authority for any consent, authorization, certificate or approval in connection therewith.

21. **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan or this Order shall not constitute a “distribution” by any person for the purposes of any tax statute or regulation, and the Applicant, in making any such distributions, disbursements or payments, as applicable, is merely a disbursing agent under the Plan and is not exercising any discretion in making payments under the Plan and no person is “distributing” such funds for the purpose of any tax statute or regulation, and the Applicant and any other person shall not incur any liability under any tax statute or regulation in respect of distributions, disbursements or payments made by it and the Applicant and any other person is hereby forever released, remised and discharged from any claims against it under or pursuant to any tax statute or regulation or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and this Order and any claims of this nature are hereby forever barred.

RELEASES

22. **THIS COURT ORDERS AND DECLARES** that the compromises and releases set out in Article 10 of the Plan are approved and shall be binding and effective as at the Implementation Date, in accordance with the Plan.
23. **THIS COURT ORDERS** that from and after the Implementation Date any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative: hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Claims that are released pursuant to paragraph 22 of this Order and Article 10 of the Plan or discharged, compromised or terminated pursuant to the Plan.

THE MONITOR

24. **THIS COURT ORDERS** that in addition to its prescribed rights and obligations under the CCAA and the Orders of the Court made in these CCAA Proceedings, the Monitor is granted the powers, duties and protections contemplated by and required under the Plan and that the Monitor be and is hereby authorized, entitled and empowered to perform its duties and fulfil its obligations under the Plan to facilitate the implementation thereof, including without limitation:
- (a) to take all such actions to pursue any outstanding accounts receivable owing to any of the Applicant and/or Newco, or to assist the Applicant and/or Newco with respect thereto;

- (b) to act, if required, as trustee in bankruptcy, liquidator, receiver or a similar official of the Applicant; and
 - (c) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under any other Order granted by this Court including for advice and directions with respect to any matter arising from or under the Plan.
25. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order or the provisions of any other Order granted in the CCAA Proceeding, including this Order, the Applicant shall remain in possession and control of the Property (as defined in the Initial Order) and that the Monitor shall not take possession or be deemed to be in possession and/or control of the Property.
26. **THIS COURT ORDERS AND DECLARES** that the Monitor shall be authorized, in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Governmental Authority for any consent, authorization, certificate or approval in connection therewith.
27. **THIS COURT ORDERS AND DECLARES** that: (i) in carrying out the terms of this Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, and as an officer of the Court, including the Stay of Proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Order and/or the Plan, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor; (iii) the Monitor shall be entitled to rely on the books and records of the Applicant and any information provided by the Applicant without independent investigation; and (iv) the Monitor shall not be liable for

any claims or damages resulting from any errors or omissions in such books, records or information.

28. **THIS COURT ORDERS AND DECLARES** that in no circumstance will the Monitor have any liability for any of the Applicant's tax liabilities regardless of how or when such liability may have arisen.
29. **THIS COURT ORDERS** that the Monitor is hereby directed to post a copy of the Monitor's Implementation Date Certificate, once filed, on the Website and provide a copy to the Service List.

ADDITION OF NEWCO AS CCAA APPLICANT

30. **THIS COURT ORDERS** that,
- (a) Newco is a company to which the CCAA applies;
 - (b) Newco shall be an Applicant in these CCAA proceedings and any reference in any Order of this Court in respect of these CCAA proceedings to an "Applicant" shall refer to Newco, *mutatis mutandis*; and
 - (c) The full legal name of Newco, being 2800741 Ontario Inc., shall be added to the title of these proceedings after TribalScale, and any document filed thereafter in these proceedings shall be filed using the revised title of proceedings.

REVERSE VESTING

31. **THIS COURT ORDERS** that on the Implementation Date, all Claims of General Unsecured Creditors shall vest absolutely and exclusively in Newco, such that the these Claims shall become obligations of Newco and shall no longer be obligations of TribalScale, and the Applicant and all of its assets, licenses, undertakings and properties of

every nature and kind whatsoever and wherever situate (the “**Applicant’s Property**”) shall be and are hereby forever released and discharged from such Claims and all related Claims and all encumbrances affecting or relating to the Applicant’s Property are hereby expunged and discharged as against the Applicant’s Property.

32. **THIS COURT ORDERS** that on the Implementation Date, all rights and benefits of TribalScale relating to a professional services agreement between TribalScale and Sirius XM Connected Vehicle Services Inc. (“**SiriusXM**”) dated April 26, 2019 as further particularized through individual statements of work including the statement of work effective November 23, 2019 (the “**SiriusXM Contract**”) are hereby vested in Newco, including without limitation, (i) TribalScale’s right to receive interest, penalties and fees, (ii) any actions, claims, rights or lawsuits of any nature whatsoever, whether against SiriusXM or any other party, arising out of or in connection with SiriusXM Contract (collectively, the “**Claims**”), (iii) all cash, securities, instruments and other property which may be paid or issued by SiriusXM under the SiriusXM Contract or in satisfaction of the Claims, and (iv) all proceeds of the foregoing. For greater clarity, Newco is hereby empowered to pursue and prosecute all claims available to TribalScale against SiriusXM and its affiliates.

CONTRACTS

33. **THIS COURT ORDERS** that subject to the performance by the Applicant of its obligations under the Plan, all contracts, leases, agreements and other arrangements to which the Applicants, or any of them, are a party and that have not been terminated or disclaimed pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA will be and remain in full force and effect as of the Effective Time, and no

Person who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Implementation Date and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);
- (b) the insolvency of the Applicant or the fact that the Applicant sought or obtained relief under the CCAA;
- (c) any steps, compromises, releases, discharges, cancellations, transactions, arrangements or reorganizations effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan; or (d) any change of control of the Applicant arising from the implementation of the Plan; or
- (d) any change of control of the Applicant arising from the implementation of the Plan.

GENERAL

34. **THIS COURT ORDERS** that the Applicant, Newco, and the Monitor may apply to this Court from time to time for advice and direction with respect to any matter arising from or under the Plan or this Order.

35. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada and abroad as against all persons and parties against whom it may otherwise be enforced.

36. **THIS COURT ORDERS** that the Applicant and/or Newco (in the sole discretion of either) are hereby authorized to seek an order of any court of competent jurisdiction to recognize the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Applicant, Newco, the Monitor and their respective agents in carrying out the terms of the Plan and this Order.
37. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to recognize and give effect to the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Applicant, Newco, the Monitor and their respective agents in carrying out the terms of the Plan and this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
38. **THIS COURT ORDERS** that this Order is effective from the date it is made without any need for entry and filing.

Peter Cavanagh Digitally signed by Peter
Cavanagh
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PER / PAR:



SCHEDULE "A"

Amended Plan of Compromise and Arrangement of the Applicant, Tribalscale Inc.

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

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

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

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

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

January 4, 2021

TABLE OF CONTENTS

RECITALS	1
ARTICLE 1 - INTERPRETATION	1
1.1 Certain Rules of Interpretation	1
1.2 Governing Law	3
1.3 Currency	3
1.4 Date for Any Action	3
1.5 Time	3
ARTICLE 2 - PURPOSE AND EFFECT OF THIS PLAN.....	3
2.1 Purpose.....	3
2.2 Effectiveness.....	3
2.3 Persons Not Affected	4
2.4 Corporate Approvals	4
ARTICLE 3 - CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS	4
3.1 Classes	4
3.2 Guarantees	4
3.3 Claims of Affected Secured Creditors	4
3.4 Creditors' Meeting	5
3.5 Existing Equity Holders and Holders of Equity Claims	5
3.6 Crown Claims	5
3.7 Payments to Employees	5
3.8 Determination of Affected Secured Claims	5
ARTICLE 4 - TREATMENT OF CLAIMS.....	6
4.1 Treatment of Converting Secured Creditor Class	6
4.2 Treatment of the Paid-Out Secured Creditor Class	6
4.3 Equity Claims	6
4.4 Calculation and Quantum of Claims.....	6
4.5 Extinguishment of Claims	7
ARTICLE 5 - REORGANIZED EQUITY OF TRIBALSCALE.....	7
5.1 Amended Articles	7
5.2 Reorganization of Equity.....	7
5.3 Capitalization.....	8
5.4 No Fractional Shares.....	8
5.5 Shareholders' Agreement.....	8

ARTICLE 6 - CONDITIONS PRECEDENT TO IMPLEMENTATION OF THE PLAN..	8
6.1 Pre-Implementation Date Conditions.....	8
ARTICLE 7 - IMPLEMENTATION DATE TRANSACTIONS.....	9
7.1 Implementation Date Events.....	9
7.2 Administration Charge.....	11
7.3 Monitor’s Certificate of Plan Implementation.....	11
7.4 No Exercise of Right or Remedy.....	11
ARTICLE 8 - CONSTITUTION OF NEWCO.....	12
8.1 Incorporation.....	12
8.2 Newco Further Assurances.....	12
ARTICLE 9 - DISTRIBUTIONS AND DISBURSEMENTS.....	12
9.1 Delivery of Shares by TribalScale.....	12
9.2 Delivery of Shares by 192.....	13
9.3 Delivery of the New Senior Secured Note and General Security Agreement.....	13
9.4 Delivery of Payment to BDC.....	13
ARTICLE 10 - RELEASES.....	13
10.1 Plan Releases.....	13
10.2 Cancellation of Outstanding Indebtedness.....	14
10.3 Injunction.....	14
10.4 Timing of Releases and Injunctions.....	15
10.5 Knowledge of Claims.....	15
ARTICLE 11 - GENERAL.....	15
11.1 Deeming Provisions.....	15
11.2 Preferential Transactions.....	15
11.3 Claims Bar.....	15
11.4 Non-Consummation.....	16
11.5 Modification of Plan.....	16
11.6 Severability of Plan Provisions.....	16
11.7 Preservation of Rights of Action.....	17
11.8 Responsibilities of Monitor.....	17
11.9 Different Capacities.....	17
11.10 Notices.....	18
11.11 Paramountcy.....	19
11.12 Further Assurances.....	19

SCHEDULE "A"..... 22
SCHEDULE "B"..... 29

AMENDED PLAN OF COMPROMISE AND ARRANGEMENT

RECITALS

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

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

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

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

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

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

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

ARTICLE 1 - INTERPRETATION

1.1 Certain Rules of Interpretation

For the purposes of this Plan:

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

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

(k) The word “or” is not exclusive.

1.2 Governing Law

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

1.3 Currency

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

1.4 Date for Any Action

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

1.5 Time

Time shall be of the essence in this Plan.

ARTICLE 2 - PURPOSE AND EFFECT OF THIS PLAN

2.1 Purpose

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

2.2 Effectiveness

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

2.3 Persons Not Affected

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

2.4 Corporate Approvals

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

ARTICLE 3 - CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes

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

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

3.2 Guarantees

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

3.3 Claims of Affected Secured Creditors

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

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

3.4 Creditors' Meeting

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

3.5 Existing Equity Holders and Holders of Equity Claims

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

3.6 Crown Claims

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

3.7 Payments to Employees

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

3.8 Determination of Affected Secured Claims

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

**ARTICLE 4 -
TREATMENT OF CLAIMS**

4.1 Treatment of Converting Secured Creditor Class

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

4.2 Treatment of the Paid-Out Secured Creditor Class

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

4.3 Equity Claims

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

4.4 Calculation and Quantum of Claims

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

4.5 Extinguishment of Claims

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

ARTICLE 5 - REORGANIZED EQUITY OF TRIBALSCALE

5.1 Amended Articles

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

5.2 Reorganization of Equity

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

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

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

5.3 Capitalization

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

5.4 No Fractional Shares

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

5.5 Shareholders' Agreement

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

ARTICLE 6- CONDITIONS PRECEDENT TO IMPLEMENTATION OF THE PLAN

6.1 Pre-Implementation Date Conditions

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

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

ARTICLE 7 - IMPLEMENTATION DATE TRANSACTIONS

7.1 Implementation Date Events

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

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

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

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

7.2 Administration Charge

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

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

7.3 Monitor's Certificate of Plan Implementation

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

7.4 No Exercise of Right or Remedy

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

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

ARTICLE 8 - CONSTITUTION OF NEWCO

8.1 Incorporation

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

8.2 Newco Further Assurances

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

ARTICLE 9 - DISTRIBUTIONS AND DISBURSEMENTS

9.1 Delivery of Shares by TribalScale

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

9.2 Delivery of Shares by 192

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

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

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

9.4 Delivery of Payment to BDC

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

ARTICLE 10- RELEASES

10.1 Plan Releases

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

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

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

10.2 Cancellation of Outstanding Indebtedness

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

10.3 Injunction

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

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