Court File No.: CV-23-00701377-00CL

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,

Applicants

MOTION RECORD
(Returnable August 25, 2023)

August 15, 2023

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TAB 1

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NOTICE OF MOTION
(Returnable August 25, 2023)

Swarmio Media Holdings Inc., Swarmio Inc., and Swarmio Media Inc. (together, the "**Swarmio Group**", the "**Company**" or the "**Applicants**") will make a Motion to the court on Friday, August 25, 2023 at 10:00 a.m., or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard by video conference at the following location:

Zoom link to be uploaded on Caselines.

THE MOTION IS FOR

1. The following orders:

   (a) an order (the "**Approval and Vesting Order**") substantially in the form of the draft order at **Tab** "**3**" to the Motion Record, among other things:

      (i) approving the share purchase agreement ("**Purchase Agreement**") entered into between Swarmio Inc. (in such capacity, the "**Vendor**") and Triaxcess Limited (the "**Purchaser**"), and the transaction contemplated thereby (the "**Transaction**");

      (ii) authorizing and directing the Applicants to perform their obligations under the Purchase Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;

      (iii) transferring and vesting all of the Applicants' right, title, and interest in and to the Excluded Assets, Excluded Contracts, and Excluded Liabilities (each as defined in the Purchase Agreement) to and in a newly incorporated entity, 15280362 Canada Inc. ("**ResidualCo**");

      (iv) adding ResidualCo as an Applicant to this CCAA proceeding in order to effect the Transaction;

      (v) vesting in the Purchaser or its nominee all of the right, title and interest in and to the New Common Shares (as defined in the Purchase Agreement) free and clear of all Encumbrances, other than Permitted Encumbrances (as defined in the Purchase Agreement), upon the filing of a certificate by the Monitor substantially in the form attached Schedule "A" to the draft Approval and Vesting Order (the "**Monitor's Certificate**");

(vi) granting certain enhanced powers to the Monitor in respect of ResidualCo;

(vii) sealing the confidential appendices to the Monitor's Second Report; and

(b) an order (the "**Termination Order**"), substantially in the form of the draft order at **Tab** "**4**" to the Motion Record, among other things:

(i) approving the releases ("**Releases**") provided for in the Purchase Agreement in favour of the officers and directors of the Company, its advisors, the Monitor and the Monitor's counsel ("**Released Parties**");

(ii) approving the fees and activities of the Monitor, and the fees of the Monitor's counsel, as set out in the Monitor's Second Report; and

(iii) terminating these CCAA proceedings and discharging the Monitor upon completion of the proposed transactions and filing of a termination and discharge certificate (the "**Termination and Discharge Certificate**"); and

(iv) extending the stay of proceedings up to the filing of the Termination and Discharge Certificate.

THE GROUNDS FOR THE MOTION ARE

Background on CCAA Proceedings

2. The Swarmio Group is an early stage, pre-revenue technology and media company focused on the gaming sector. The Company is insolvent and unable to raise the capital necessary to fund its development. Prior to the initial application in these proceedings, the Company had exhausted its liquidity and had not made payroll.

3. On June 21, 2023, Madam Justice Steele granted the Initial Order, which, among other things:

(a) granted a stay of proceedings in favour of the Company up to and including July 1, 2023;

(b) appointed Grant Thornton Limited as the monitor of the Company (in such capacity, the "**Monitor**");

(c) granted an administration charge to secure the professional fees and disbursements of the Applicants' counsel, the Monitor and its counsel up to a maximum amount of $100,000 (the "**Administration Charge**"); and

(d) approved a DIP Term Sheet dated June 20, 2023 ("**DIP Term Sheet**") between the Company and Triaxcess Ltd. (the "**DIP Lender**") which provided for interim financing (the "**DIP Financing**") to fund the Company's operations during the initial 10-day stay of proceedings, with a maximum borrowing limit thereunder of up to $135,000 until further order of the Court.

4. Following the Applicants' comeback hearing on June 30, 2023, Justice Koehnen granted two orders:

(a) an amended and restated initial order (the "**Amended and Restated Initial Order**"), among other things:

(i) increasing the borrowing limit under the DIP Term Sheet, together with a corresponding increase to the Court-ordered DIP Lender's Charge granted in favour of the DIP Lender, to a maximum principal amount of $1,500,000 (from $135,000);

(ii) increasing the Administration Charge (as defined in the Initial Order) from $100,000 to $300,000; and

(iii) extending the stay of proceedings up to and including September 1, 2023 (the "**Current Stay Period**"); and

(b) an Order (the "**SISP Order**"), among other things, approving a sale and investment solicitation process (the "**SISP**") in respect of the Applicants' business and assets.

5. The Company initiated these CCAA proceedings after pursuing a number of strategic alternatives with no success. The purpose of these CCAA proceedings was to obtain the breathing room afforded by the CCAA to design and implement a comprehensive and robust sale process, and to identify a value-maximizing transaction for the sale of the Company's business.

6. The Applicants have acted and continue to act in good faith and with due diligence in these CCAA proceedings.

7. Among other things, the Applicants have worked closely with the Monitor and their advisors to implement the SISP in accordance with its terms, including responding to information requests and assisting with the preparation of the data room. The Court-approved SISP is now complete.

8. The Company has also continued to operate in the ordinary course and liaise with its various stakeholders including trade creditors, customers, employees and other interested parties.

9. The Monitor's Second Report will provide a more fulsome update on the implementation of the SISP following the issuance of the SISP Order.

Results of Sale Process

10. All capitalized terms used in this section and not otherwise defined have the meanings given to them in the SISP.

11. The Company assisted the Monitor to prepare the list of 25 interested parties. On July 5, 2023, in accordance with the SISP timelines, the Monitor sent a solicitation letter (the "**Teaser Letter**") to a list of Known Potential Bidders, including the 25 interested parties provided by the Company. The list of Known Potential Bidders included, among other parties, venture capital firms, private equity firms, information technology firms and telecommunications companies located across the globe. The Teaser Letter was sent to an additional 15 parties after the July 5, 2023 milestone in the SISP.

12. Overall, a total of 81 Known Potential Bidders received the initial SISP package, including the Teaser Letter and the NDA.

13. The Data Room went live on July 12, 2023. Throughout the SISP, a total of six (6) Known Potential Bidders signed the NDA to become Phase 1 Bidders and who were then provided access to the Data Room. These Phase 1 Bidders received the confidential information memorandum (the "**CIM**") prepared by the Monitor, which summarized the opportunity.

14. Following the Phase 1 Bid Deadline on July 25, 2023, at 5:00 pm EST, the Monitor received the following two Phase 1 Bids:

(a) one bid was from the DIP Lender for the assets and operations of Swarmio OpCo and Swarmio Media (the "**OpCo Bid**"), and

(b) one for the public, parent shell company, Swarmio Parent (the "**PubCo Bid**").

15. The Monitor and its advisors assessed the PubCo Bid and determined that the consideration provided for in the PubCo Bid was not feasible in the circumstances.

Purchase Agreement and Proposed Transaction

16. On July 25, 2023, the Monitor received the OpCo Bid, which was a bid for the assets and operations of Swarmio OpCo and Swarmio Media. The OpCo Bid was submitted by the DIP Lender by way of a credit bid of the DIP Facility.

17. The OpCo Bid is further detailed in the Monitor's Second Report. A high-level summary of the key terms and conditions of the Purchase Agreement are as follows (all capitalized terms not otherwise defined herein shall have the meaning given to them in the Purchase Agreement):

(a) **Issuance of New Shares**: Swarmio Inc. will issue, assign and transfer a certain number of new common shares of Swarmio Inc. (the "**New Common Shares**") to the Purchaser, free and clear of Encumbrances (other than Permitted Encumbrances), in exchange for the Purchase Price (as defined below);

(b) **Share Consolidation & Cancellation**: the New Common Shares and the Existing Shares of Swarmio Inc. will be consolidated and any fractional New Common Shares and Existing Shares will be cancelled, such that immediately after closing, the Purchaser will be the sole shareholder of Swarmio Inc.

(c) **Closing Date**: The parties shall cooperate and use commercially reasonable efforts to effect the closing on or before September 15, 2023, or such later date and time as the parties may agree to in writing.

(d) **Transfer of Excluded Assets, Contracts and Liabilities**: All of the Excluded Assets, and Excluded Liabilities will be transferred to and assumed by ResidualCo. All Claims attaching to the Excluded Liabilities will continue to exist as against ResidualCo and the Purchase Price and the Excluded Assets, if any, will be available to satisfy such Claims.

(e) **Purchase Price**: In consideration for the New Common Shares and the Retained Assets, the Purchaser will release Swarmio Inc. from all amounts outstanding and obligations payable to the Purchaser under the DIP Term Sheet, together with any undrawn amounts for a total of $1,500,000, plus all accrued and unpaid interest therein up to the closing date, plus any associated fees and expenses, plus the Assumed Liabilities;

(f) **Approval and Vesting Order**: the obligations of the parties to close the Transaction is subject to the granting of the Approval and Vesting Order and the Releases.

18. The Applicants seek this Court's approval of the Purchase Agreement and the Transaction.

19. In addition to seeking approval of the Purchase Agreement and the Transaction through the Approval and Vesting Order, the Applicants are seeking the approval of other relief critical to the completion of the Transaction and the orderly and efficient conclusion of these CCAA proceedings.

Adding ResidualCo as an Applicant

20. In order to consummate the proposed Transaction, the Applicants seek to add ResidualCo as an Applicant in these CCAA Proceedings, and remove Swarmio Inc. and Swarmio Media Inc. as applicants following closing of the Transaction.

Reverse Vesting to ResidualCo

21. The Transaction is contingent upon a pre-closing reorganization (the "**Pre-Closing Reorganization**"), whereby:

(a) the Excluded Assets and Excluded Liabilities shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order;

(b) Neither ResidualCo or the Swarmio Parent shall be allowed to use the Swarmio name or retain any goodwill in that name and shall change its name prior to Closing.

22. The OpCo Bid requires a reverse vesting order. The purpose of this structure, as further described below, is to ensure an efficient operational transition of the Swarmio Group's assets and business, including tax losses, and key customer contracts in the Philippines, Malaysia, Tunisia, UAE, and Sri Lanka (and governed by the laws of those countries).

23. As further described in the Affidavit of Vijai Karthigesu filed in connection with this motion, the Company's contractual arrangements with global telecommunications companies are critical to the business. If any of these customer relationships are interrupted by the proposed transactions, it would be destructive to the value of the Company as a going concern and render the proposed transactions unacceptable to any potential purchaser, including the Purchaser.

24. Given the Company's liquidity constraints, there are no resources available for a lengthy process which might have allowed the Company to secure consents for assigning its various material contracts. And the enforcement of an assignment order may require commencement of recognition proceedings in multiple foreign jurisdictions, as these key contracts are governed by foreign laws, typically in the Middle East, Asia and North African regions.

25. In addition, as at March 31, 2022, Swarmio OpCo had over $12.6 million in tax losses, which is intended to be preserved through the Transaction.

26. A reverse vesting order facilitates the seamless continuity of the Applicants' business operations, by preserving the Company's structure of operations, maintaining the current key contracts, and preserving the economic activity and customer supply arrangements without interruption. In addition, a number of key individuals associated with the business will remain with the Company following closing of the proposed Transaction.

Releases

27. The Releases are a requirement of the Transaction, as set out at article 6.2 of the Purchase Agreement. The Monitor, the Monitor's counsel, and the Company's counsel have made significant contributions to the CCAA proceedings.

28. During the CCAA proceeding, certain of the directors and officers of the Company only received one third of their typical salary to support the Company's cash flows with the available DIP Financing. They have maintained customer relationships during the CCAA process to ensure that key partnerships remained aligned with the Swarmio Group following completion of the sale process.

29. Certain of the directors and officers also entered into stay agreements with the Company (the "**Stay Agreements**"). The Stay Agreements recognized the directors' critical role in ensuring the Company continues to operate in the ordinary course without interruption, and did not provide for any additional compensation to the directors for their work during the CCAA proceedings. It is a requirement of the Stay Agreements that the Applicants seek the Releases from this Court.

30. Given the specialized nature of the Company's business, a management team focused on the go-forward business is necessary for the Purchaser to receive the value for which they have bargained. The Releases minimize the distraction of legal claims arising out of the legacy business and permit the management team to focus on the go-forward transition of Swarmio OpCo.

31. The purpose of the Releases is to achieve finality for the Released Parties and the conclusion of the CCAA proceeding in the most efficient manner possible in the circumstances.

Enhanced Monitor's Powers

32. ResidualCo will not have an operating business or a board of directors. It will need a decision maker to oversee the entity while it carries out its purpose, which is to stand in the place of Swarmio Inc.

33. The Monitor has the experience necessary to oversee ResidualCo while achieving an expeditious path forward to the conclusion of these CCAA proceedings. As such, it is appropriate to expand the powers of the Monitor over ResidualCo in order to complete the administration of these proceedings.

Sealing Order

34. In order to protect the Applicants' ability to negotiate with other parties in the event that the Transaction does not close as intended, the Applicants are requesting that the confidential appendices to the Monitor's Second Report, to be filed, be sealed pending the closing of the Transaction.

Approval of Monitor's Fees and Activities

35. The Company requests the approval of the fees and activities of the Monitor, and the fees of the Monitor's counsel, as set out in the Monitor's Second Report and the fee affidavits appended thereto.

Stay Extension, Termination of CCAA Proceedings, Monitor's Discharge

36. The Current Stay Period expires on September 1, 2023. The Applicants request an extension of the stay up to the termination of the CCAA proceedings, which shall be effective upon the filing of the Termination and Discharge Certificate. The Applicants have acted and continue to act in good faith and with due diligence in furtherance of these proceedings.

37. Subject to this Court's approval of the proposed Transaction, the Company is seeking an order terminating these CCAA proceedings and discharging the Monitor upon the filing of the Termination and Discharge Certificate. Upon termination, the Company seeks to terminate all court-ordered priority charges, including the DIP Lender's Charge, the Directors' Charge and the Administration Charge.

38. Following closing of the proposed Transaction, the objectives of these CCAA proceedings will have been accomplished.

39. The Monitor is supportive of the relief sought herein.

General

40. The provisions of the CCAA, including section 11, 11.02, 11.2, 11.52, 36 and the statutory, inherent and equitable jurisdiction of this Court;

41. Rules 1.04, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

42. Such further and other grounds as the lawyers may advise.

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

(a) the Affidavit of Vijai Karthigesu sworn August 15, 2023;

(b) the Second Report of the Monitor and the appendices; and

(c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

August 15, 2023

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

Court File No.: CV-23-00701377-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

NOTICE OF MOTION
(RETURNABLE AUGUST 25, 2023)

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TAB 2

Court File No.: CV-23-00701377-00CL

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
SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,
Applicants

AFFIDAVIT OF VIJAI KARTHIGESU
(Sworn August 15, 2023)

AFFIDAVIT OF VIJAI KARTHIGESU
(Sworn August 15, 2023)

I, VIJAI KARTHIGESU, of the town of Ajax, in the Regional Municipality of Durham, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

PART I - INTRODUCTION

1. I am the Chief Executive Officer of the applicant, Swarmio Media Holdings Inc. ("**Swarmio Parent**") as well as a member of Swarmio Parent's board of directors (the "**Board**"). I am also the Chief Executive Officer and a member of the Board of Swarmio Parent's wholly-owned subsidiary applicants, Swarmio Inc. ("**Swarmio OpCo**"), and Swarmio Media Inc. ("**Swarmio Media**", and together with Swarmio OpCo and Swarmio Parent, the "**Swarmio Group**", the "**Company**" or the "**Applicants**").

2. I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true. All references to currency in this Affidavit are references to Canadian dollars, unless otherwise indicated.

3. This affidavit is sworn in support of the Applicants' motion pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for the following orders:

   (a) an order ("**Approval and Vesting Order**"), substantially in the form of the draft order at **Tab** "**3**" to the Motion Record, among other things:

(i) approving the share purchase agreement ("**Purchase Agreement**") entered into between Swarmio Inc. (in such capacity, the "**Vendor**") and Triaxcess Limited (the "**Purchaser**"), and the transaction contemplated thereby (the "**Transaction**");

(ii) authorizing and directing the Applicants to perform their obligations under the Purchase Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;

(iii) transferring and vesting all of the Applicants' right, title, and interest in and to the Excluded Assets, Excluded Contracts, and Excluded Liabilities (as defined in the Purchase Agreement) to and in a newly incorporated entity, 15280362 Canada Inc. ("**ResidualCo**");

(iv) adding ResidualCo as an Applicant to this CCAA proceeding in order to effect the Transaction;

(v) vesting in the Purchaser or its nominee all of the right, title and interest in and to the New Common Shares (as defined in the Purchase Agreement) free and clear of all Encumbrances, other than Permitted Encumbrances (as defined in the Purchase Agreement), upon the filing of a certificate by the Monitor substantially in the form attached Schedule "A" to the draft Approval and Vesting Order (the "**Monitor's Certificate**");

(vi) granting certain enhanced powers to the Monitor in respect of ResidualCo;

(vii) sealing the confidential appendices to the Monitor's Second Report; and

(b) an order (the "**Termination Order**"), substantially in the form of the draft order at **Tab** "**4**" to the Motion Record, among other things:

(i) approving the releases ("**Releases**") provided for in the Purchase Agreement in favour of the officers and directors of the Company, its advisors, the Monitor and the Monitor's counsel ("**Released Parties**");

(ii) approving the fees and activities of the Monitor, and the fees of the Monitor's counsel, as set out in the Monitor's Second Report; and

(iii) terminating these CCAA proceedings and discharging the Monitor upon completion of the proposed transactions and filing of a termination and discharge certificate (the "**Termination and Discharge Certificate**"); and

(iv) extending the stay of proceedings up to the filing of the Termination and Discharge Certificate.

PART II - BACKGROUND TO CCAA PROCEEDINGS

4. I swore my first Affidavit in this proceeding on June 20th, 2023 (the "**First Karthigesu Affidavit**"), in support of the Initial Order. The detailed background giving rise to these proceedings is set out in the First Karthigesu Affidavit. Attached as **Exhibit** "**A**" hereto is a copy of the First Karthigesu Affidavit, without exhibits.

5. This Affidavit should be read in conjunction with the First Karthigesu Affidavit.

6. The Swarmio Group is an early stage, pre-revenue technology and media company focused on the gaming sector. The Company is insolvent and unable to raise the capital necessary to fund its development. Prior to the initial application in these proceedings, the Company had exhausted its liquidity and had not made payroll.

7. On June 21, 2023, Madam Justice Steele granted the Initial Order which, among other things:

(a) granted a stay of proceedings in favour of the Company up to and including July 1, 2023;

(b) appointed Grant Thornton Limited as the monitor of the Company (in such capacity, the "**Monitor**");

(c) granted an administration charge to secure the professional fees and disbursements of the Applicants' counsel, the Monitor and its counsel up to a maximum amount of $100,000 (the "**Administration Charge**");

(d) granted a charge in favour of the current directors and officers of the Company in the amount of $100,000 (the "**Directors' Charge**"); and

(e) approved a DIP Term Sheet dated June 20, 2023 ("**DIP Term Sheet**") between the Company and Triaxcess Ltd. (the "**DIP Lender**") which provided for interim financing (the "**DIP Financing**") to fund the Company's operations during the initial 10-day stay of proceedings, with a maximum borrowing limit thereunder of up to $135,000 until further order of the Court.

8. Following the Applicants' comeback hearing on June 30, 2023, Justice Koehnen granted two orders:

(a) an amended and restated initial order (the "**Amended and Restated Initial Order**"), among other things:

(i) increasing the borrowing limit under the DIP Term Sheet, together with a corresponding increase to the Court-ordered DIP Lender's Charge granted in favour of the DIP Lender, to a maximum principal amount of $1,500,000 (from $135,000);

(ii) increasing the Administration Charge (as defined in the Initial Order) from $100,000 to $300,000; and

(i) extending the stay of proceedings up to and including September 1, 2023 (the "**Current Stay Period**"); and

(b) an Order (the "**SISP Order**"), among other things, approving a sale and investment solicitation process (the "**SISP**") in respect of the Applicants' business and assets.

9. A copy of the ARIO and the SISP Order are attached hereto as **Exhibits** "**B**" and "**C**", respectively.

PART III - UPDATE SINCE COMEBACK HEARING

10. Since the ARIO and the SISP Order were granted, the Applicants have worked closely with the Monitor and their advisors to implement the SISP in accordance with its terms,

including responding to information requests and assisting with the preparation of the data room. The Court-approved SISP is now complete.

11. The Company has also continued to operate in the ordinary course and liaise with its various stakeholders including trade creditors, customers, employees and other interested parties.

12. The Monitor's Second Report to be filed in connection with this motion will provide a more fulsome update on the implementation of the SISP following the issuance of the SISP Order. Below is a high level summary of the results of the SISP, which should be read in conjunction with the Monitor's Second Report. All terms capitalized but not defined below are as defined in the SISP.

A. Results of Sale Process

13. The Company assisted the Monitor to prepare the list of 25 interested parties. On July 5, 2023, in accordance with the SISP timelines, the Monitor sent a solicitation letter (the "**Teaser Letter**") to a list of Known Potential Bidders, including the 25 interested parties provided by the Company. The list of Known Potential Bidders included, among other parties, venture capital firms, private equity firms, information technology firms and telecommunications companies located across the globe. The Teaser Letter was sent to an additional 15 parties after the July 5, 2023 milestone in the SISP.

14. Overall, a total of 81 Known Potential Bidders received the initial SISP package, including the Teaser Letter and the NDA.

15. The Data Room went live on July 12, 2023. Throughout the SISP, a total of six (6) Known Potential Bidders signed the NDA to become Phase 1 Bidders and who were then

provided access to the Data Room. These Phase 1 Bidders received the confidential information memorandum (the "**CIM**") prepared by the Monitor, which summarized the opportunity.

16. Following the Phase 1 Bid Deadline on July 25, 2023, at 5:00 pm EST, the Monitor received the following two Phase 1 Bids:

(a) one bid was from the DIP Lender for the assets and operations of Swarmio OpCo and Swarmio Media (the "**OpCo Bid**"), and

(b) one for the public, parent shell company, Swarmio Parent (the "**PubCo Bid**").

17. The OpCo Bid and the PubCo Bid were the only two Phase 1 Bids received by the Monitor in the SISP. The OpCo Bid was the only bid received for the assets and operations of Swarmio OpCo and Swarmio Media in the SISP. The PubCo Bid was the only bid received for Swarmio Parent.

18. Pursuant to the SISP Order, the Monitor, in consultation with the Company, dispensed with Phase 2 of the SISP and designated the OpCo Bid as a Successful Bid.

19. The Monitor and its advisors assessed the PubCo Bid and have determined that the consideration provided for in the PubCo Bid was not feasible in the circumstances.

B. Purchase Agreement and Proposed Transaction

20. On July 25, 2023, the Monitor received the OpCo Bid, which was a bid for the assets and operations of Swarmio OpCo and Swarmio Media. The OpCo Bid was submitted by the DIP Lender by way of a credit bid of the DIP Facility. A copy of the Purchase Agreement, redacted to remove names of individuals included in the schedules, is attached as **Exhibit** "**D**".

21. The proposed Transaction provides for the following consideration:

(a) the release of the Swarmio Group from all amounts outstanding and obligations payable to the DIP Lender pursuant to the DIP Facility (including all accrued and unpaid interest and related fees/costs);

(b) the payment to the Monitor of any unused portion of the DIP Facility;

(c) the assumed liabilities, including, but not limited to, any amounts owing under the Administration Charge, liabilities to terminated employees and wage arrears for continuing employees (approximately $1.1 million), certain critical vendor payments, and certain secured and unsecured promissory notes in the total amount of approximately $2.2 million.

22. The OpCo Bid is further detailed in the Monitor's Second Report. A high-level summary of the key terms and conditions of the Purchase Agreement are as follows (all capitalized terms not otherwise defined herein shall have the meaning given to them in the Purchase Agreement):

(a) **Issuance of New Shares**: Swarmio Inc. will issue, assign and transfer a certain number of new common shares of Swarmio Inc. (the "**New Common Shares**") to the Purchaser, free and clear of Encumbrances (other than Permitted Encumbrances), in exchange for the Purchase Price (as defined below);

(b) **Share Consolidation & Cancellation**: the New Common Shares and the Existing Shares of Swarmio Inc. will be consolidated and any fractional New Common Shares and Existing Shares will be cancelled, such that immediately after closing, the Purchaser will be the sole shareholder Swarmio Inc.

(c) **Closing Date**: The parties shall cooperate and use commercially reasonable efforts to effect the closing on or before September 15, 2023, or such later date and time as the parties may agree to in writing.

(d) **Transfer of Excluded Assets, Contracts and Liabilities**: All of the Excluded Assets, and Excluded Liabilities will be transferred to and assumed by ResidualCo. All Claims attaching to the Excluded Liabilities will continue to exist as against ResidualCo and the Purchase Price and the Excluded Assets, if any, will be available to satisfy such Claims.

(e) **Purchase Price**: In consideration for the New Common Shares and the Retained Assets, the Purchaser will release Swarmio Inc. from all amounts outstanding and obligations payable to the Purchaser under the DIP Term Sheet, together with any undrawn amounts for a total of $1,500,000, plus all accrued and unpaid interest therein up to the closing date, plus any associated fees and expenses, plus the Assumed Liabilities;

(f) **Approval and Vesting Order**: the obligations of the parties to close the Transaction is subject to the granting of the Approval and Vesting Order and the Releases.

PART IV - RELIEF SOUGHT

A. Approval of the Purchase Agreement and Transaction

23. The Applicants seek this Court's approval of the Purchase Agreement and the Transaction.

24. In addition to seeking approval of the Purchase Agreement and the Transaction through the Approval and Vesting Order, the Applicants are seeking the approval of other relief critical to the completion of the Transaction and the orderly and efficient conclusion of these CCAA proceedings, including, among other things:

(a) adding ResidualCo as an Applicant in these CCAA proceedings;

(b) vesting all of the Excluded Assets, Excluded Contracts, and Excluded Liabilities in ResidualCo, and discharging all Encumbrances (other than the Permitted Encumbrances) against the New Common Shares and the Retained Assets;

(c) granting the Releases; and

(d) granting certain enhanced powers to the Monitor in respect of ResidualCo.

25. As described below, the foregoing relief is necessary to effect the proposed Transaction and in certain cases, are a condition to the Purchase Agreement.

a. Adding ResidualCo as an Applicant

26. In order to consummate the proposed Transaction, the Applicants seek to add ResidualCo as an Applicant in these CCAA Proceedings, and remove Swarmio Inc. and Swarmio Media Inc. as applicants following closing of the Transaction.

27. ResidualCo is a corporation that has been incorporated under the federal laws of Canada. Immediately after the Excluded Assets and Excluded Liabilities are transferred to ResidualCo.

28. I understand that the Monitor supports this relief.

b. Reverse Vesting to ResidualCo

29. The Transaction is contingent upon a pre-closing reorganization (the "**Pre-Closing Reorganization**"), whereby:

(a) the Excluded Assets and Excluded Liabilities shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order;

(b) Neither ResidualCo or the Swarmio Parent shall be allowed to use the Swarmio name or retain any goodwill in that name and shall change its name prior to Closing.

30. The OpCo Bid requires a reverse vesting order. The purpose of this structure, as further described below, is to ensure an efficient operational transition of the Swarmio Group's assets and business, including tax losses, and key customer contracts in the Philippines, Malaysia, Tunisia, UAE, and Sri Lanka (and governed by the laws of those countries).

31. The Company is a counterparty to a number of material contracts with large, global telecommunications companies. The maintenance of these key contracts is critical to the ongoing business operations, many of which are governed by the laws of foreign jurisdictions. For example, the Company is party to a contract with Telekom Malaysia Berhad and Globe Telecom, Inc. (the "**E-Sports Contract**"). Telekom Malaysia Berhad is a Malaysia-based telecommunications company that licenses and distributes Swarmio Group's technology as the gaming platform for its subscribers. Globe Telecom, Inc. is a Philippines-based licensed telecommunications operator that provides the same service to its own customers out of the Philippines. The terms of the E-Sports Contract prohibit assignment without the prior consent of

the other counterparties. The Company has a number of other contractual arrangements that contain substantially similar terms.

32. The Company's contractual arrangements with global telecommunications companies are critical to the business. If any of these customer relationships are interrupted by the proposed transactions, it would be destructive to the value of the Company as a going concern and render the proposed transactions unacceptable to any potential purchaser, including the OpCo Purchaser. Given the Company's liquidity constraints, there are no resources available for a lengthy process which might have allowed the Company to secure consents for assigning its various material contracts. And the enforcement of an assignment order may require commencement of recognition proceedings in multiple foreign jurisdictions, as these key contracts are governed by foreign laws, typically in the Middle East, Asia and North African regions.

33. In addition, as at March 31, 2022, Swarmio OpCo had over $12.6 million in tax losses, which is intended to be preserved through the Transaction.

34. For the foregoing reasons, the OpCo Purchaser has sought a "reverse vesting" structure in respect of the Transaction.

35. A reverse vesting order facilitates the seamless continuity of the Applicants' business operations, by preserving the Company's structure of operations, maintaining the current key contracts, and preserving the economic activity and customer supply arrangements without interruption. In addition, a number of key individuals associated with the business will remain with the Company following closing of the proposed Transaction.

36. At present, the Company employs approximately 9 people. It is anticipated that all of these jobs will be preserved following the closing of the Transaction.

37. The implementation of the Transaction will minimize professional fees. It will also reduce costs of seeking the consent for assignment of material contracts and avoid the need for any recognition proceedings where an assignment order is required. In addition, ResidualCo will not undertake any business and will file an assignment in bankruptcy at the appropriate time.

38. I have been advised by the Monitor that it supports the approval of the Transaction. I believe the Purchase Agreement and the proposed Transaction represent the best possible outcome for the Applicants, and will permit the Applicants to emerge from CCAA protection as a successful, going-concern business.

39. I understand that the Monitor, in its Second Report, will provide its view on (i) the SISP and the commercial reasonableness of the process leading up to the proposed Transaction, (ii) the necessity of the reverse vesting structure, and (iii) the Transaction and the consideration provided for in the Purchase Agreement.

c. Releases

40. The Company seeks the approval of the Releases in favour of the Released Parties.

41. The Releases are a requirement of the Transaction, as set out at article 6.2 of the Purchase Agreement. The Monitor, the Monitor's counsel, and the Company's counsel have made significant contributions to the CCAA proceedings.

42. During the CCAA proceeding, certain of the directors and officers of the Company only received one third of their typical salary to support the Company's cash flows with the available

DIP Financing. They have maintained customer relationships during the CCAA process to ensure that key partnerships remained aligned with the Swarmio Group following completion of the sale process. Certain of the directors and officers also entered into stay agreements with the Company (the "**Stay Agreements**"). The Stay Agreements recognized the directors' critical role in ensuring the Company continues to operate in the ordinary course without interruption, and did not provide for any additional compensation to the directors for their work during the CCAA proceedings. It is a requirement of the Stay Agreements that the Applicants seek the Releases from this Court. Attached hereto as **Exhibit** "**E**" is a copy of each of the Stay Agreements.

43. Given the specialized nature of the Company's business, a management team focused on the go-forward business is necessary for the OpCo Purchaser to receive the value for which they have bargained. The Releases minimize the distraction of legal claims arising out of the legacy business and permit the management team to focus on the go-forward transition of Swarmio OpCo.

44. The purpose of the Releases is to achieve finality for the Released Parties and the conclusion of the CCAA proceeding in the most efficient manner possible in the circumstances. I am advised that the Monitor supports the Releases. I am advised by counsel for the Applicants and believe that the terms of the Releases being proposed follow the limitations imposed by the CCAA, and would not extend to any claims against directors and officers based on allegations of misrepresentations made by directors to creditors, or of wrongful and oppressive conduct by directors.

d. Enhanced Monitor's Powers

45. ResidualCo will not have an operating business or a board of directors. It will need a decision maker to oversee the entity while it carries out its purpose, which is to stand in the place of Swarmio Inc.

46. The Monitor has the experience necessary to oversee ResidualCo while achieving an expeditious path forward to the conclusion of these CCAA proceedings. As such, it is appropriate to expand the powers of the Monitor over ResidualCo in order to complete the administration of these proceedings.

B. Sealing Order

47. The Monitor's second report includes a number of confidential appendices, including the CIM, the SISP Summary and the unredacted Purchase Agreement [1]. In order to protect the Applicants' ability to negotiate with other parties in the event that the Transaction does not close as intended, the Applicants are requesting that the confidential appendices to the Monitor's Second Report, to be filed, be sealed pending the closing of the Transaction.

C. Approval of Monitor's Fees and Activities

48. The Company requests the approval of the fees and activities of the Monitor, and the fees of the Monitor's counsel, as set out in the Monitor's Second Report and the fee affidavits appended thereto.

[1] The unredacted Purchase Agreement discloses names of certain individuals, including employees and/or contractors which the Applicants wish to keep confidential.

D. Stay Extension, Termination of CCAA Proceedings and Monitor's Discharge

49. The Current Stay Period expires on September 1, 2023. The Applicants request an extension of the stay up to the termination of the CCAA proceedings, which shall be effective upon the filing of the Termination and Discharge Certificate. The Applicants have acted and continue to act in good faith and with due diligence in furtherance of these proceedings.

50. I understand that the Monitor supports, and no creditor will be prejudiced by, the requested extension of the stay.

51. Subject to this Court's approval of the proposed Transaction, the Company is seeking an order terminating these CCAA proceedings and discharging the Monitor upon the filing of the Termination and Discharge Certificate. Upon termination, the Company seeks to terminate all court-ordered priority charges, including the DIP Lender's Charge, the Directors' Charge and the Administration Charge.

52. Following closing of the proposed transactions, the objectives of these CCAA proceedings will have been accomplished.

53. I understand that the Monitor supports this relief.

PART V - CONCLUSION

54. I swear this affidavit in support of the orders sought and appended at **Tabs 3** and **4** of the Applicants' motion record, and for no other purpose.

SWORN by Vijai Karthigesu, of the City of Ajax, in the Regional Municipality of Durham, before me at the City of Mississauga, in the Province of Ontario, on August 15, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:
Monica Faheim
A927328446B742A...

Commissioner for Taking Affidavits
(or as may be)

MONICA FAHEIM

DocuSigned by:

VIJAI KARTHIGESU

This is Exhibit "A" referred to in the affidavit

of VIJAI KARTHIGESU, SWORN BEFORE ME
this 15th day of August, 2023

DocuSigned by:
Monica
A927328446B742A...

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No.: CV-23-00701377-00CL

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,

Applicants

AFFIDAVIT OF VIJAI KARTHIGESU
(Sworn June 20, 2023)

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AFFIDAVIT OF VIJAI KARTHIGESU
(Sworn June 20, 2023)

I, VIJAI KARTHIGESU, of the town of Ajax, in the Regional Municipality of Durham, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

PART I - INTRODUCTION

1. I am the Chief Executive Officer of the applicant, Swarmio Media Holdings Inc. ("**Swarmio Parent**") as well as a member of Swarmio Parent's board of directors (the "**Board**"). I am also the Chief Executive Officer and a member of the Board of Swarmio Parent's wholly-owned subsidiary applicants, Swarmio Inc. ("**Swarmio OpCo**"), and Swarmio Media Inc. ("**Swarmio Media**", and together with Swarmio OpCo and Swarmio Parent, the "**Swarmio Group**", the "**Company**" or the "**Applicants**").

2. I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true. All references to currency in this Affidavit are references to Canadian dollars, unless otherwise indicated.

PART II - OVERVIEW

3. This affidavit is sworn in support of Swarmio Group's application for an order substantially in the form at Tab 3 of the Application Record (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for the following relief (among other things):

(a) declaring that the Applicants are companies to which the CCAA applies;

(b) granting a stay of proceedings in favour of the Company up to and including July 1st, 2023 (the "**Initial Stay Period**");

(c) appointing Grant Thornton Limited ("**GT**") as the monitor of the Company (the "**Proposed Monitor**" or the "**Monitor**", as applicable);

(d) granting an administration charge to secure the professional fees and disbursements of the Applicants' counsel, the Monitor and its counsel up to a maximum amount of $100,000 (the "**Administration Charge**");

(e) granting a charge in favour of the current directors and officers of the Company in the amount of $100,000 (the "**Directors' Charge**");

(f) approving interim financing in the amount of $135,000 (the "**DIP Financing**") under the terms of the DIP Term Sheet (as defined below) between the Company and the DIP Lender (as defined below) to fund the Company's operations during the Initial Stay Period; and

(g) authorizing Swarmio Parent to incur no further expenses in relation to the Securities Filings (as defined in the Initial Order) and declaring that none of the directors, officers, employees, advisors and other representatives of the Applicants, or the Monitor (and its directors, officers, partners, advisors, employees and representatives) shall have any personal liability for any failure by the Company to make Securities Filings.

4. If the Initial Order is granted, the Applicants intend to return to Court no later than June

30, 2023 (the "**Comeback Hearing**") to seek an order (the "**Amended and Restated Initial Order**") that would, among other things:

(a) approve a sale and investment solicitation process ("**SISP**");

(b) increase the borrowing amount under the DIP Term Sheet and a corresponding increase to the DIP Lender's Charge;

(c) extend the Initial Stay Period for the duration of the SISP; and

(d) increase the Administration Charge;

5. For the reasons set out in this affidavit, I do verily believe that the Applicants are insolvent and are companies to which the CCAA applies.

PART III - URGENT NEED FOR RELIEF

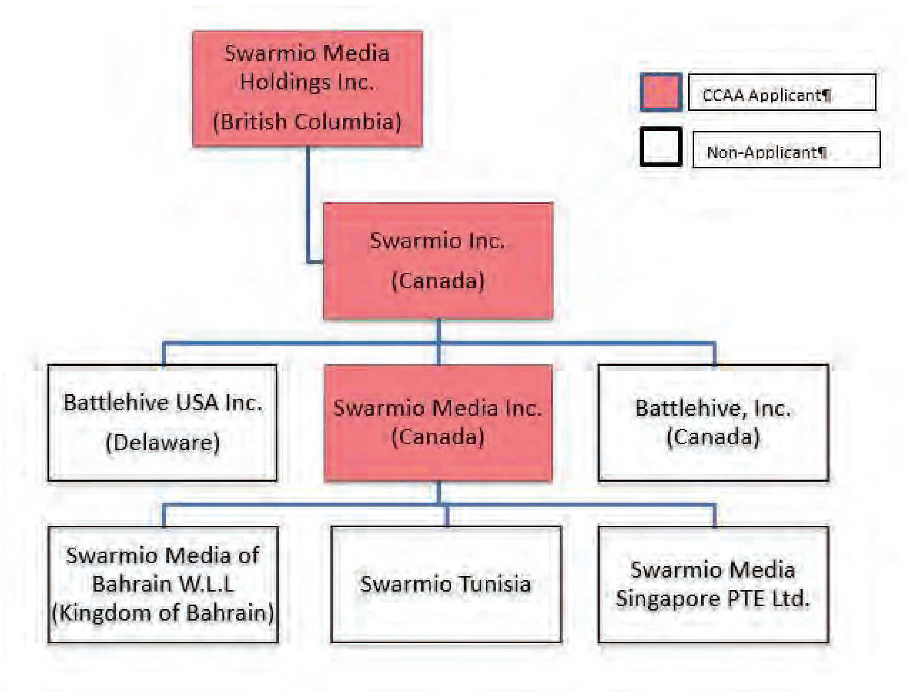
6. The Swarmio Group is an early stage, pre-revenue technology and media company focused on the video gaming sector. The Company is insolvent and unable to raise the capital necessary to fund its development. It has exhausted its liquidity and has not made payroll. It is in urgent need of relief under the CCAA.

7. Before bringing this application under the CCAA, the Company pursued numerous strategic alternatives over the last year and a half with no success. The Company requires the breathing room afforded by the CCAA to obtain interim financing, and design and implement a sale process to identify a value-maximizing transaction for the going-concern sale of the business. The Company expects that the DIP Lender will bid in the sale process.

PART IV - THE APPLICANTS

A. Corporate Structure

8. The Company's organizational chart is set out below.



a. Swarmio Media Holdings Inc. (Swarmio Parent)

9. Swarmio Parent is the publicly-listed parent company of the Swarmio Group. Its shares are listed on the Canadian Securities Exchange ("**CSE**") under the symbol "SWRM" and on the OTC QB under the symbol "SWMIF" and on the Frankfurt Stock Exchange under the symbol "U5U". It holds 100% of the equity of Swarmio Inc. Swarmio Parent was previously known as 1283332 B.C. Ltd.

10. Swarmio Parent is a British Columbia corporation incorporated on January 11, 2021. Its registered head office is located at 1430-800 West Pender Street, Vancouver, British Columbia and its records office is located at 321 Water Street, Suite 501 Vancouver, British Columbia. Swarmio Group's management team, including myself, is located primarily in the Greater

Toronto Area in Ontario. Its other employees, such as developers and software engineers, operate out of leased premises in Nova Scotia.

11. Attached as **Exhibit** "**A**" is a copy of the corporate profile report for Swarmio Parent.

b. Swarmio Inc. (Swarmio OpCo)

12. Swarmio OpCo is a wholly owned subsidiary of Swarmio Parent. It is the operating entity of the Swarmio Group and is a federal corporation under the *Canada Business Corporations Act*.

13. Swarmio OpCo's previous legal name was "UBIQUE Networks Inc.". The name change to "Swarmio Inc." occurred on September 25, 2014. Its head office is located at 1809 Barrington Street, Suite 505, Halifax, Nova Scotia.[1]

14. Swarmio OpCo employs the majority of the Company's employees and owns the majority of the Company's assets, including intellectual property. Employees are located in Ontario and Nova Scotia.

15. Attached as **Exhibit** "**B**" is a copy of the corporate profile report for Swarmio OpCo.

c. Swarmio Media Inc. (Swarmio Media)

16. Swarmio Media is a federal corporation incorporated on May 5, 2020. Its registered head office is located at 102-295 George Street, Sydney, Nova Scotia.

17. Swarmio Media is the signatory to a majority of the Company's material contracts with its key suppliers and partners.

18. Attached as **Exhibit** "**C**" is a copy of the corporate profile report for Swarmio Media.

d. Non-CCAA applicants

19. The following entities in the Company's corporate structure are not applicants in this CCAA proceeding (collectively the "**Non-CCAA applicants**"). They do not have material operations, assets, or liabilities:

(i) Battlehive USA, Inc.

(ii) Battlehive, Inc.

(iii) Swarmio Media of Bahrain W.L.L[2]

(iv) Swarmio Tunisia

(v) Swarmio Media Singapore PTE Ltd.

B. The Business and Operations

20. I co-founded the Company in 2015 as part of a research project affiliated with the University of Ottawa. During the initial two years of operations, with funding from governmental and non-governmental institutions, the Company developed software and technology for "low latency edge computing".

21. "Latency" refers to the amount of time it takes for data to travel from its source to its destination within a computer network or system. It is commonly used to measure the delay or lag experienced in various types of communication, such as network connections, internet browsing and online video gaming. Lower latency means faster transmission time. Low latency is particularly important for games, especially online gaming or "real time" games such as Call of Duty, League of Legends, and sports games such as FIFA. Games need faster data

[1] The Company's corporate records including its registered head office are not up to date.

[2] This entity employs 3 individuals internationally and has employee obligations of approximately $19,000.

transmission across a network to properly function and maximize the gaming experience. "Edge computing" is a sector of network technology that facilitates low latency data transmission across a network. The Company's technology platform is therefore an attractive solution for gaming.

22. In 2020, at the onset of the Covid-19 pandemic, telecommunications companies experienced a steep increase in network usage because of, among other things, increased demand from gaming. This sparked telecommunications companies' interest in gaming as an offering for their users. At this time, Swarmio Group focused its efforts on developing technological solutions for telecommunication companies to offer a gaming platform to its users and share in a $200-billion global industry.

23. Typically, in North America, gamers create an account with a game publisher (*e.g.*, Battle.Net, Steam, EA Sports, PlayStation Network) or have their credit card information stored on their Apple or Android device. They can then make "in-game purchases" using their credit card. These "in-game purchases" generally improve gamers' experience by allowing a user to purchase items, improvements or other enhancements.

24. Outside of North America – especially in parts of the Middle East, Africa, Asia and Latin American regions – gamers do not have the same access to credit cards as North American gamers. But they overwhelmingly have cell phones with large telecommunication companies. Swarmio Group's technology is the solution for gamers in these underserviced regions who wish to make in-game purchases. It is also the solution for telecommunication companies to insert themselves into the gaming value chain.

25. Swarmio Group's technology and platform will allow users, without credit cards, to make

in-game purchases through their existing account with their telecommunication provider. The telecommunication provider contracts with Swarmio Group, directly or through its partners, to develop a platform that connects their users with game publishers and facilitates gaming and in game purchases. The Company and telecommunication operators will then earn a portion of the revenue generated from gamers' purchases through revenue sharing agreements.

26. The following is a summary of Swarmio Group's primary product offerings:

(a) <u>Swarmio Hive for Telecommunications Operators</u>: Swarmio Hive is a software-as-a-service (SaaS) solution for telecommunications operators. It provides a turn-key platform that permits telecommunications operators to penetrate the gaming market and monetize the use of gaming platforms by their own customers. Under this service, the Company delivers the platform to the telecommunications operator, and has a revenue sharing agreement with the telecommunications operator.

(b) <u>Swarmio Matrix for Game Developers and Publishers</u>: Swarmio Matrix is an edge computing platform that is meant to provide an enhanced gaming experience to gamers through technology that minimizes network lag or latency. The Company partners with telecommunications operators, global data centers and co-location providers to deploy Swarmio Matrix. These partners provide access to their servers and network, which operates to enhance the quality of experience for gamers using the network. The partner is compensated either based on the utilization of their physical infrastructure, or shares in the revenue it generates from the physical infrastructure.

(c) Swarmio Pay for Game Publishers and Game Content Distributors: Swarmio Pay is an alternate payment aggregation service that combines regional telecommunications DCB (Direct Carrier Billing) and electronic wallet payments solutions. Swarmio Pay provides a seamless and convenient payment experience by integrating various payment methods into a single platform. Swarmio Pay enables game publishers and content distributors to reach and monetize the gamers in regions where the credit card penetration is very low such as South Asia, North Africa and Latin America. Swarmio Pay charges a transaction fee for every transaction.

27. The business subscribes to software and technology infrastructure from large technology companies such as Amazon AWS and Google. This technology infrastructure is critical to our operations. These providers require a credit card on file to pay monthly subscription fees. In the ordinary course, since the Company did not have a corporate credit card, my credit card is saved on file with Amazon and Google. Amazon and Google bill my credit card and the Company reimburses me regularly (the "**Disbursement Procedures**"). The Company intends to continue to operate in the ordinary course including the Disbursement Procedures, with the oversight of the Proposed Monitor.

28. As further described below, the Company has significant contracts with telecommunication companies in Malaysia, Sri Lanka, Philippines, the United Arab Emirates, and Tunisia.

C. Employees

29. Prior to this filing, the Company had 22 full-time employees located in Canada. The Company also contracts with approximately 50 independent consultants to perform a wide-range of functions and services, including software development and project management. Most of the

Company's consultants are located outside of Canada.

30. Employees are paid bi-weekly in arrears. The Company is currently behind on its payroll obligations and owes approximately $1,099,097 to its Canadian employees as of June 10, 2023. One of the Company's Non-CCAA Applicants, Swarmio Media of Bahrain W.L.L, has 4 employees and employee obligations of approximately $19,000.

31. The Company does not have any unionized employees. Nor does it sponsor or administer any registered or unregistered pension plans. The Company provides a standard group benefit plan to its employees that covers extended heath care, dental care, life insurance, and accidental death and dismemberment insurance.

D. Key Customer Relationships

32. The Company's primary target market is telecommunication companies in the Middle East, North Africa Southeast Asia, and South Asia. The Company and its partners have established contractual relationships with several large telecommunication companies to develop, license and distribute Swarmio Group's technology as the gaming platform for their subscribers.

33. These relationships are critical to the Company's intended business model. They provide a large global user-base and distribution channel for the Company's technology. The Company has spent significant time and resources to develop customized solutions in order to foster these partnerships.

34. At present, the Company's key partnerships include some of the largest telecommunication providers in the world, including Etisalat by E& (UAE), Telekom Malaysia Berhad (Malaysia), Globe Telecom Inc. (Philippines) and Ooredoo (Tunisia).

PART V - FINANCIAL CIRCUMSTANCES AND CASH FLOW

35. The Company has a fiscal year-end of March 31. Attached as **Exhibit** “**D**” are the Company’s audited consolidated financial statements for 2022 and 2021 and unaudited interim statements as at December 31, 2022 (the “**Financial Statements**”).

A. Assets

36. As at December 31, 2022, the Company, on a consolidated basis, had assets totalling approximately $1.2 million, including $763,961 of current assets (cash and cash equivalents, accounts receivable, investment tax credit receivables, sales tax receivables, and prepaid expenses). The remaining assets, with a book value of approximately $448,240, are primarily intangible assets including intellectual property. The Company’s primary intellectual property is a Patent registered in the United States and held by Swarmio OpCo.

37. The following shows the breakdown of Swarmio Group’s assets as at December 31, 2022.

Expressed in Canadian dollars)		As at December 31, 2022		As at March 31, 2022
Assets				
Current assets				
Cash	$	40,359	$	1,628,242
Accounts receivable (Note 6)		313,297		7,244
Investment tax credit receivable		185,748		859,394
Sales tax receivable		214,465		270,811
Prepaid expenses		10,092		64,592
Total current assets		763,961		2,830,283
Non-current assets				
Right-of-use assets (Note 5)		1,304		13,041
Equipment (Note 7)		15,646		17,184
Intangible assets		431,290		207,934
Total non-current assets		448,240		238,159
Total assets	$	1,212,201	$	3,068,442

B. Liabilities

38. As at December 31, 2022, the Company, on a consolidated basis, had liabilities totalling $5,575,000, which is set out below in the excerpt from the Financial Statements. Since December 31, 2022, the Company has incurred at least $1.5 million in additional liabilities through secured and unsecured debt (described below) and trade payables. The total liabilities of the Company as at June 10, 2023 amount to approximately $10,266,328.

Liabilities		
Current liabilities		
Accounts payable and accrued liabilities (Note 8)	$ **1,666,344**	$ 1,097,780
Lease financial liabilities (Note 5)	**1,904**	17,115
Derivative financial liabilities (Note 9)	**182,519**	-
Loans and borrowings (Note 9)	**1,860,872**	678,700
Total current liabilities	**3,711,639**	1,793,595
Non-current liabilities		
Loans and borrowings (Note 9)	**1,863,361**	1,283,599
Total non-current liabilities	**1,863,361**	1,283,599
Total liabilities	**5,575,000**	3,077,194

PART VI - CREDITORS OF SWARMIO GROUP

A. Government Claims

39. I believe the Company currently has a contingent source deduction obligation based on payroll arrears in the amount of approximately $288,289.00.

40. The Company has no outstanding HST obligations.

B. Secured Creditors

41. Below is a summary of the outstanding registrations against the Applicants under the personal property security legislation in Ontario, British Columbia and Nova Scotia (“**PPSA Registrations**”). Attached as **Exhibit** “**E**” is a copy of a summary of the PPSA Registrations,

together with certified copies of same.

Secured Party	Debtor(s)	Jurisdiction
2184907 Ontario Inc.	Swarmio Parent	British Columbia Nova Scotia Ontario
2873626 Ontario Ltd.	Swarmio Parent	British Columbia Nova Scotia Ontario
2797254 Ontario Inc.	Swarmio Parent	British Columbia Nova Scotia Ontario
Khan, MD Aseef Hannan	Swarmio Parent	British Columbia Nova Scotia Ontario
Joseph, Colin	Swarmio Parent	British Columbia Nova Scotia Ontario
Kolachalam, Arjun	Swarmio Parent	British Columbia Nova Scotia Ontario
Business Development of Canada	UBIQUE Networks Inc., Swarmio Inc.	Nova Scotia
Royal Bank of Canada[3]	UBIQUE Networks Inc., Swarmio Inc.	Ontario

42. Below is an overview of each of the Applicants' secured debt obligations.

a. 2184907 Ontario Inc.

43. Swarmio Parent is indebted to 2184907 Ontario Inc. ("**218**") in the principal amount of $1,000,000 pursuant to a Note Purchase Agreement (the "**218 Note Purchase Agreement**") and an ancillary Secured Promissory Note (the "**218 Promissory Note**"), both dated as of March 10, 2023 (collectively, the "**218 Note**"). Attached at **Exhibit "F"** is a copy of the 218 Note.

[3] The registration in favour of Royal Bank of Canada is expired, and no monies are currently owing by the Company to Royal Bank of Canada.

44. As security for the obligations under the 218 Note, Swarmio Parent granted a security interest in all of its present and after-acquired personal property in favour of 218 pursuant to a security agreement dated as of March 10, 2023 (the "**218 Security**"). A copy of the 218 security agreement is attached as **Exhibit** "**G**".

45. Neither of the other Applicants, Swarmio OpCo nor Swarmio Media, are borrowers or guarantors of the 218 Note. Neither Swarmio OpCo nor Swarmio Media granted security in favour of 218.

46. Pursuant to the 218 Note Purchase Agreement, the Company agreed to issue 5,000,000 warrants in favour of 218 for the principal amount of $1,000,000.

b. Business Development Bank of Canada (BDC)

47. Swarmio OpCo (under its former name, UBIQUE Networks Inc.) is party to two loan agreements with the Business Development of Canada (BDC) (together, the "**BDC Loan Agreements**"):

(a) a letter of offer dated April 5, 2017 in respect of a loan in the principal amount of $150,000, as amended by an amending letter dated October 13, 2017; and

(b) a letter of offer dated November 9, 2017 in respect of a loan in the principal amount of $100,000, as amended by an amending agreement dated November 14, 2017.

48. As security for the obligations under the BDC Loan Agreements, pursuant to a General Security Agreement dated April 5, 2017, Swarmio OpCo granted a security interest in all of its present and after-acquired personal property except consumer goods. Pursuant to guarantee

agreements dated as of April 5, 2017 and November 10, 2017, respectively (together the "**Guarantees**"), I personally guaranteed the obligations of Swarmio OpCo under the BDC Loan Agreements. Copies of the BDC Loan Agreements and the Guarantees are attached as **Exhibit** "**H**".

49. The Company has been making monthly payments on account of principal and interest to BDC. The outstanding balance under the BDC Loan Agreements as of May 20, 2023 was $38,100.

C. Subordinated Secured Creditors

50. Swarmio Parent owes the following parties (collectively, the "**Subordinated Secured Creditors**") an aggregate amount of $624,800, comprised of the following:

a. Joseph Colin Krishandan

51. Colin Joseph Krishandan ("**Colin Joseph**") made a loan available to Swarmio Parent in the principal amount of $90,000 pursuant to a secured promissory note issued by Swarmio Parent in favour of Colin Joseph, as extended by an extension agreement dated December 30, 2022 (the "**Colin Joseph Note**"). A copy of the Colin Joseph Note and the extension agreement are attached as **Exhibit** "**I**". There is currently $111,706 outstanding under the Colin Joseph Note.

b. 2873626 Ontario Limited

52. 2873626 Ontario Ltd. ("**287**") made a loan available to Swarmio Parent in the principal amount of $50,000 pursuant to a secured promissory note issued by Swarmio Parent in favour of 287, as extended by an extension agreement dated as of December 30, 2022 (the "**287 Note**"). A copy of the 287 Note and the extension agreement are attached as **Exhibit** "**J**". There is currently $62,296 outstanding under the 287 Note.

c. Mo Aseef Hannan Khan

53. Mohammed Aseef Hannan Khan ("**Khan**") made a loan available to Swarmio Parent in the principal amount of USD $200,000 pursuant to a secured promissory note issued by Swarmio Parent in favour of Khan, as extended by an extension agreement dated as of December 30, 2022 (the "**Khan Note**"). A copy of the Khan Note and the extension agreement are attached as **Exhibit** "**K**". There is currently $312,034 outstanding under the Khan Note.

d. Arjun Kolachalam

54. Arjun Kolachalam ("**Kolachalam**") made a loan available to Swarmio Parent in the principal amount of USD $50,000 pursuant to a secured promissory note issued by Swarmio Parent in favour of Kolachalam, as extended by an extension agreement dated as of December 30, 2022 (the "**Kolachalam Note**"). A copy of the Kolachalam Note and the extension agreement are attached as **Exhibit** "**L**". There is currently $77,016 outstanding under the Kolachalam Note.

e. 2797254 Ontario Inc.

55. 2797254 Ontario Inc. ("**279**") made a loan available to Swarmio Parent in the principal amount of $50,000 pursuant to a secured promissory note issued by Swarmio Parent in favour of 279, as extended by an extension agreement dated as of December 30, 2022 (the "**279 Note**"). A copy of the 279 Note and the extension agreement are attached as **Exhibit** "**M**". There is currently $61,657 outstanding under the 279 Note.

D. Inter-Creditor Arrangements

56. Swarmio Parent, 218 and the Subordinated Secured Creditors are party to a postponement and subordination agreement dated as of March 10, 2023 (the "**Subordination Agreement**").

The Subordinated Secured Creditors agreed to subordinate and postpone their security and all payments in favour of 218. A copy of the Subordination Agreement is attached as **Exhibit** "**N**".

57. Under the 218 Note, 218 agreed with the Company that its security would be subordinate to the security held by BDC and Community Business Development Corporation in the amount of $325,000, but, to my knowledge, 218 and BDC did not enter into an inter-creditor agreement among them.

E. Unsecured Creditors

a. Funded Debt

(1) Community Business Development Corporation

58. Swarmio OpCo is party to two loan agreements with the Community Business Development Corporation, through Coastal Business Opportunities Incorporated ("**CBDC**") (together, the "**CBDC Loan Agreements**"):

(a) a letter of offer dated March 31, 2020 in respect of a loan in the principal amount of $166,625.00;

(b) a letter of offer dated July 28, 2021 in respect of a loan in the principal amount of $142,332.

59. Pursuant to an agreement between myself, CBDC and Swarmio OpCo, I agreed to personally guarantee the CBDC loans. The CBDC Loan Agreements and the executed guarantee in respect of same are attached as **Exhibit** "**O**".

60. The Company has made monthly payments on account of principal and interest to CBDC but has missed several monthly payments. The outstanding balance under the CBDC Loan as of

May 20, 2023 was $280,900.

(2) Government Loans

61. Swarmio OpCo (under its former name UBIQUE Networks, Inc.) received loans from Atlantic Canada Opportunities Agency ("**AOCA**") in the total amount of $2,227,993. The AOCA is based in the Province of Nova Scotia and provides funding pursuant to a government program established to increase opportunities for economic development by supporting start-up projects.

62. Swarmio OpCo is party to a number of contribution agreements with the AOCA (collectively, the "**AOCA Agreements**"), under which AOCA advanced the loans. Attached as **Exhibit** "**P**" are copies of the AOCA Agreements.

63. Each AOCA Agreement relates to a particular project and/or activity undertaken in the Company's research and development and commercialization of its products:

Date of Contribution Agreement	Amount of Funding	Project
September 30, 2015	$500,000	Develop a "lagless" gaming experience
December 13, 2016	$468,750	Commercialize recently developed "lagless" gaming technology
March 21, 2017	$50,000	Hire a chief revenue officer
April 4, 2018	$500,000	Execute go to market strategy
October 19, 2018	$50,000	Hire financial controller to streamline financial planning
September 30, 2019	$250,000	Commercialize Swarmio eSports Platform in South Asia
May 29, 2020	$100,000	Provide operating capital to alleviate cash flow challenges as a result of Covid-19
August 18, 2021	$50,000	Hire a Vice President, Product Strategy
August 11, 2022	$500,000	Commercialize Swarmio eSports platform in the Philippines

64. Swarmio OpCo also received a Canada Emergency Business Account ("**CEBA**") loan in the amount of $60,000. Of this amount, $40,000 is due and payable on December 31, 2023, and $20,000 should be forgiven pursuant to the terms of the CEBA loan.

(3) Elie Jeitani

65. Elie Jeitani ("**Jeitani**") made a number of loans to Swarmio Parent pursuant to a series of unsecured promissory notes (collectively, the "**Jeitani Promissory Notes**"):

(a) a promissory note dated September 12, 2022 in the principal amount of USD $100,000;

(b) a promissory note dated December 6, 2022 in the principal amount of USD $100,000;

(c) a promissory note dated January 3, 2023 in the principal amount of USD $100,000; and

(d) a promissory note dated February 28, 2023 in the principal amount of USD $200,000.

66. A copy of the Jeitani Promissory Notes are attached as **Exhibit** "**Q**". The Jeitani Promissory Notes were extended on a number of occasions, including most recently on April 28, 2023 (the "**Jeitani Extension Agreement**"). The Jeitani Promissory Notes became due and payable on May 31, 2023. A copy of the Jeitani Extension Agreement (unsigned) is attached as **Exhibit** "**R**" There is currently $731,599 outstanding under the Jeitani Promissory Notes.

67. Jeitani is the founder and CEO of Westbridge Telecom ("**Westbridge**"), a U.S. based wholesale provider of telecommunications products and services in various regions including Asia, Africa and the Middle East. The Company is party to a distribution agreement with Westbridge pursuant to which Westbridge distributes Swarmio Group's gaming platform to its

clients, including certain of Swarmio Group's telecommunications partners.

68. As indicated below, Jeitani is the principal of the proposed DIP lender, and is expected to bid in the sale process.

(4) Georges Gabi Azar

69. Georges Gabi Azar ("**Azar**") made a loan to Swarmio Parent in the amount of USD $100,000 pursuant to an unsecured promissory note dated February 28, 2023 ("**Azar Promissory Note**"). A copy of the Azar Promissory Note is attached as **Exhibit** "**S**".

70. The Azar Promissory Note bears interest at an annual rate of 25% per annum and became due and payable on March 31, 2023. There is currently $146,781 outstanding under the Azar Promissory Note, including principal and interest.

(5) Wittigsberg as (Appelby), Czech Republic

71. Wittigsberg as (Appelby), Czech Republic ("**Wittigsberg**") and Swarmio Parent are party to a convertible promissory note agreement ("**Convertible Note**") in the principal amount of USD $500,000. There is currently $658,200 outstanding under the Convertible Note. Attached as **Exhibit** "**T**" is a copy of Convertible Note.

b. Other Unsecured Creditors

(1) Trade Creditors

72. The Company is currently indebted to trade creditors in the aggregate amount of $2.1 million attributable to various trade creditors.

(2) Employee Claims

73. The Company has approximately $1,099,097 in unpaid wages up to June 10, 2023.

F. Equity Interests and Share Capital Contributions

74. The Company has approximately 110,453,430.90 issued and outstanding shares. As at the close of business on May 30, 2023, the share price was $0.05 with a market capitalization of $5,522,672.

75. As at December 31, 2022, the Company had issued 10,492,506 warrants carrying value of $366,551.00.

76. According to the Financial Statements, the total shareholders' deficiency as at December 31, 2022 was approximately $4,362,799.

PART VII - CHALLENGES AND LIQUIDITY ISSUES FACED BY APPLICANTS AND STRATEGIC INITIATIVES

77. The Company has spent years developing its technology focused on gaming. In November 2021, the Company listed on the Canadian Securities Exchange through a reverse takeover ("**RTO**") transaction on the strength for gaming and for technology companies in the public markets during the covid-19 pandemic. The Company raised $9 million from public shareholders as part of the RTO. The Company utilized this funding to execute on its strategy.

78. The Company ran into a number of unanticipated challenges. First, because of the size and scale of its telecommunications partners, the Company experienced a lengthier-than-expected sales cycle.

79. Second, after obtaining initial buy-in from a telecommunication partner following a lengthy sales cycle, the parties negotiated contractual terms. In certain circumstances, the commercial relationship required tri-partite or mirroring contracts among Swarmio Group, the

telecommunications provider and one of Swarmio Group's regional marketing partners. This process took longer than anticipated.

80. Third, after finalizing contractual terms, implementation and integration of Swarmio Group's technology into the telecommunication provider's existing platform followed. This implementation and integration process was longer than anticipated. In some cases, integration required Swarmio Group to build bespoke software.

81. Finally, upon completion of implementation and integration, the roll-out and uptake of the gaming platform by the end-user (i.e., the telecommunication provider's customers) has taken longer than expected. The contractual arrangements with telecommunications providers obligate Swarmio Group to participate in and contribute resources towards the telecommunication provider's marketing efforts of its gaming platform (powered by Swarmio technology). The Company experienced a gap between its marketing efforts and ultimate uptake by users of the new gaming platform.

82. The Company remains pre-revenue as it continues this sales, implementation and marketing process, and has exhausted the liquidity raised from its initial public offering. In addition, rising costs and inflation following the Covid-19 pandemic experienced across all industries similarly adversely impacts the Company's operations.

83. In 2022, the frothy public markets precipitously softened for early stage pre-revenue technology companies. The Company's share price suffered. The public markets were no longer a source for additional capital.

84. Throughout 2022, the Company survived on debt financing raised from the Subordinated Secured Creditors, who are primarily employees and other related parties. But with an average

monthly burn rate of approximately $500,000, funding from the Subordinated Secured Creditors was insufficient to satisfy the Company's ongoing operations for an extended period. The Company's management also provided an additional equity injection of approximately $1 million.

85. The Company also pursued other strategic alternatives:

(a) In and around Q2 of 2022, the Company initiated discussions regarding potential equity financing of approximately USD$10 million from one of its telecommunications partners. The parties entered into a letter of intent, but the transaction never ultimately materialized.

(b) The Company pursued a potential sale of its business to a third party. The parties signed a non-disclosure agreement and conducted due diligence, but a transaction did not materialize.

(c) The Company explored a sale transaction with another third party. The parties exchanged a draft letter of intent and non-disclosure agreement. The third party conducted due diligence. But, again, a transaction did not materialize.

(d) One of the Company's other telecommunications partners expressed an interest in acquiring the Company. Those discussions did not progress fast enough because of the Company's dire liquidity. The Company is optimistic that this party may participate in the sale process for which the Company will seek court approval at the Comeback Hearing.

86. In parallel with these strategic discussions, the Company explored other opportunities to generate revenue. In Q3 of 2022, the Company started a new business line (separate from its

gaming business) that leveraged its telecom relationships to facilitate international long-distance calling, known as "**Interconnect Services**". Although the Company generated approximately $4.3 million in gross revenue during Q3 of 2022, profit was negligible. The direct cost of providing Interconnect Services exceeded $4 million during the same period, *plus* overhead costs. The Company decided to discontinue this strategy in 2023.

87. In March, 2023, after the Company exhausted its financing from the Subordinated Secured Creditors, the Company raised $1 million of secured debt from 218 under the 218 Note. This provided additional runway until the end of Q1 2023. But the Company has now exhausted all of its available liquidity. It has missed a number of employee payroll cycles. The Company continues to work diligently to maintain positive relationships with employees despite the missed payroll. I am grateful for our employees' support during these difficult times.

88. In the last several weeks, the Company received letters from trade creditors demanding payment of overdue amounts. These demands are in respect of fees owed from marketing agencies, public relations advisors, and other cloud service providers. Copies of those demands and emails are attached as **Exhibit** "**U**".

PART VIII - NEED FOR CCAA PROCEEDING

89. Given its liquidity challenges, the Company, in consultation with its advisors, has determined that it is in the Company's best interests to seek creditor protection pursuant to the CCAA, and to proceed to design and implement a sale process for the sale of the Company's business.

90. Swarmio Group is a specialized business that requires the technology and expertise of its founders to succeed. The Company believes the likely purchaser will be a strategic partner that

has an existing relationship with the Company (*i.e.*, a telecommunications provider) or one of the parties that has previously entertained a sale or investment transaction, as described above.

91. The Company intends to utilize this initial 10-day period to maintain operations, communicate with its employees, strategic partners and other stakeholders, develop a sale process, which may include a stalking horse purchase agreement with the DIP Lender, and finalize court materials for the Comeback Hearing.

PART IX - RELIEF SOUGHT

92. The Company is seeking an Initial Order substantially in the form attached as **Tab** "**3**" to the Application Record.

A. Stay of Proceedings

93. The Company requires a stay of proceedings to maintain the *status quo* and to give the Applicants the breathing space they require to develop a sales process.

94. The proposed Initial Order contemplates a stay period of 10 days, which I understand is the maximum that can be authorized by a court at the initial application under the CCAA.

B. Appointment of Monitor

95. The Applicants seek the appointment of Grant Thornton Limited ("**GT**") as Monitor of the Applicants in these CCAA proceedings.

96. GT has consented to act as the Monitor, subject to Court approval. GT has not been the auditor of the Applicants within the last two years and is not otherwise restricted from acting as the Monitor. Attached as **Exhibit** "**V**" hereto is a copy of the Proposed Monitor's consent.

C. Director's Charge

97. The Company's Directors' and Officers' insurance policy expired on November 30, 2022. The cost of a new policy will be in the range of $55,000 and may contain unfavourable exclusions. In the circumstances, the Company seeks the Directors' Charge as security for the Applicants' indemnification for possible liabilities that may be incurred by the current directors and officers, to a maximum of $100,000.

98. The proposed quantum of the Directors' Charge was decided upon with the input of the Monitor's counsel. I am concerned that the Company's directors and officers may become subject to ultimately meritless post-filing litigation claims. The Directors' Charge is intended to reflect reasonable legal fees that may be incurred in defending such claims.

99. The Directors' Charge is proposed to rank behind the Administration Charge and the DIP Lender's Charge. The Directors' Charge is required in order to provide a level of protection to the directors and officers with respect to possible liabilities imposed on individuals in their capacity as directors and officers of a corporation in CCAA protection. I believe the quantum of the Directors' Charge is reasonably required at this time. Based on current information available, the Company does not intend to seek an increase to the Directors' Charge.

D. Approval of DIP Financing and DIP Lender's Charge

100. On June 19, 2023, the Company entered into a debtor-in-possession term sheet (the "**DIP Term Sheet**") with Triaxcess Ltd. (the "**DIP Lender**") to provide a non-revolving loan in the maximum aggregate principal amount of $135,000. Jeitani is the principal of the DIP Lender. As noted above, Jeitani is the CEO and founder of Westbridge, a major telecommunications company and key supplier of the Company. The Company expects the DIP Lender to potentially act as a stalking horse bid or otherwise bid in the sale process.

101. A copy of the DIP Term Sheet is attached as **Exhibit** “**W**”. The purpose of the DIP financing is to fund the Company’s working capital needs and professional fees and expenses during the Initial Stay Period. The key terms of the DIP Term Sheet are as follows (all terms capitalized but not defined below are as defined in the DIP Term Sheet:

(a) **Principal Amount**: $135,000

(b) **Interest**: 12% per annum

(c) **Commitment Fee**: $28,000, representing 2% of the total amount ultimately to be made available under the DIP facility and only payable if further advances beyond the First Advance are made to the Company following approval of an increased DIP Lender’s Charge at the Comeback Hearing.

102. The availability of the First Advance under the DIP Facility is subject to and conditional upon the issuance of the proposed Initial Order, including approval of the DIP Term Sheet and the DIP Lender’s Charge. It is contemplated that the funds advanced under the DIP Facility will be utilized in accordance with the Cash Flow Forecast attached as **Exhibit** “**X**”.

103. In addition to the approval of the DIP Term Sheet, the Company seeks a charge in favour of the DIP Lender to secure advances made under the DIP Term Sheet until the Comeback Hearing, which is anticipated to be approximately $135,000. As between the Court-ordered charges, the DIP Lender’s Charge is proposed to rank as a second-in-priority charge on the Company’s property and assets, subject only to the proposed Administration Charge.

E. Administration Charge

104. The Company seeks a super-priority charge over the Swarmio Group’s Property (as defined in the Initial Order) in favour of the Monitor, counsel to the Monitor and counsel to the

Applicants (the "**Professionals Group**"), to secure payment of their professional fees and disbursements, whether incurred before or after the date of the Initial Order.

105. The proposed Administration Charge being sought is for a maximum amount of $100,000.

106. It is contemplated that the Professionals Group will have extensive involvement during the CCAA proceedings. The Professionals Group have contributed and will continue to contribute to the Applicants' restructuring efforts.

107. In preparation of the Cash Flow Forecast, the Applicants, in consultation with the Proposed Monitor, considered the professional fees forecasted to be incurred on a weekly basis during the cash flow period.

108. Accordingly, I believe the quantum of the Administration Charge sought is reasonably necessary at this time to secure the professional fees of the Professionals Group.

F. Authorization to Incur no Further Costs in Connection with Securities Filings

109. The Applicants seek authorization to dispense with certain securities filing requirements. In particular, the Applicants seek authorization for Swarmio Parent to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial, or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including without limitation, the *Securities Act (Ontario)*, RSO 1990 c S. 5 and comparable statutes enacted by other provinces of Canada, and the rules, regulations and policies of the CSE.

110. In my view, incurring the time and costs associated with preparing the Securities Filings will detract from the Applicants limited resources. It is expected that the Company will continue as a private company following completion of a sale transaction. Further, there is no prejudice to stakeholders given that detailed financial information and other information regarding the Applicants will continue to be made publicly available through the materials filed in these CCAA proceedings.

G. Relief to be Sought at Comeback Hearing

111. If the Initial Order is granted, then the Applicants propose to return to this Court for a Comeback Hearing on June 30, 2023.

112. At the Comeback Hearing, the Applicants intend to seek the Court's approval of an Amended and Restated Initial Order. For the benefit of this Court and the Applicants' stakeholders, this section highlights critical relief that the Applicants intend to seek at the Comeback Hearing. The Applicants may seek additional relief if determined to be necessary or advisable.

i) Extension of Stay of Proceedings

113. The Applicants intend to seek an extension of the Initial Stay Period for a sufficient length of time to allow the Applicants to conduct and complete a sale and investment solicitation process.

ii) Approval of a Sale and Investment Solicitation Process

114. The Applicants intend to seek approval of a SISP. The goal of the SISP will be to comprehensively canvass the market, with the assistance of the Monitor, to identify a purchaser for the Company's business.

iii) Increase to Quantum of Charges

115. The Company intends to seek an increase to the quantum of the Administration Charge to $300,000 and to the DIP Lender's Charge to $1.5 million, if appropriate.

116. The Company does not expect to seek an increase in the quantum of the Directors' Charge.

PART X - FORM OF ORDER AND CONCLUSION

117. The Applicants, with the assistance of their legal and financial advisors, have determined that the proposed CCAA proceedings represent the best available strategy to maximize value for the Company's stakeholders. This affidavit is sworn in support of the Applicants' application for protection pursuant to the CCAA and an order in the form of the draft order at **Tab** "**3**" to the Application Record and for no other purpose.

SWORN BEFORE ME via video-conference with the deponent in the Town of Ajax, in the Province of Ontario, and the Commissioner in the City of Mississauga in the Province of Ontario this 20th day of June, 2023

DocuSigned by:
89D3513E00154C8...
VIJAI KARTHIGESU

DocuSigned by:
Monica Faheim
A927328446B742A...
MONICA FAHEIM
A Commissioner for taking Affidavits *(or as may be)*

Note: This affidavit was commissioned via simultaneous video-conference in accordance with the *Commissioners for taking Affidavits Act*, R.S.O. 1990, CHAPTER C.17, and the Law Society of Ontario: COVID-19 Response Statement interpretation of that Act, under which (i) the identity of the deponent was confirmed from government issued identification, (ii) the commissioner administered the oath or affirmation, (iii) the deponent affixed their electronic signature to the affidavit and transmitted the full electronic affidavit, as sworn or affirmed, including exhibits to the commissioner, (iv) the deponent confirmed their electronic signature to the commissioner, (v) the commissioner affixed their electronic signature to the affidavit including exhibits.

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

Applicants

Court File No.: CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

AFFIDAVIT OF VIJAI KARTHIGESU
(INITIAL APPLICATION)

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Lawyers for the Applicants

This is Exhibit "B" referred to in the affidavit

of VIJAI KARTHIGESU, SWORN BEFORE ME
this 15th day of August, 2023

DocuSigned by:
Monica
A927328446B742A...

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	FRIDAY, THE 30th
	)	
JUSTICE KOEHNEN	)	DAY OF JUNE, 2023

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Swarmio Media Holdings Inc., Swarmio Inc., and Swarmio Media Inc. (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by Zoom video conference.

ON READING the affidavit of Vijai Karthigesu sworn June 20, 2023 and the Exhibits thereto ("**First Karthigesu Affidavit**"), the affidavit of Vijai Karthigesu sworn June 26, 2023 (the "**Second Karthigesu Affidavit**", and together with the First Karthigesu Affidavit, the "**Karthigesu Affidavits**"), the Initial Order of Justice Steele dated June 21, 2023 (the "**Initial Order**"), the First Report of the Grant Thornton Limited ("**GT**") in its capacity as the Monitor (the "**Monitor**"), 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 Applicants and the Monitor, and any other counsel as appearing on the Counsel Slip, and on reading the consent of GT to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS AND DECLARES** 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 hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants 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

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are 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 them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the First Karthigesu Affidavit or 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 Applicants 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 Applicants, 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.

6. **THIS COURT ORDERS** that the Applicants 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 expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants 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, technology infrastructure services, reimbursements in accordance with the Disbursement Procedures (as defined and described in the First Karthigesu Affidavit), and security services;

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants 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 Applicants in connection with the sale of goods and services by the Applicants, 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 Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants 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 Applicants 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.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their 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

11. **THIS COURT ORDERS** that the Applicants 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

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 Applicants’ 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 Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim 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's claim to the fixtures in dispute.

13. **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, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants 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 Applicants 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.

STAY OF PROCEEDINGS

14. THIS COURT ORDERS that until and including September 1, 2023 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are 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

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 Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, technology and software infrastructure providers, contractors, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, technology and software infrastructure, 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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 Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants 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.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 $100,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.

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 Applicants' 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 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that GT is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

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 Applicants' 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 Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

(d) advise the Applicants in their preparation of the Applicants' 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 as agreed to by the DIP Lender;

(e) advise the Applicants in their development of the sales process;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(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

Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(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

(i) perform such other duties as are required by this Order or by this Court from time to time.

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.

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.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

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.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

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.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' 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 $300,000, 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 and 40 hereof.

DIP FINANCING

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Triaxcess Ltd. (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and

capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of $1,500,000 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 agreement between the Applicants and the DIP Lender dated as of June 20, 2023 (the "**DIP Term Sheet**"), filed.

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

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 5 days' notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of Applicants to the DIP Lender under the DIP

Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; 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 Applicants 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 Applicants under the CCAA, or any proposal filed by the Applicants 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

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

With respect to the Applicants, Swarmio Inc. and Swarmio Media Inc.:

First – Administration Charge (to the maximum amount of $300,000)

Second – DIP Lender's Charge (to the maximum amount of $1,500,000); and

Third – Directors' Charge (to the maximum amount of $100,000).

Solely with respect to the Applicant, Swarmio Media Holdings Inc.:

First – Administration Charge (to the maximum amount of $300,000)

Second – 218 Security (as defined in the First Karthigesu Affidavit);

Third – DIP Lender's Charge (to the maximum amount of $1,500,000); and

Fourth – Directors' Charge (to the maximum amount of $100,000).

39. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, 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.

40. **THIS COURT ORDERS** that each of the Directors' Charge, 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; *provided that*, solely with respect Swarmio Media Holdings Inc., the DIP Lender's Charge and the Directors' Charge shall rank subordinate to 218 Security (as defined in the First Karthigesu Affidavit), but, for greater certainty, the DIP Lender's Charge and the Directors' Charge shall rank in priority to all other Encumbrances.

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

42. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the DIP Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the 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 Applicants, 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 DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are 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 Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, the DIP Term Sheet 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.

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 Applicants' interest in such real property leases.

RELIEF FROM REPORTING OBLIGATIONS

44. **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act* (Ontario), RSO 1990, c S.5 and comparable statutes enacted by other provinces of Canada, and the rules, regulations and policies of the Canadian Securities Exchange (collectively, the "**Securities Legislation**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in

section 11.1(2) of the CCAA as a consequence of the Applicants failing to make any Securities Filings required by the Securities Provisions.

45. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Provisions during the Stay Period, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "**Regulators**") in the matter of regulating the conduct of market participants and to issue cease trade orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & 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 Applicants 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.

47. **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 '<www.grantthornton.ca/swarmio>'.

48. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission 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.

49. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding copies thereof by electronic message to the Applicants' 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

50. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or apply for advice and directions in the discharge of their powers and duties hereunder.

51. **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 Applicants, the Business or the Property.

52. **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 to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

53. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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.

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

55. **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.

56. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

J

IN ... *ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

Court File No.: CV-23-00701377-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at TORONTO

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

This is Exhibit "C" referred to in the affidavit

of VIJAI KARTHIGESU, SWORN BEFORE ME
this 15th day of August, 2023

DocuSigned by:
Monica
A927328446B742A...

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	FRIDAY, THE 30TH
	)	
JUSTICE KOEHNEN	)	DAY OF JUNE, 2023

B E T W E E N:

(Court Seal)

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,
Applicants

SALE AND INVESTMENT SOLICITATION PROCESS ORDER

THIS MOTION, made by Swarmio Media Holdings Inc., Swarmio Inc., and Swarmio Media Inc. (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order (i) approving the sale and investment solicitation process (the "**SISP**") attached hereto as **Schedule** "**A**"; and (ii) authorizing and directing the Monitor to conduct the SISP was heard this day by Zoom video conference.

ON READING the affidavit of Vijai Karthigesu sworn June 20, 2023 and the Exhibits thereto, the affidavit of Vijai Karthigesu sworn June 26, 2023, the Amended and Restated Initial Order of Justice Koehnen dated June 30, 2023 (the "**Initial Order**"), the First Report of the Grant

Thornton Limited ("**GT**") in its capacity as the Monitor (the "**Monitor**"), and the Affidavit of Service, filed,

DEFINED TERMS

1. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them under the SISP.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

APPROVAL OF SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS** that the SISP is hereby approved.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to take such steps as it deems necessary or advisable to carry out and perform its obligations under the SISP.

5. **THIS COURT ORDERS** that the Monitor and its respective affiliates, partners, employees, representatives and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor in performing its obligations under the SISP as determined by this Court.

6. **THIS COURT ORDERS** that the Monitor and the Applicants and their respective counsel be and are hereby authorized but not obligated, to serve or distribute this SISP Order, any other materials, orders, communication, correspondence or other information as may be necessary or desirable in connection with the SISP to any Person (as defined in the Initial Order, as amended or restated from time to time) or interested party that the Monitor or the Applicants consider appropriate. For greater certainty, any such distribution, communication or correspondence shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor and the Applicants are hereby authorized and permitted to disclose and transfer to each potential bidder (the "**Bidders**") and to their advisors, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Applicants' records pertaining to its past and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale of the Property ("**Sale**") or investment in the Business ("**Investment**"). Each Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale or Investment, and if it does not complete a Sale or Investment, shall return all such information to the Monitor and the Applicants, or in the alternative destroy all such information. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s), shall be entitled to use the

personal information provided to it that is related to the Property of Business acquired pursuant to the Sale or invested in pursuant to the Investment in a manner which is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Monitor and the Applicants, or ensure that all other personal information is destroyed.

8. **THIS COURT ORDERS** that the Monitor is hereby authorized to disclose any information or documentation contained in the Applicants' records (including, without limitation, confidential information or documentation) regarding the Applicants' assets, undertakings and properties, including the Applicant's business and operations (collectively, the "**Property and Business Information**") to Potential Bidders who have signed an NDA, provided that the Monitor will only disclose Property and Business Information that the Monitor determines is reasonably necessary to permit a Qualified Bidder to conduct due diligence regarding a potential Transaction or that is otherwise necessary to implement the SISP or a potential Transaction.

9. **THIS COURT ORDERS** that each Recipient to whom Property and Business Information is disclosed under the SISP will maintain and protect the confidentiality of such Property and Business Information and limit the use of such Property and Business Information to its evaluation of the Opportunity in accordance with the terms of the SISP and the applicable NDA and, if the Opportunity is no longer being considered by the Recipient, if the Recipient does not complete a Transaction under the SISP or otherwise at the request of the Monitor, such Recipient will return all such Property and Business Information to the Monitor or alternatively destroy such Property and Business Information and provide confirmation of its destruction of so requested by the Monitor. The Successful Bidder(s) will maintain and protect the confidentiality of the Property

and Business Information and, upon the closing of any Transaction(s), will be entitled to use the Property and Business Information provided to them that is related to the Property or the Business subject to the Transaction(s) in a matter that is in all material respects identical to the prior use of such Property and Business Information by the Applicants and the Monitor, and will return all other Property and Business Information to the Monitor or alternatively destroy such Property and Business Information and provide confirmation of its destruction if so requested by the Monitor.

GENERAL

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

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that each of the Applicants 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.

13. **THIS COUNT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

Schedule "A"

Sale and Investment Solicitation Process
Swarmio Media Holdings Inc., Swarmio Inc., Swarmio Media Holdings

Introduction

1. On June 21, 2023, Swarmio Media Holdings Inc. and its subsidiaries, Swarmio Inc. and Swarmio Media Inc. (collectively, the "**Applicants**") were granted an initial order (as amended or amended and restated from time to time, the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") by the Ontario Superior Court of Justice (Commercial List) (the "**Court**").

2. On June 30, 2023, the Court issued an order (the "**SISP Approval Order**") approving, and authorizing the Applicants to commence a sale and investment solicitation process ("**SISP**") in accordance with the terms of these bidding procedures.

3. According to the SISP Approval Order, Grant Thornton Limited, in its capacity as the Court-appointed Monitor of the Applicants (in such capacity, the "**Monitor**") will conduct the SISP with the assistance of the Applicants. The SISP is intended to solicit interest in a sale of the assets and/or business of the Applicants by way of a share purchase, asset purchase, merger, reorganization, recapitalization, or other similar transaction. The Applicants intend to provide all qualified interested parties with an opportunity to participate in the SISP.

Opportunity

4. The SISP is intended to solicit interest in, and opportunities for, a sale of, or investment in, all or part of the Applicants' assets and business operations (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Applicants as a going concern or a sale of all, substantially all or one or more components of the Applicants' assets (the "**Property**") and business operations (the "**Business**") as a going concern or otherwise. The SISP will solicit bids for the Property and Business, with the highest and/or best bid being the "**Successful Bid**", as determined in accordance with the terms and conditions contained herein.

5. Except to the extent otherwise set forth in a definitive sale or investment agreement with the party submitting the Successful Bid (the "**Successful Bidder**"), any sale of the Property or investment in the Business will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Applicants, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.

Timeline

6. The following table sets out the key milestones under the SISP:

Milestone	Deadline
Deadline to Publish Notice of SISP and deliver Teaser Letter and NDA to Known Potential Bidders	As soon as practicable following the issuance of the SISP Order
Phase 1 Due Diligence Period	July 3 to July 24
Phase 1 Bid Deadline	July 25, 2023
Phase 2 Due Diligence Period	July 26, 2023 to August 13, 2023
Phase 2 Bid Deadline	August 14, 2023
Auction Date	August 18, 2023
Sale Approval Motion	No later than August 28, 2023, subject to the availability of the Court
Closing	September 7, 2023

7. Subject to any order of the Court, the dates set out in the SISP may be extended by the Monitor with the consent and approval of the Applicants.

Solicitation of Interest: Notice of the SISP

8. As soon as reasonably practicable, but in any event by no later than July 3, 2023:

(a) the Monitor, in consultation with the Applicants, will prepare a list of potential bidders, including: (i) parties that have previously expressed an interest in the Opportunity; (ii) parties that have approached the Applicants or the Monitor indicating an interest in the Opportunity; and (iii) local and international strategic and financial parties who the Applicants, in consultation with the Monitor, believe may be interested in purchasing all or part of the Business and Property or investing in the Applicants pursuant to the SISP, in each case whether or not such party has submitted a letter of intent or similar document (collectively, "**Known Potential Bidders**");

(b) the Monitor will arrange for a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Applicants, considers appropriate) (the "**Notice**") to be published in The Globe and Mail (National Edition), and any other newspaper or journal as the Applicants, in consultation with the Monitor, consider appropriate, if any; and

(c) the Monitor, in consultation with the Applicants, will prepare: (i) a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement ("**NDA**") in form and substance satisfactory to the Applicants and the Monitor, and their respective counsel.

9. The Monitor will send the Teaser Letter and NDA to each Known Potential Bidder by no later than July 7, 2023 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Applicants or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Potential Bidders and Due Diligence Materials

10. Any party who wishes to participate in the SISP (a "**Potential Bidder**") must provide to the Applicants and the Monitor an NDA executed by it, and which shall inure to the benefit of any purchaser of the Business or Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.

11. The Monitor, in consultation with the Applicants, shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Potential Bidder who has signed and delivered an NDA to the Monitor and provided information as to their financial wherewithal to close a transaction such access to due diligence material and information relating to the Property and Business as the Applicants or the Monitor deem appropriate. Due diligence shall include access to a confidential electronic data room (the "**Data Room**") containing information about the Applicants and the Business. The Data Room shall be made available as soon as practicable and may include standard financial information, management presentations and material contracts, together with other materials which a Potential Bidder may reasonably request and as to which the Applicants, in their reasonable business judgment and after consulting with the Monitor, may agree. Following the completion of Phase 1 of the SISP, additional information may be added to the Data Room to enable Phase 1 Qualified Bidders (as defined herein) to complete any confirmatory due diligence required in connection with submitting a Phase 2 Bid (as defined herein). The Monitor, in consultation with the Applicants, may establish or cause the Applicants to establish separate Data Rooms if the Applicants reasonably determine that doing so would further the Applicants' and any Potential Bidders' compliance with applicable laws, or would prevent significant harm to the Business, including the distribution of commercially sensitive competitive information to competitors. The Monitor may also, in consultation with the Applicants, limit the access of any Potential Bidder to any confidential information in the Data Room where the Monitor, in consultation with the Applicants, reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or its value. Without limiting the generality of the foregoing, the Monitor and the Applicants intend to limit access to especially sensitive proprietary information, including source code, by providing supervised access to physical documents in Phase 2 of the SISP.

12. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders and the manner in which such requests must be communicated. Neither the Applicants nor the Monitor will be obligated to furnish any information relating to the Property or Business to any person other than to Potential Bidders. Furthermore, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders if the Applicants, in consultation with and with the approval of the Monitor, determine such information to represent proprietary or sensitive competitive information.

Neither the Applicants nor the Monitor is responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property or the Business.

13. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with the Applicants.

Phase 1: Conditional Offers

14. Potential Bidders that wish to make a formal offer to purchase or make an investment in the Applicants or their Property or Business (each a "**Phase 1 Bidder**") shall submit a binding offer (a "**Phase 1 Bid**") to the Monitor at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than **5:00 PM (Eastern Time) on July 25, 2023** or as may be modified by the Monitor in accordance with this SISP (the "**Phase 1 Bid Deadline**").

15. A Phase 1 Bid shall be deemed to be a "**Phase 1 Qualified Bid**" if it satisfies the following criteria, as determined by the Monitor in accordance with the terms of this SISP:

(a) the Phase 1 Bid must be either a binding offer to:

(i) acquire all, substantially all or a portion of the Property (a "**Sale Proposal**"); and/or

(ii) make an investment in, restructure, reorganize or refinance the Business or the Applicants (an "**Investment Proposal**");

(b) the Phase 1 Bid shall be: (a) in the case of a Sale Proposal, in the form of the template agreement of purchase and sale provided in the Data Room, along with a marked version showing edits to the original form of the template provided; or (b) in the case of an Investment Proposal, a plan or restructuring support agreement in form and substance satisfactory to the Monitor, in consultation with the Applicants;

(c) the Phase 1 Bid shall be binding, but may be conditional upon further due diligence to be conducted during Phase 2 of the SISP and, for certainty, the Phase 1 Bid may be amended following the completion of such diligence;

(d) the Phase 1 Bid (either individually or in combination with other bids that make up one bid) shall be an offer to purchase or make an investment in some or all of the Applicants or their Property or Business and shall be consistent with any necessary terms and conditions established by the Applicants and the Monitor and communicated to Potential Bidders;

(e) the Phase 1 Bid shall include duly authorized and executed transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto;

(f) the Phase 1 Bid shall fully disclose the identity of each entity that will be entering into the transaction or the financing, or that is otherwise participating or benefiting from such Phase 1 Bid;

(g) the Phase 1 Bid shall be accompanied by a deposit equal to at least 15% of the Purchase Price offered by the Phase 1 Bidder, in the case of a Sale Proposal, or at least 15% of the total new investment contemplated in the bid, in the case of an Investment Proposal (the "**Deposit**"), along with acknowledgements that: (i) the Deposit will be retained by the Monitor and deposited in a non-interest bearing trust account; (ii) the Deposit is non-refundable, subject to approval of the Successful Bid by the Court, and if the Phase 1 Bidder is not selected as the Successful Bidder, the Deposit will be refunded as soon as practicable following the closing of the transaction contemplated by the Successful Bid; (iii) if the Phase 1 Bidder is selected as the Successful Bidder, the Deposit will be applied to the Purchase Price at the closing of the transaction contemplated by the Successful Bid;

(h) for a Sale Proposal, the Phase 1 Bid shall include:

(i) the Purchase Price in Canadian dollars and a description of any non-cash consideration, including details of any liabilities to be assumed by the Phase 1 Bidder and key assumptions supporting the valuation;

(ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;

(iii) a specific indication of the financial capability of the Phase 1 Bidder and the expected structure and financing of the transaction, including a whether the Phase 1 Bidder anticipates using a "reverse vesting" structure;

(iv) a description of the conditions and approvals required to complete the closing of the transaction, including any remaining diligence to be completed;

(v) a description of those liabilities and obligations (including operating liabilities) which the Phase 1 Bidder intends to assume and which such liabilities and obligations it does not intend to assume; and

(vi) any other terms or conditions of the Sale Proposal that the Phase 1 Bidder believes are material to the transaction;

(i) for an Investment Proposal, the Phase 1 Bid shall include:

(i) a description of how the Phase 1 Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization, and a description of any non-cash consideration;

(ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Applicants in Canadian dollars;

(iii) the underlying assumptions regarding the pro forma capital structure;

(iv) a specific indication of the sources of capital for the Phase 1 Bidder and the structure and financing of the transaction;

(v) a description of the conditions and approvals required to complete the closing of the transaction, including any remaining diligence to be completed;

(vi) a description of those liabilities and obligations (including operating liabilities) which the Phase 1 Bidder intends to assume and which such liabilities and obligations it does not intend to assume; and

(vii) any other terms or conditions of the Investment Proposal;

(j) the Phase 1 Bid shall be received by no later than the Phase 1 Bid Deadline.

16. Following the Phase 1 Bid Deadline, the Applicants and the Monitor will assess the Phase 1 Bids received and seek clarification with respect to any of the terms or conditions of such Phase 1 Bids and/or request and negotiate one or more amendments to such Phase 1 Bids prior to determining whether a Phase 1 Bid constitutes a Phase 1 Qualified Bid. The Monitor, in consultation with the Applicants and with the approval of the Applicants, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Phase 1 Bids to be a Phase 1 Qualified Bid.

17. Following such process, the Monitor, in consultation with the Applicants, and with the approval of the Applicants, shall confirm which Phase 1 Bids constitute Phase 1 Qualified Bids. No Phase 1 Bid received shall be deemed not to be a Phase 1 Qualified Bid without the approval of the Monitor. Only Phase 1 Bidders whose Phase 1 Bids have been designated as Phase 1 Qualified Bids ("**Phase 1 Qualified Bidders**") are eligible to participate in Phase 2 of the SISP. The Monitor shall notify each Phase 1 Bidder in writing as to whether its Phase 1 Bid constitutes a Phase 1 Qualified Bid within two (2) business days of the Phase 1 Bid Deadline, or at such later time as the Monitor deems appropriate.

18. The Monitor may, in consultation with the Applicants and with the approval of the Applicants, aggregate separate Phase 1 Bids from unaffiliated Phase 1 Bidders to create one Phase 1 Qualified Bid.

19. If the Monitor, in consultation with the Applicants, are not satisfied with the number or terms of the Phase 1 Qualified Bids, or if no Phase 1 Qualified Bids are received, the Monitor may, in consultation with the Applicants and with the approval of the Applicants, extend the Phase 1 Bid Deadline, or the Monitor may seek Court approval of an amendment to the SISP.

20. If the Monitor, in consultation with the Applicants, determines that only one Phase 1 Bid constitutes a Phase 1 Qualified Bid, the Monitor may dispense with Phase 2 of the SISP, designate the party that submitted the Phase 1 Qualified Bid as the Successful Bidder in the SISP, and work exclusively with such Successful Bidder to complete any required diligence, satisfy any conditions, and obtain Court approval of the Successful Bid.

Phase 2: Formal Offers and Removal of Conditions

21. Any Phase 1 Qualified Bidder that wishes to participate in Phase 2 of the SISP (each a "**Phase 2 Bidder**") must submit a binding offer with respect to its Sale Proposal or Investment Proposal (a "**Phase 2 Bid**") to the Monitor at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than **5:00 PM (Eastern Time) on August 14, 2023** or as may be modified by the Monitor in accordance with this SISP (the "**Phase 2 Bid Deadline**").

22. A Phase 2 Bid shall be deemed to be a "**Phase 2 Qualified Bid**" if it satisfies all of the criteria of a Phase 1 Qualified Bid, together with the following additional criteria, as determined by the Monitor in accordance with the terms of this SISP:

(a) the Phase 2 Bid shall be a binding Sale Proposal or Investment Proposal, accompanied by a letter confirming that the Phase 2 Bid: (i) may be accepted by the Applicants by countersigning the Phase 2 Bid; and (ii) is irrevocable and capable of acceptance until the earlier of: (A) two business days after the date of closing of the Successful Bid; and (B) the September 15, 2023;

(b) the Phase 2 Bid shall be not subject to any financing condition;

(c) the Phase 2 Bid shall be unconditional, other than a condition requiring the issuance of an order of the Court approving the Phase 2 Bid in form and substance satisfactory to the Phase 2 Bidder (the "**Approval Order**");

(d) the Phase 2 Bid shall contain or identify the key terms and provisions to be included in any Approval Order, including whether such order will be a "reverse vesting order";

(e) the Phase 2 Bid shall not provide for any break or termination fee, expense reimbursement or similar type of payment, it being understood and agreed that no bidder will be entitled to any bid protections;

(f) for a Sale Proposal, the Phase 2 Bid shall include:

(i) the Purchase Price in Canadian dollars and a description of any non-cash consideration, including details of any liabilities to be assumed by the Phase 2 Bidder and key assumptions supporting the valuation, and including any contemplated Purchase Price adjustments;

(ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;

(iii) a specific indication of the financial capability of the Phase 2 Bidder and the expected structure and financing of the transaction;

(iv) confirmation that there are no conditions or approvals required to complete the closing of the transaction, except the issuance of the Approval Order;

(v) a description of those liabilities and obligations (including operating liabilities) which the Phase 2 Bidder intends to assume and which such liabilities and obligations it does not intend to assume; and

(vi) any other terms or conditions of the Sale Proposal that the Phase 2 Bidder believes are material to the transaction;

(g) for an Investment Proposal, the Phase 2 Bid shall include:

(i) a description of how the Phase 2 Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization, and a description of any non-cash consideration;

(ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Applicants in Canadian dollars;

(iii) the underlying assumptions regarding the pro forma capital structure;

(iv) a specific indication of the sources of capital for the Phase 2 Bidder and the structure and financing of the transaction;

(v) a description of the conditions and approvals required to complete the closing of the transaction, including any remaining diligence to be completed;

(vi) a description of those liabilities and obligations (including operating liabilities) which the Phase 2 Bidder intends to assume and which such liabilities and obligations it does not intend to assume; and

(vii) any other terms or conditions of the Investment Proposal;

(h) the Phase 2 Bid includes acknowledgments and representations of the Phase 2 Bidder that the Phase 2 Bidder:

(i) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its offer;

(ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and

(iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, the Property, or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicants;

(i) the Phase 2 Bid shall contemplate and reasonably demonstrate a capacity to consummate a closing of the transaction set out therein on or before September 7, 2023, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing and in any event no later than September 15, 2023; and

(j) the Phase 2 Bid shall have been received by the Phase 2 Bid Deadline.

Evaluation of Competing Bids; Selection of Successful Bid

23. Following the Phase 2 Bid Deadline, the Applicants and the Monitor will assess the Phase 2 Bids received and seek clarification with respect to any of the terms or conditions of such Phase 2 Bids and/or request and negotiate one or more amendments to such Phase 2 Bids prior to determining whether a Phase 2 Bid should be considered a Phase 2 Qualified Bid. The Monitor, in consultation with the Applicants and with the approval of the Applicants, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Phase 2 Bid to be a Phase 2 Qualified Bid.

24. The Applicants and the Monitor will: (a) review and evaluate each Phase 2 Qualified Bid; (b) identify and designate the highest or otherwise best as the Successful Bid; and (c) identify the next highest or otherwise second best bid (the "**Back-Up Bid**", and the Phase 2 Bidder making such Back-Up Bid, the "**Back-Up Bidder**"), in each case pursuant to the paragraphs below. Any

Successful Bid and Back-Up Bid will be subject to approval by the Court. Phase 2 Qualified Bids will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the bidder to successfully complete such transactions, (iii) the proposed transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Applicants and the Monitor.

25. In the event that only one Phase 2 Qualified Bid is received, such Phase 2 Qualified Bid shall constitute the Successful Bid and the Applicants will promptly seek Court approval of such Successful Bid. In the event there is more than one Phase 2 Qualified Bid received, the Monitor, in consultation with the Applicants, may determine the Successful Bid or may determine that the Successful Bid will be identified through an Auction in accordance with the terms of this SISP (the "**Auction**"). Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

26. Only parties that provided a Phase 2 Qualified Bid by the Phase 2 Bid Deadline, as confirmed by the Monitor (collectively, the "**Qualified Parties**"), shall be eligible to participate in the Auction. No later than 5:00 p.m. Toronto Time on the day prior to the Auction, each Qualified Party must inform the Monitor whether it intends to participate in the Auction. The Monitor will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction.

Auction Procedure

27. The Auction shall be governed by the following procedures:

(a) **Participation at the Auction.** Only the Applicants, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction. The Monitor shall provide all Qualified Bidders with the details of the lead bid by 5:00 PM (Eastern Time) two (2) business days after the Bid Deadline;

(b) **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid;

(c) **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Monitor, in consultation with the Applicants (the "**Initial Bid**"), and any bid made at the Auction by a Qualified Party subsequent to the Monitor's announcement of the Initial Bid (each, an "**Overbid**"), must proceed in minimum additional cash increments of $100,000;

(d) **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Monitor, in its discretion, may establish separate video conference rooms to permit interim discussions between the Monitor, the Applicants, and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;

(e) **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s);

(f) **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded; and

(g) **Auction Procedures.** The Monitor shall be at liberty to set additional procedural rules as the Auction as it sees fit.

Selection of Successful Bid

28. Before the conclusion of the Auction, the Monitor, in consultation with the Applicants, will:

(a) review each bid, considering, among others things:

(i) the amount of consideration being offered, and, if applicable, the proposed form, composition and allocation of same;

(ii) the value of any assumption of liabilities or waiver of liabilities;

(iii) the likelihood of the Qualified Party's ability to close a transaction expeditiously, after completion of the Auction and timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments and required governmental or other approvals); the likelihood of the Court's approval of the Successful Bid; the net benefit to the Applicants; and

(iv) any other factors the Applicants may, consistent with its fiduciary duties, reasonably deem relevant; and

(b) identify the highest or otherwise best bid received at the Auction as the Successful Bid.

29. The Successful Bidder shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the Monitor, in consultation with and approval from the Applicants, subject to the milestones set forth herein.

Sale Approval Motion Hearing

30. At the hearing of the motion to approve any transaction with a Successful Bidder (the "**Sale Approval Motion**"), the Monitor or the Applicants shall seek, among other things, approval from the Court to consummate any Successful Bid. All the Qualified Bids other than the Successful Bid,

if any, shall be deemed to be rejected by the Monitor and the Applicants on and as of the date of approval of the Successful Bid by the Court.

Confidentiality and Access to Information

31. All discussions regarding a Sale Proposal, Investment Proposal, or Bid should be directed through the Monitor. Under no circumstances should the management of the Applicants be contacted directly without the prior consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP.

32. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of bidders, the details of any bids submitted or the details of any confidential discussions or correspondence between the Applicants, the Monitor and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Applicants, with the approval of the Monitor and consent of the applicable participants, are seeking to combine separate bids from Potential Bidders.

Supervision of the SISP

33. The Monitor shall oversee and conduct the SISP, in all respects, and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out in this SISP, the SISP Order, the Initial Order and any other orders of the Court. The Monitor is entitled to receive all information in relation to the SISP.

34. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the Applicants or the Monitor and any Potential Bidder, any bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Applicants.

35. Without limiting the preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, bidder, the Successful Bidder, the Applicants or any other creditor or other stakeholder of the Applicants, for any act or omission related to the process contemplated by this SISP, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Monitor. By submitting a bid, each Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Monitor.

36. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, the Auction and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

37. The Monitor shall have the right to modify the SISP with the prior written approval of the Applicants if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the Service List in these CCAA Proceedings shall be advised of any substantive modification to the procedures set forth herein.

Schedule "1"

Address of Monitor

To the Monitor:

Grant Thornton Limited
11th Floor, 200 King Street West
Toronto, ON M5H 3T4

Attention: Dan Wootton and David Collins
Email: dan.wootton@ca.gt.com, david.collins@ca.gt.com

Court File No./N° du dossier du greffe : CV-23-00701377-00CL

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

Applicants

Court File No.: CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

SISP ORDER

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Lawyers for the Applicants

This is Exhibit "D" referred to in the affidavit

of VIJAI KARTHIGESU, SWORN BEFORE ME
this 15th day of August, 2023

DocuSigned by:
Monica
A927328446B742A...

A COMMISSIONER FOR TAKING AFFIDAVITS

SHARE PURCHASE AGREEMENT

This Agreement is made as of the 4th day of August, 2023 (the "**Effective Date**") **AMONG:**

SWARMIO INC., a corporation incorporated pursuant to the laws of Canada (the "**Company**")

– and –

TRIAXCESS LIMITED, a corporation incorporated pursuant to the laws of England and Wales under company number 11565195 (the "**Purchaser**")

WHEREAS:

A. Pursuant to the Order of the Honourable Madam Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued June 21, 2023 (as amended on June 30, 2023, and as may be further amended or amended and restated from time to time, the "**Initial Order**"), Swarmio Media Holdings Inc. ("**Swarmio Parent**"), the Company and Swarmio Media Inc. ("**Swarmio Media**" and together with Swarmio Parent and the Company, collectively, the "**Swarmio Group**") were granted, among other things, creditor protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the "**CCAA)**, and Grant Thornton Limited was appointed as the Monitor of the Swarmio Group (in such capacity, the "**Monitor**").

B. In connection with the proceedings initiated by the Initial Order (the "**CCAA Proceedings**"), on June 30, 2023, the Swarmio Group sought and obtained an order of the Court (the "**SISP Order**") approving, among other things, the SISP (as defined herein).

C. In accordance with the terms of the SISP, the Purchaser has submitted an offer to purchase the New Common Shares and the Retained Assets (each as defined herein). The Purchaser's offer has been accepted subject to, and in accordance with, the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto (collectively, the "**Parties**", and each, a "**Party**") hereby acknowledge and agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

"**Affiliate**" has the meaning given to the term "affiliate" in the *Business Corporations Act* (British Columbia).

"**Agreement**" means this share purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Monitor, and "**Article**" and "**Section**" mean and refer to the specified article, section and subsection of this Agreement.

"**Applicable Law**" means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

"**Approval and Vesting Order**" means an order by the Court, in form and substance satisfactory to the Purchaser, acting reasonably, among other things, approving and authorizing this Agreement and the Transaction.

"**Assumed Contracts**" means the Contracts listed in Schedule "**F**", as the same may be modified by the Purchaser prior to the Phase 2 Bid Deadline in accordance with the terms hereof (and including as such Assumed Contracts may be amended, restated, supplemented or otherwise modified from time to time).

"**Assumed Liabilities**" means: (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in Schedule "**E**", as the same may be modified by the Purchaser prior to the Phase 2 Bid Deadline in accordance with the terms hereof; and (b) all Liabilities which relate to the Business under any Assumed Contracts; in each case, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

"**Authorization**" means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person's property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

"**Books and Records**" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including Tax and accounting books and records used or intended for use by, or in the possession of the Company, or any other member of the Swarmio Group or any of their respective Affiliates including information, documents and records relating to the Assumed Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, cost and pricing information, production reports and records, equipment logs, operating guides and manuals, credit records, records relating to present and former suppliers and contractors, plans and projections and all other records, data and information stored electronically, digitally or on computer-related media.

"**Business**" means the business conducted by the Company, being an early stage technology and media company.

"**Business Day**" means a day on which banks are open for business in Toronto, Ontario, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

"**Cash Purchase Price**" has the meaning set out in Section 3.3(b).

"**CCAA**" has the meaning set out in the recitals hereto.

"**CCAA Proceedings**" has the meaning set out in the recitals hereto.

"**Claims**" means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person.

"**Closing**" means the closing and consummation of the Transaction.

"**Closing Date**" means the date that is ten (10) Business Days, or such shorter period as the Purchaser may determine by notice in writing to the Company, after the date upon which the conditions set forth in Article 8 have been satisfied or waived, other than any conditions set forth in Article 8 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Company and the Purchaser in writing).

"**Closing DIP Loan**" has the meaning set out in Section 3.5.

"**Closing Time**" means 12:01 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

"**Consolidation and Cancellation**" means the consolidation of all New Common Shares and Existing Shares in accordance with the Consolidation Ratio, and the cancellation of all fractional New Common Shares and Existing Shares in accordance with Article 2.

"**Consolidation Ratio**" means the ratio by which all New Common Shares and Existing Shares shall be consolidated, as determined by the Purchaser, acting reasonably and in consultation with the Company and the Monitor, given the intended effect of the Transaction.

"**Contracts**" means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which the Company or Swarmio Media, is a party or by which such entity is bound or in which such entity has, or will at Closing have, any rights or by which any of its property or assets are or may be affected, including any Contracts in respect of Employees.

"**Company**" means Swarmio Inc.

"**Court**" has the meaning set out in the recitals hereto.

"**Discharge**" means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, the full, final, irrevocable, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

"**DIP Lender**" means, for the purposes of the DIP Term Sheet, Triaxcess Limited.

"**DIP Loan**" means the loan granted to the Company by the DIP Lender pursuant to the DIP Term Sheet.

"**DIP Term Sheet**" mean, the executed term sheet between the Company and the DIP Lender dated June 20, 2023.

"**Effective Date**" has the meaning set out in the preamble hereto.

"**Employee**" means any individual who is employed by the Company or Swarmio Media as of the Closing Date, whether on a full-time or a part-time basis and includes an employee on short term or long term disability leave, but, for certainty, excludes any employee whose employment will be terminated pursuant to Section 8.2(g).

"**Encumbrance**" means any security interest, lien, Claim, charge, right of retention, deemed trust, judgement, writ of seizure, write of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party (including any contractual rights such as purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

"**Equity Interests**" has the meaning set out in section 2(1) of the CCAA and includes the Existing Shares, any shareholder agreement in respect of the Existing Shares, and any other interest or entitlement to shares in the capital of the Company, but, for greater certainty, does not include the Post-Consolidation Shares.

"***Excise Tax Act***" means the *Excise Tax Act*, R.S.C, 1985, c. E-15.

"**Excluded Assets**" means the properties, rights, assets and undertakings of the Company and Swarmio Media listed as "Excluded Assets" on Schedule "**A**", as the same may be modified by the Purchaser prior to the Phase 2 Bid Deadline in accordance with the terms hereof.

"**Excluded Contracts**" means those contracts and other agreements of the Company and Swarmio Media that are not Assumed Contracts and for greater certainty, includes those contracts and agreements which are listed on Schedule "**B**", as the same may be modified by the Purchaser prior to the Phase 2 Bid Deadline in accordance with the terms hereof.

"**Excluded Liabilities**" has the meaning set out in Section 2.2(a).

"**Existing Shares**" means all of the common shares of the Company that are issued and outstanding immediately prior to the Closing Time, which, for greater certainty, does not include the New Common Shares or the Post-Consolidation Shares.

"**Governmental Authority**" means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

"**GST/HST**" means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act*.

"***Income Tax Act***" means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

"**Initial Order**" has the meaning set out in the recitals hereto.

"**Interim Period**" means the period from the Effective Date to the Closing Time.

"**Liability**" means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

"**Monitor**" has the meaning set out in the recitals hereto.

"**Monitor's Certificate**" has the meaning set out in Section 8.2(k).

"**New Common Shares**" means the common shares of the Company to be issued to the Purchaser as part of Closing in exchange for the Purchase Price.

"**Organizational Documents**" means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, as amended, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

"**Outside Date**" means 11:59 pm (Toronto time) on September 15, 2023 or such later date and time as the Company and the Purchaser may agree to in writing.

"**Parties**" has the meaning set out in the recitals hereto.

"**Party**" has the meaning set out in the recitals hereto.

"**Permitted Encumbrances**" means those Encumbrances related to the Retained Assets set forth in Schedule "**D**", as the same may be modified by the Purchaser prior to the granting of the Approval and Vesting Order in accordance with the terms hereof.

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

"**Phase 2 Bid Deadline**" means August 14, 2023.

"Post-Consolidation Shares" means the common shares of the Company that will remain after the Consolidation and Cancellation, which shall: (a) represent 100% of the issued and outstanding common shares of the Company after the Consolidation and Cancellation; and (b) be solely owned and controlled by the Purchaser.

"**Pre-Closing Reorganization**" means the transactions, acts or events described in Exhibit "**A**", as the same may be modified by the Purchaser prior to the Closing Time in accordance with the terms hereof and the Approval and Vesting Order, which unless otherwise expressly provided therein are to occur immediately prior to the Closing Time.

"**Purchase Price**" has the meaning set out in Section 3.1.

"**Purchaser**" means Triaxcess Limited.

"**ResidualCo**" means a corporation to be incorporated as a wholly owned subsidiary of Swarmio Media Holdings Inc., to which the Excluded Assets and Excluded Liabilities will be transferred as part of the Pre-Closing Reorganization.

"**Retained Assets**" has the meaning set out in Section 4.1.

"**SISP**" means the sale and investment solicitation process, to be conducted pursuant to the sale and bidding procedures approved by the SISP Order.

"**SISP Order**" has the meaning set out in the recitals hereto.

"**Swarmio Media**" has the meaning set out in the recitals hereto.

"**Swarmio Parent**" has the meaning set out in the recitals hereto.

"**Successful Bid**" has the meaning set out in the SISP.

"**Taxes**" means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers' compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties and any Liability for the payment of any amounts of the type described in this paragraph as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

"**Terminated Employee**" means those Employees whose employment will be terminated prior to Closing pursuant to Section 8.2(g), as determined by the Purchaser by written notice to the Company at least ten (10) Business Days prior to the Closing Date.

"**Transaction**" means all of the transactions contemplated by this Agreement, including the purchase and sale transaction whereby the Purchaser will acquire ownership of the Company.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 General Construction

The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings and the term "third party" means any other Person other than the Company or the Purchaser, or any Affiliates thereof.

1.5 Currency

All references in this Agreement to dollars, monetary amounts, or to $, are expressed in Canadian currency unless otherwise specifically indicated.

1.6 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

1.7 Schedules & Amendments to Schedules

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

EXHIBITS

Exhibit A	-	Pre-Closing Reorganization

SCHEDULES

Schedule A	-	Excluded Assets
Schedule B	-	Excluded Contracts
Schedule C	-	Excluded Liabilities
Schedule D	-	Permitted Encumbrances
Schedule E	-	Assumed Liabilities
Schedule F	-	Assumed Contracts

The Parties acknowledge that as of the Effective Date, the Schedules are not complete. The Schedules may be amended or completed by the Purchaser on or before the Phase 2 Bid Deadline.

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2
PURCHASE OF SHARES AND ASSUMPTION OF LIABILITIES

2.1 Purchase of New Common Shares and Treatment of Existing Shares

Subject to the terms and conditions of this Agreement, effective as of the Closing Time, the Company shall take the following steps:

(a) Share Issuance. The Company shall issue, assign and transfer the New Common Shares to the Purchaser in a number to be determined by the Purchaser, acting reasonably and in consultation with the Company and the Monitor, having regard to the intended effect of the Transaction, free and clear of all Encumbrances (except for Permitted Encumbrances, if any), in exchange for the payment of the Purchase Price.

(b) Share Consolidation. The Company's Articles shall be amended to, among other things: (i) consolidate the New Common Shares and the Existing Shares on the basis of the Consolidation Ratio; and (ii) provide for such additional changes to the rights and conditions attached to the New Common Shares and Existing Shares as may be requested by the Purchaser, in its sole and unfettered discretion.

(c) Share Cancellation. Any fractional New Common Shares and Existing Shares held by any holder of such shares immediately following the consolidation of such shares shall be cancelled without any Liability, payment or other compensation in respect thereof, and the Articles shall be altered as necessary to achieve such cancellation.

(d) Equity Interests Extinguished. Any and all Equity Interests (for greater certainty, not including the Post-Consolidation Shares) that remain issued and outstanding immediately following the Consolidation and Cancellation shall be cancelled and extinguished without any Liability, payment or other compensation in respect thereof and all Equity Interests shall be fully, finally, irrevocably and forever compromised, released, Discharged, cancelled and barred without any Liability, payment or other compensation in respect thereof.

2.2 Excluded Liabilities

(a) Pursuant to the Approval and Vesting Order, save and except for the Assumed Liabilities, all debts, obligations, Liabilities, Encumbrances, indebtedness, Excluded Contracts, leases, agreements, undertakings, Claims, rights and entitlements of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or in equity and whether based in statute or otherwise) of or against the Company or Swarmio Media or against, relating to or affecting any of the Retained Assets, or any Excluded Assets or Excluded Contracts, including, *inter alia*, the non-exhaustive list of Liabilities set forth in Schedule "**C**", (collectively, the "**Excluded Liabilities**") shall be excluded and will no longer be binding on the Company, Swarmio Media, the Retained Assets, Employees, or Books and Records following the Closing Time.

(b) Subject to the Pre-Closing Reorganization and pursuant to the Approval and Vesting Order, the Excluded Liabilities shall be transferred to, vested in and assumed in full by ResidualCo in accordance with and as further described in Article 4 and the Approval and Vesting Order. The Company, Swarmio Media, the Retained Assets, and the Company's and Swarmio Media's undertakings, Business and properties shall be Discharged of such Excluded Liabilities. All Claims attaching to the Excluded Liabilities, if any, shall continue to exist against ResidualCo and the Purchase Price and the Excluded Assets, if any, shall be available to satisfy such Claims.

ARTICLE 3
PURCHASE PRICE

3.1 Purchase Price

The purchase price payable by the Purchaser for the New Common Shares and the Retained Assets shall be the release of the Company from all amounts outstanding and obligations payable to the Purchaser pursuant to the DIP Term Sheet together with any undrawn amounts for a total of $1,500,000, plus all accrued and unpaid interest thereon through to and including the Closing Date, plus any fees and expenses associated therewith, plus the Assumed Liabilities (together, the "**Purchase Price**"). Any amount owing in respect of the Purchase Price shall be paid to the Monitor, for the benefit of ResidualCo, and any Claim against the Company or Swarmio Media shall continue to exist as against ResidualCo after Closing.

3.2 Satisfaction of Purchase Price

The Purchaser shall pay the Purchase Price in accordance with the following:

(a) Balance of Purchase Price. An amount equal to any undrawn portion of the DIP Loan (the "**Cash Purchase Price**") shall be payable by the Purchaser to the Monitor, for the benefit of ResidualCo, at the Closing Time, by wire transfer of immediately available funds; and

(b) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, which the Company shall retain on the Closing Date in accordance with the Pre-Closing Reorganization, shall be satisfied by the Company performing the Assumed Liabilities as and when they become due.

3.3 Monitor to hold Purchase Price

The Cash Purchase Price shall be paid to, and held by, the Monitor for the benefit of ResidualCo, and any Claim against the Company, Swarmio Media or the Retained Assets shall continue to exist solely against ResidualCo from and after Closing.

3.4 Further Funding

In the event that the Company has cash requirements in excess of the amounts available to them under their existing loan facilities, once fully drawn, then, provided that the Company is not then in default under this Agreement, the Purchaser shall advance, by way of a non-revolving debtor-in-possession loan facility (the "**Closing DIP Loan**") such further funding to the Company as is reasonably necessary to close the Transaction in accordance with the cash flow projections approved by the Monitor, and fund such other costs and expenses of the Company as may be agreed to by the Purchaser, in writing, in its sole discretion. The Closing DIP Loan and any security granted in connection therewith shall be on terms satisfactory to the Company, the Monitor and the Purchaser and may be on different terms than the DIP Loan, and shall not impair the priority of the existing debtor-in-possession charge granted in favour of the DIP Lender.

ARTICLE 4
TRANSFER OF EXCLUDED ASSETS AND EXCLUDED LIABILITIES

4.1 Transfer of Excluded Assets to ResidualCo

At Closing, each of the Company and Swarmio Media shall retain all of the assets owned by it on the Effective Date and any assets acquired by it up to and including Closing, all equipment, cash on hand, Assumed Contracts, Books and Records, Business and undertakings (the "**Retained Assets**"), excluding amounts paid in the Interim Period in accordance with the Initial Order and the approval of the Monitor. The Retained Assets shall not include: (i) the Excluded Assets; or (ii) the Excluded Contracts; which shall be transferred to ResidualCo in accordance with the Pre-Closing Reorganization, and same shall be vested in ResidualCo pursuant to the Approval and Vesting Order.

4.2 Transfer of Excluded Liabilities to ResidualCo

In accordance with the Pre-Closing Reorganization and the Approval and Vesting Order, the Excluded Liabilities shall be transferred to, vested in and assumed by ResidualCo. Notwithstanding any other provision of this Agreement, none of the Purchaser, the Company nor Swarmio Media shall assume or have any Liability for any of the Excluded Liabilities and all Excluded Liabilities shall be Discharged from the Company and the Retained Assets as of, from and after the Closing Time.

4.3 Tax Matters

Pursuant to the Approval and Vesting Order, at the Closing Time, all Taxes owed or owing or accrued due by the Company shall be transferred to, vested in and assumed by ResidualCo. Any audits or reassessments with respect to any Taxes that relate to a time period occurring, or facts arising, prior to the Closing Date, regardless upon when such audit was commenced or completed, and any and all such obligations with respect to such audits or reassessments shall be transferred to and vest in ResidualCo.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of the Company

The Company hereby represents and warrants as of the date hereof and as of the Closing Time as follows, and acknowledges that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

(a) Incorporation and Status. The Company is a corporation incorporated and existing under the *Canada Business Corporations Act*, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.

(b) Corporate Authorization. The execution, delivery and, subject to obtaining of the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Company of this Agreement has been authorized by all necessary corporate action on the part of the Company.

(c) No Conflict. The execution, delivery and performance by the Company of this Agreement does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Company.

(d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms, subject only to obtaining the Approval and Vesting Order.

(e) Authorized and Issued Capital and Title to New Common Shares. Immediately following the Closing Time and the Consolidation and Cancellation, the Post-Consolidation Shares will constitute all of the issued and outstanding shares in the capital of the Company and the Purchaser will be the sole registered and beneficial owner of the Post-Consolidation Shares, with good and valid title thereto, free and clear of all Encumbrances, pursuant to and in accordance with the Approval and Vesting Order. Immediately following the Closing Time and the Consolidation and Cancellation, the Post-Consolidation Shares will be: (i) duly authorized and validly issued as fully paid and non-assessable; (ii) issued by the Company in compliance with all applicable corporate and securities Laws; and (iii) there will be no issued and outstanding common shares or other securities of the Company other than the Post-Consolidation Shares, nor will there be any securities convertible into, or options, equity-based awards or other rights, agreements or commitments that are held by any Person and which are convertible into or exchangeable for, common shares or any other securities of the Company.

(f) Proceedings. There are no proceedings pending against the Company or, to the knowledge of the Company, threatened, with respect to, or in any manner affecting, title to the New

Common Shares, the Post-Consolidation Shares or the Retained Assets, or which would reasonably be expected to enjoin, delay, restrict or prohibit the issuance and transfer of all or any part of the New Common Shares, the Post-Consolidation Shares, the Retained Assets or the Closing of the Transaction as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Company from fulfilling any of its obligations set forth in this Agreement.

(g) No Consents or Authorizations. Subject only to obtaining the Approval and Vesting Order, the Company does not require any consent, approval, waiver or other Authorization from any Governmental Authority or any other Person, as a condition to the lawful completion of the Transaction.

(h) Residency. The Company is not a non-resident of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.

(i) No Other Agreements to Purchase. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition from the Company of any New Common Shares, Post-Consolidation Shares or Retained Assets.

5.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Company as of the date hereof and as of the Closing Time, and acknowledges that, the Company is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

(a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the UK Companies Act 2006 and other corporate legislation and regulations (collectively the "UK Corporate Compliance Requirements") is in good standing under the UK Corporate Compliance Requirements and has the power and authority to enter into, deliver and perform its obligations under this Agreement.

(b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.

(c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchaser.

(d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.

(e) Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.

5.3 As is, Where is

The representations and warranties of the Company shall survive the Closing Time on the Closing Date provided, however, that the Purchaser's recourse for any breach or inaccuracy of such representations and warranties shall be against ResidualCo. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the New Common Shares (for clarity, together with the Retained Assets) shall be sold and delivered to the Purchaser on an "*as is, where is*" basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever.

ARTICLE 6
COVENANTS

6.1 Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Outside Date.

6.2 Motion for Approval and Vesting Order

As soon as practicable after the selection of this Agreement as the Successful Bid in the SISP, the Company shall serve and file with the Court a motion for the issuance of the Approval and Vesting Order, seeking relief that will, *inter alia*, approve this Agreement and the Transaction, and release the officers and directors of the Company, its advisors, the Monitor and the Monitor's counsel. The Company shall use its best efforts to seek the issuance and entry of the Approval and Vesting Order and the Purchaser shall cooperate with the Company in its efforts to obtain the issuance and entry of the Approval and Vesting Order.

6.3 Interim Period

During the Interim Period, except as otherwise expressly contemplated or permitted by this Agreement (including the Approval and Vesting Order and the Pre-Closing Reorganization), the Company shall continue to maintain the Business, operations of the Company and Retained Assets in substantially the same manner as conducted on the Effective Date and in material compliance with all Applicable Laws.

6.4 Access During Interim Period

During the Interim Period, the Company shall give, or cause to be given, to the Purchaser, and its representatives, reasonable access during normal business hours to the Retained Assets, including the Books and Records, to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Business and the Retained Assets as the Purchaser reasonably deems necessary or desirable to further familiarize themselves with the Business and the Retained Assets.

6.5 Insurance Matters

Until Closing, the Company shall keep in full force and effect all existing insurance policies and give any notice or present any Claim under any such insurance policies consistent with past practice in the ordinary course of business.

ARTICLE 7
CLOSING ARRANGEMENTS

7.1 Closing

Closing shall take place on the Closing Date effective as of the Closing Time electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

7.2 Pre-Closing Reorganization

(a) Subject to the other terms of this Agreement, the Company shall effect the Pre-Closing Reorganization on the terms and using the steps set out at Exhibit "**A**";

(b) The Purchaser and the Company shall work cooperatively and use commercially reasonable efforts to prepare, before the Closing Date, all documentation necessary and do such other acts and things as are necessary to give effect to the Pre-Closing Reorganization.

7.3 Company's Closing Deliveries

At or before the Closing Time, the Company shall deliver or cause to be delivered to the Purchaser the following:

(a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;

(b) share certificates representing the Post-Consolidation Shares;

(c) a certificate of an officer of the Company dated as of the Closing Date confirming that all of the representations and warranties of the Company contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Company has performed in all material respects the covenants to be performed by it prior to the Closing Time;

(d) the Organizational Documents of the Company and Swarmio Media and the corporate Books and Records; and

(e) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

7.4 Purchaser's Closing Deliveries

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Company (or to the Monitor, as applicable), the following:

(a) the Cash Purchase Price;

(b) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and

(c) such other agreements, documents and instruments as may be reasonably required by the Company to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

ARTICLE 8
CONDITIONS OF CLOSING

8.1 Conditions Precedent in favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

(a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.

(b) No Order. No Applicable Law and no judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction; and

(c) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in Section 8.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

8.2 Conditions Precedent in favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

(a) Successful Bid. This Agreement shall have been designated as the Successful Bid in accordance with the terms of the SISP.

(b) Pre-Closing Reorganization. The Pre-Closing Reorganization shall have been completed in the order and in the timeframes contemplated hereunder.

(c) Diligence. The Purchaser shall have completed its due diligence investigation of the Company and the Business and shall be satisfied with the results of such due diligence; provided, however, that such diligence must be completed on or before the Phase 2 Bid Deadline.

(d) Company's Deliverables. The Company shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.3.

(e) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in

Section 5.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.

(f) No Breach of Covenants. The Company shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Company on or before the Closing Date.

(g) Employees. The Company and Swarmio Media shall have terminated the employment of any employees identified by the Purchaser in its sole discretion to be Terminated Employees and all Liabilities owing to any such Terminated Employees in respect of such terminations, including all amounts owing on account of statutory notice, termination payments, individual or group notice of termination (as applicable), severance, wages, overtime pay, vacation pay, benefits, bonuses or other compensation or entitlements, including any amounts deemed owing pursuant to statute or common law, shall be Excluded Liabilities or shall be Discharged pursuant to the Approval and Vesting Order.

(h) ResidualCo. Pursuant to the Approval and Vesting Order: (i) all Excluded Assets and Excluded Liabilities shall have been transferred to ResidualCo or Discharged; (ii) the Excluded Liabilities shall have attached to the Excluded Assets and the proceeds from the Purchase Price; and (iii) the Company and Swarmio Media and their Business and property (including the Retained Assets) shall have been released and forever Discharged of all Claims and Encumbrances (other than Assumed Liabilities, if any) such that, from and after Closing the Business and property of the Company and Swarmio Media shall exclude the Excluded Assets and shall not be subject to any Excluded Liabilities.

(i) Partial Termination of CCAA Proceeding. Upon Closing, the CCAA Proceeding shall have been terminated in respect of the Company and Swarmio Media and their Business and property, as set out in the Approval and Vesting Order, but, for greater certainty, shall continue in respect of Swarmio Parent and ResidualCo.

(j) Disclaimer of Excluded Contracts. The Company shall promptly send notices of disclaimer for all known Excluded Contracts and other agreements, and such known Excluded Contracts shall form part of the Excluded Assets.

(k) Monitor's Certificate. The Monitor shall have provided an executed certificate of the Monitor substantially in the form attached to the Approval and Vesting Order (the "**Monitor's Certificate**") confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Company.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 8.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in Section 8.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Company to terminate this Agreement.

8.3 Conditions Precedent in favour of the Company

The obligation of the Company to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

(a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Company at the Closing all the documents and payments contemplated in Section 7.4.

(b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 5.2 shall be true and correct in all material respects (i) as of the Closing Date as if made on and as of such date, or (ii) if made as of a date specified therein, as of such date.

(c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

(d) Monitor's Certificate. The Monitor shall have provided an executed copy of the Monitor's Certificate confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Company.

The foregoing conditions are for the exclusive benefit of the Company. Any condition in this Section 8.3 may be waived by the Company in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Company only if made in writing. If any condition set forth in this Section 8.3 is not satisfied or performed on or prior to the Outside Date, the Company may elect on written notice to the Purchaser to terminate the Agreement.

ARTICLE 9
TERMINATION

9.1 Grounds for Termination

This Agreement may be terminated on or prior to the Closing Date:

(a) by the mutual written agreement of the Company (with the consent of the Monitor) and the Purchaser; or

(b) by the Company (with the consent of the Monitor) or the Purchaser upon written notice to the other Parties if: (i) the Closing has not occurred on or prior to the Outside Date; or (ii) the Approval and Vesting Order is not obtained on or before August 28, 2023 (subject to availability of the Court); provided in each case that the failure to close or obtain such order, as applicable, by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement.

9.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder.

ARTICLE 11
GENERAL

11.1 Access to Books and Records

For a period of two years from the Closing Date or for such longer period as may be reasonably required for ResidualCo (or any trustee in bankruptcy of the estate of ResidualCo) to comply with Applicable Law, the Purchaser shall cause the Company to retain all original Books and Records that are transferred to the Purchaser under this Agreement, but the Purchaser is not responsible or liable for any accidental loss or destruction of, or damage to, any such Books and Records. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, ResidualCo (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of ResidualCo, including the Monitor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.

11.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

(a) in the case of the Purchaser, as follows:

Triaxcess Limited

Attention: Elie Jeitani and Roy Haddad
Email: ejeitani@wbtele.com; royhaddad2012@gmail.com

with a copy to:

Mirwood Evans Vincent Limited, UK Solicitors to the Purchaser

Attention: Katherine Evans
Email: katherine@mirkwoodevansvincent.com

(b) in the case of the Company, as follows:

Swarmio Media Holdings Inc.
Suite 1430, 800 West Pender St.
Vancouver, BC V6C 2V6

Attention: Vijai Karthigesu; Jonathan Visva
Email: vijai@swarmio.media; jonathan@swarmio.media

with a copy to:

Miller Thomson LLP
40 King Street West, Suite 5800
Toronto, ON M5H 4A9

Attention: Sam Massie
Email: smassie@millerthomson.com

(c) in each case, with a further copy to the Monitor as follows:

Grant Thornton Limited
200 King Street West, 11th Floor
Toronto, Ontario M5H 3T4

Attention: Dan Wootton
Email: dan.wootton@ca.gt.com

with a copy to:

Gowling WLG (Canada) LLP
100 King Street West, Suite 1600

Toronto, ON M5X 1G5

Attention: Clifton Prophet; Heather Fisher
Email: clifton.prophet@gowlingwlg.com; heather.fisher@gowlingwlg.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

11.3 Public Announcements

The Company shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings, other than any information which the Purchaser advises the Company in writing as being confidential, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein) or where required to meet timely disclosure obligations of the Company or any of its Affiliates under Applicable Laws or stock exchange rules, the Company shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the Transactions contemplated hereby without the prior consent of the other Parties, which shall not be unreasonably withheld or delayed.

11.4 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

11.5 Survival

The representations and warranties of the Parties contained in this Agreement shall not merge on Closing and the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

11.6 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns, including for greater certainty, ResidualCo, provided that no consent, waiver or agreement of ResidualCo shall be required for any amendment of this Agreement.

11.7 Entire Agreement

This Agreement and the attached Schedules hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements.

This Agreement may not be amended or modified in any respect except by written instrument executed by the Company and the Purchaser.

11.8 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

11.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

11.10 Assignment

(a) This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Company, ResidualCo or the Monitor, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Company and the Monitor; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.

(b) Except as specifically contemplated herein as it relates to ResidualCo, this Agreement may not be assigned by the Company without the consent of the Purchaser.

11.11 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

11.12 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

11.13 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

11.14 Monitor's Certificate

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both

Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Monitor's written confirmation that all such funds have been received, the Monitor's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

11.15 Monitor's Capacity

In addition to all of the protections granted to the Monitor under the CCAA or any order of the Court in this CCAA Proceeding, the Company and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Swarmio Group and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Monitor.

[*Signature Page Follows*]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

TRIAXCESS LIMITED

By: ______________________

Name: Elie Jeitani

Title: Director

I have authority to bind the Corporation.

SWARMIO INC.

By: ______________________

Name:

Title:

I have authority to bind the Corporation.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

TRIAXCESS LIMITED

By: ______________________

Name: Elie Jeitani

Title: Director

I have authority to bind the Corporation.

SWARMIO INC.

DocuSigned by:

7ED911000FFD418...

By: ______________________

Name: Vijai Karthigesu

Title:

I have authority to bind the Corporation.

EXHIBIT "A"
PRE-CLOSING REORGANIZATION

1. ResidualCo shall be incorporated as a subsidiary of Swarmio Parent with nominal consideration for common shares and shall be added to the CCAA Proceeding as an Applicant.

2. The Excluded Assets and Excluded Liabilities shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order.

3. Neither ResidualCo or the Swarmio Parent (if different) shall be allowed to use the Swarmio name or retain any goodwill in that name and shall change its name prior to Closing.

SCHEDULE "A"
EXCLUDED ASSETS

The following is an exhaustive list of the Excluded Assets:

1. Excluded Contracts.

2. Any Assets of the Swarmio Parent other than its ownership of Swarmio Inc. and everything sitting below Swarmio Inc. in the corporate structure

[Note: Schedule to be completed prior to the Phase 2 Bid Deadline.]

SCHEDULE "B"
EXCLUDED CONTRACTS

The following is a non-exhaustive list of the Excluded Contracts:

Any Contracts sitting in or relating to the Swarmio Parent

[Note: Schedule to be completed prior to the Phase 2 Bid Deadline.]

SCHEDULE "C"
EXCLUDED LIABILITIES

The following is a non-exhaustive list of Excluded Liabilities:

1. Any and all Liabilities relating to any change of control provision that may arise in connection with the change of control contemplated by the Transaction and to which the Company or Swarmio Media may be bound as at the Closing Time.

2. Any and all Liabilities pertaining to the administration of the CCAA Proceedings including, without limitation, under any court-ordered charge granted therein (provided, however, that the Purchaser shall assume any outstanding indebtedness secured by the Administration Charge at the Closing Time).

3. All Liabilities relating to or under the Excluded Contracts and Excluded Assets.

4. All Liabilities to Terminated Employees whose employment with the Company or Swarmio Media is terminated on or before Closing, including all amounts owing on account of statutory notice, termination payments, individual or group notice of termination (as applicable), severance, wages, overtime pay, vacation pay, benefits, bonuses or other compensation or entitlements, including any amounts deemed owing pursuant to statute or common law.

5. Any Liabilities for commissions, fees or other compensation payable to any finder, broker or similar intermediary in connection with the negotiation, execution or delivery of this Agreement or the consummation of the Transaction.

6. Any and all Liabilities sitting with or relating to the Swarmio Parent or its Assets or Contracts

7. Any and all Liabilities that are not Assumed Liabilities.

[**Note: Schedule to be completed prior to the Phase 2 Bid Deadline.]**

SCHEDULE "D"
PERMITTED ENCUMBRANCES

The following is an exhaustive list of Permitted Encumbrances:

[Note: Schedule to be completed prior to Phase 2 Bid Deadline

SCHEDULE "E"
ASSUMED LIABILITIES

The following is an exhaustive list of Assumed Liabilities:

1. Any amounts owing under the Administration Charge.

2. All Liabilities to Terminated Employees whose employment with the Company or Swarmio Media is terminated on or before Closing, including all amounts owing on account of statutory notice, termination payments, individual or group notice of termination (as applicable), severance, wages, overtime pay, vacation pay, benefits, bonuses or other compensation or entitlements, including any amounts deemed owing pursuant to statute or common law. ($1,100k)

3. Outstanding loan with Business Development Bank of Canada (Swarmio inc. - $46k)

4. Outstanding loan with Community Business Development Corporation (CBDC) (Swarmio inc.- $283k)

5. The current balance outstanding on the American Express used for the business (card held by Vijayasuganthan Karthigesu ($50)

6. Critical vendor payments

   (a)Rootcode (Store platform developer) Currently outstanding balance (USD 330k)

   (b)Oppos Inc. (Security officer) ($10k)

7. Critical global employee (= consultants) payments

   (a) [redacted] ($154k)

   (b) [redacted] ($60k)

   (c) [redacted] (Vlad) ($235k)

   (d) [redacted] (Total $473k)

   (e) [redacted] (5k)

   (f) [redacted] ($8k)

   (g) [redacted] ($9k)

   (h) [redacted] ($9k)

   (i) [redacted] ($19k)

   (j) [redacted] ($9k)

   (k) [redacted] ($3k)

   (l) [redacted] ($18k)

   (m) [redacted] ($9k)

(n) [redacted] (Caoiser) ($8k)

(o) [redacted] ($29k)

(p) [redacted] ($4k)

(q) [redacted] ($5k)

(r) [redacted] ($19k)

(s) [redacted] ($3k)

(t) [redacted] ($4k)

(u) [redacted] ($6k)

(v) [redacted] ($39k)

(w) [redacted] ($4k)

(x) [redacted] ($30k)

(y) [redacted] ($3k)

(z) [redacted] ($6k)

(aa) [redacted] ($87k)

(bb) [redacted] ($35k)

(cc) [redacted] ($6k)

(dd) [redacted] ($33k)

(ee) [redacted] ($18k)

(ff) [redacted] ($6k)

(gg) [redacted] ($1k)

(hh) [redacted] ($4k)

(ii) [redacted] ($3k)

(jj) [redacted] ($7k)

(kk) [redacted] ($5k)

(ll) [redacted] ($13k)

(mm) [redacted] ($6k)

(nn) [redacted] ($3k)

(oo) [redacted] ($7k)

SCHEDULE "F"
ASSUMED CONTRACTS

The following is a list of Assumed Contracts which the Purchaser knows that it wants:

Customer contracts:

Emirates Telecommunications Group Company P.J.S.C. ('Etisalat'), UAE

Globe Telecom, Inc., Philippines

Ooredoo, Tunisia

SLT, Sri Lanka

Partners:

Telekom Malaysia Behard

WESTBRIDGE TELECOM COMPUTER SYSTEMS AND COMMUNICATION EQUIPMENT SOFTWARE TRADING CO. LLC – (Etisalat collaboration)

Apelby

Payment service providers:

Coco Mobile

Instinex Sociedad Anonima

Servprog Servicos De Informatica

Content suppliers:

Codapayments

Devco LLC

AKT Enterprises

Sea Gamer Mall SDN BHD

Riot Games

Proxima Beta Pte. Ltd (Tencent)

UNIPIN (LABUAN) LIMITED

Infrastructure:

Amazon Web Services

Google Cloud

IPTP Limited

eSports, Store platform, Swarmio Pay field operators and platform shared service team contracts

eWallets:

fawry Pay

Gcash

This is Exhibit "E" referred to in the affidavit of VIJAI KARTHIGESU, SWORN BEFORE ME **this 15th day of August, 2023**

DocuSigned by:

Monica

A927328446B742A...

A COMMISSIONER FOR TAKING AFFIDAVITS

Vijai Karthigesu
18 Duckfield Crescent
Ajax, Ontario L1Z 2C8

June 29, 2023

Dear Mr. Karthigesu,

As you are aware, on June 21, 2023, Swarmio Media Holdings Inc., Swarmio Inc. and Swarmio Media Inc. (collectively, the "**Companies**") applied for and commenced proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the "**CCAA Proceedings**"), pursuant to the Initial Order of the Honourable Madam Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Grant Thornton Limited was appointed as Monitor of the Companies in the CCAA Proceedings (in such capacity, the "**Monitor**").

The Companies have determined that it is vital to the success of the CCAA Proceedings, and is in the best interest of all of the Companies' stakeholders, to take immediate steps to secure your continued services as Director and Chief Executive Officer of the Companies throughout the CCAA Proceedings, and to provide certain inducements and protections to you in connection therewith.

In consideration of your continued service with the Companies through and until your termination of employment by the Companies, which shall occur no later than immediately prior to the expiry or termination of the stay period under the CCAA Proceedings, the Companies will: (a) ensure the continued payment of a portion of your salary, in accordance with the cash flow projections to be filed in the CCAA Proceedings; and (b) request that the Court grant a broad, irrevocable release and discharge in favour of the Companies' directors and officers from any and all present and future claims, liabilities, etc. in the Court's final order following the closing of the successful transaction resulting from the sale and investment solicitation process conducted within the CCAA Proceedings. For certainty, the granting of any releases will be subject to the Court's discretion.

This letter agreement contains all of the understandings and representations between the Companies and you relating to your continued provision of services and your release in the Court's final order, and supersedes all prior and contemporaneous understandings, discussions, agreements, representations and warranties, both written and oral, in relation thereto. This letter agreement may not be amended or modified unless in writing signed by the Companies and you. This letter agreement may be executed in one or more counterparts, each of which will be taken together and constitute one agreement, and such counterparts may be delivered by electronic transmission. This letter agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

To confirm your acceptance of these terms, please sign a copy of this letter agreement where indicated below and return the signed copy to the undersigned.

Yours truly,

DocuSigned by:
Jonathan Visva
7BCC09D9BFCB456...

Authorized Signatory
Swarmio Media Holdings Inc., Swarmio Inc. and Swarmio Media Inc.

I have read and understood this letter and I accept the terms of this offer. I acknowledge that the Companies have provided me with a reasonable opportunity to obtain independent legal advice regarding this offer.

DocuSigned by:
59D3513E00154C8...

Vijai Karthigesu
Director, Chief Executive Officer

Jonathan Visva
49 Innisdale Drive
Toronto, Ontario M1R 1C5

June 29, 2023

Dear Mr. Visva,

As you are aware, on June 21, 2023, Swarmio Media Holdings Inc., Swarmio Inc. and Swarmio Media Inc. (collectively, the "**Companies**") applied for and commenced proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the "**CCAA Proceedings**"), pursuant to the Initial Order of the Honourable Madam Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Grant Thornton Limited was appointed as Monitor of the Companies in the CCAA Proceedings (in such capacity, the "**Monitor**").

The Companies have determined that it is vital to the success of the CCAA Proceedings, and is in the best interest of all of the Companies' stakeholders, to take immediate steps to secure your continued services as Chief Financial Officer of the Companies throughout the CCAA Proceedings, and to provide certain inducements and protections to you in connection therewith.

In consideration of your continued service with the Companies through and until your termination of employment by the Companies, which shall occur no later than immediately prior to the expiry or termination of the stay period under the CCAA Proceedings, the Companies will: (a) ensure the continued payment of a portion of your salary, in accordance with the cash flow projections to be filed in the CCAA Proceedings; and (b) request that the Court grant a broad, irrevocable release and discharge in favour of the Companies' directors and officers from any and all present and future claims, liabilities, etc. in the Court's final order following the closing of the successful transaction resulting from the sale and investment solicitation process conducted within the CCAA Proceedings. For certainty, the granting of any releases will be subject to the Court's discretion.

This letter agreement contains all of the understandings and representations between the Companies and you relating to your continued provision of services and your release in the Court's final order, and supersedes all prior and contemporaneous understandings, discussions, agreements, representations and warranties, both written and oral, in relation thereto. This letter agreement may not be amended or modified unless in writing signed by the Companies and you. This letter agreement may be executed in one or more counterparts, each of which will be taken together and constitute one agreement, and such counterparts may be delivered by electronic transmission. This letter agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

To confirm your acceptance of these terms, please sign a copy of this letter agreement where indicated below and return the signed copy to the undersigned.

Yours truly,

DocuSigned by:
89D3513E00154C8...

Authoriz[ed Signatory]
Swarmio Media Holdings Inc., Swarmio Inc. and Swarmio Media Inc.

I have read and understood this letter and I accept the terms of this offer. I acknowledge that the Companies have provid[ed me a reas]onable opportunity to obtain independent legal advice regarding this offer.

DocuSigned by:
Jonathan Visva
7BCC09D9BFCB456...

Jonathan Visva
Chief Financial Officer

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.
Applicants

Court File No.: CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST
Proceeding commenced at TORONTO

AFFIDAVIT OF VIJAI KARTHIGESU
(Sworn August 15, 2023)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Larry Ellis LSO#: 49313K
lellis@millerthomson.com
Tel: 416.595.8639
Asim Iqbal LSO#: 61884B
aiqbal@millerthomson.com
Tel: 416.595.8596
Monica Faheim LSO#: 82213R
mfaheim@millerthomson.com
Tel: 416.595.6087

Lawyers for the Applicants

TAB 3

Court File No. CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	FRIDAY, THE 25TH
	)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2023

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.,

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by Swarmio Media Holdings Inc. ("**Swarmio Media Holdings**"), Swarmio Inc. (the "**Company**"), and Swarmio Media Inc. ("**Swarmio Media**" and together with Swarmio Media Holdings and Swarmio Inc., collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things: (i) approving the share purchase agreement, dated August 4, 2023 (the "**SPA**"), between the Company and Triaxcess Limited (the "**Purchaser**"), for the purchase and sale of the New Common Shares and the Retained Assets of the Company (each capitalized term as defined in the SPA); (ii) adding 15280362 Canada Inc. ("**ResidualCo**") as an Applicant to these CCAA proceedings in order to carry out the transactions contemplated by the SPA (collectively, the "**Transaction**"); (iii) transferring and vesting all of the Company's right, title and interest in and to the Excluded Liabilities, Excluded Assets, and Excluded Contracts to and in ResidualCo;

(iv) vesting all of the Company's right, title and interest in and to the New Common Shares in and to the Purchaser; was heard this day by Zoom video conference.

ON READING the affidavit of Vijai Karthigesu sworn August 14, 2023 and the exhibits thereto, the Second Report of Grant Thornton Limited in its capacity as the Monitor (the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for those other parties appearing as indicated by the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service, filed.

DEFINED TERMS

1. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them in the SPA.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

APPROVAL AND VESTING

3. **THIS COURT ORDERS** that the SPA and the Transaction be and are hereby approved and the execution of the SPA by the Company is hereby authorized and approved, with such minor amendments as the parties may deem necessary, with the approval of the Monitor. The Company is hereby authorized and directed to perform its obligations under the SPA and to take such

additional steps and execute such additional documents as may be necessary or desirable to effect the Transaction.

4. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Applicants to proceed with the Transaction (including, for certainty, the Pre-Closing Reorganization) and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a copy of the Monitor's certificate (the "**Monitor's Certificate**") to the Purchaser (the time of such delivery being referred to herein as the "**Effective Time**"), substantially in the form attached as **Schedule** "**A**" hereto, the following shall occur and shall be deemed to have occurred at the Effective Time in the following sequence:

(a) first, all of the right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in ResidualCo, and all Claims and Encumbrances (each as defined below) shall continue to attach to the Excluded Assets and to the proceeds from the purchase price in accordance with paragraph 6 of this Order, in either case with the same nature and priority as they had immediately prior to the transfer;

(b) second, all Excluded Liabilities (which for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of the

Company and Swarmio Media shall be transferred to, assumed by and vest absolutely and exclusively in ResidualCo such that the Excluded Liabilities shall become obligations of ResidualCo and shall no longer be obligations of the Company or Swarmio Media;

(c) other than the New Common Shares, all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) and are convertible or exchangeable for any securities of the Company or Swarmio Media, or which require the issuance, sale or transfer by the Company or Swarmio Media of any shares or other securities of the Company or Swarmio Media and/or the share capital of the Company or Swarmio Media or otherwise relating thereto, shall be deemed terminated and cancelled;

(d) all of the right, title and interest in and to the New Common Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypotecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other orders in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario) or any other personal property registry systems; and (iii) those Claims listed on **Schedule** "**B**" hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the New Common Shares are hereby expunged and discharged as against the New Common Shares; and

(e) The Company and Swarmio Media shall be deemed to cease being Applicants in these CCAA proceedings, and shall be deemed to be released from the purview of the Initial Order and all other orders of this Court granted in respect of these CCAA proceedings, save and except for this Order, the provisions of which (as they relate to the Company, Swarmio Media and ResidualCo) shall continue to apply in all respects.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the New Common Shares and the Retained Assets (the "**Proceeds**") shall stand in the place and stead of the New Common Shares and Retained Assets, and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the Proceeds and the Excluded Assets with the same priority as they had with respect to the New Common Shares and Retained Assets immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof in connection with the Transaction.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Company and the Purchaser regarding the fulfilment of conditions to closing under the SPA and shall have no liability with respect to delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that pursuant to section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Applicants or the Monitor, as the case may be, are authorized, permitted and directed to, at the Effective Time, disclose to the Purchaser all human resources and payroll information in the records or the Company and Swarmio Media pertaining to past and current employees of the Company and Swarmio Media. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Company and Swarmio Media.

10. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Purchaser, the Company and Swarmio Media shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any taxes (including penalties and interest thereon) of, or that relate to, the Applicants (provided as it relates to the Company and Swarmio Media, such release shall not apply to taxes in respect of the business and operations conducted by the Company and Swarmio Media after the Effective Time), including, without limiting the generality of the foregoing, all taxes that could be assessed against the Purchaser, the Company or Swarmio Media (including any predecessor corporations) pursuant to section 160 of the *Income Tax Act*, R.S.C. 1985, c. 1 (5^{th} Supp.), or any provincial equivalent, in connection with the Applicants, or to the Administrative Charge established under the Initial Order.

11. **THIS COURT ORDERS** that except to the extent expressly contemplated by the SPA, all contracts to which the Applicants are parties upon delivery of the Monitor's Certificate will be

and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**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 delivery of the Monitor's Certificate 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 any Applicant);

(b) the insolvency of any Applicant or the fact that the Applicants sought or obtained relief under the CCAA;

(c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the SPA, the Transaction or the provisions of this Order, or any other Order of the Court in these proceedings; or

(d) any transfer or assignment, or any change of control of the Company or Swarmio Media arising from the implementation of the SPA, the Transaction or the provisions of this Order.

12. **THIS COURT ORDERS** that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of the Company and Swarmio Media then existing or previously committed by any of the Applicants, or caused by the Applicants, directly or indirectly,

or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract existing between such Person and the Company or Swarmio Media arising directly or indirectly from the filing of the Company or Swarmio Media under the CCAA and the implementation of the Transaction, including without limitation any of the matters or events listed in paragraph 11 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Company from performing its obligations under the SPA or be a waiver of defaults by the Company under the SPA or related documents.

13. **THIS COURT ORDERS** that from and after the Effective Time, 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 and assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Company or Swarmio Media relating in any way to or in respect of any Excluded Assets, Excluded Liabilities or Excluded Contracts and any other claims, obligations and other matters that are waived, released, expunged or discharged pursuant to this Order.

14. **THIS COURT ORDERS** that from and after the Effective Time:

(a) the nature of the Assumed Liabilities retained by the Company or Swarmio Media, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transaction or this Order;

(b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to ResidualCo;

(c) any Person that prior to the Effective Time had a valid right or claim against the Company or Swarmio Media under or in respect of any Excluded Contract or Excluded Liability (each an "**Excluded Liability Claim**") shall no longer have such right or claim against the Company or Swarmio Media but will have an equivalent Excluded Liability Claim against ResidualCo in respect of the Excluded Contract or Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against ResidualCo; and

(d) the Excluded Liability Claim of any Person against ResidualCo following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Company or Swarmio Media prior to the Effective Time.

15. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

(a) ResidualCo shall be a company to which the CCAA applies; and

(b) ResidualCo shall be added as an Applicant in these CCAA proceedings and all references in any Order of this Court in respect of these CCAA proceedings to (i) an "Applicant" or the "Applicants" shall refer to and include ResidualCo, and (ii) "Property" shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of ResidualCo (the "**ResidualCo Property**"), and, for greater certainty, each of the Charges (as defined in the Initial Order dated June 21, 2023, as amended and restated from time to time), shall constitute a charge on the ResidualCo Property.

16. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C 195, c. B-3, as amended (the "**BIA**"), in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicants;

the SPA and the implementation of the Transaction (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contracts and Excluded Liabilities in and to ResidualCo and the transfer and vesting of the New Common Shares and Retained Assets in and to the Purchaser) and any payments by or to the Purchaser, the Applicants or the Monitor authorized herein shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and/or ResidualCo and shall not be void or voidable by creditors of the Applicants or ResidualCo, as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

MONITOR'S ENHANCED POWERS

17. **THIS COURT ORDERS** that in addition to the powers and duties of the Monitor set out in the Amended and Restated Initial Order or any other Order of this Court in this CCAA proceeding, and without altering in any way the limitations and obligations of ResidualCo as a result of these proceedings, the Monitor be and is hereby authorized and empowered, but not required to:

(a) take any and all actions and steps, and execute all documents and writings, on behalf of, and in the name of ResidualCo in order to facilitate the performance of any ongoing obligations of ResidualCo, including with respect to any Excluded Liability Claim, and to carry out the Monitor's duties under this Order or any other Order of this Court in the within CCAA proceeding;

(b) exercise any powers which may be properly exercised by a board of directors of ResidualCo;

(c) cause ResidualCo to retain the services of any person as an employee, consultant, or other similar capacity all under the supervision and direction of the Monitor and on the terms as agreed with the Monitor;

(d) open one or more new accounts (the "**ResidualCo Accounts**") into which all funds, monies, cheques, instruments and other forms of payment payable to ResidualCo shall be deposited from and after the making of this Order from any source whatsoever and to operate and control, as applicable, on behalf of ResidualCo, the ResidualCo Accounts in such manner as the Monitor, in its sole discretion, deems necessary or appropriate to assist with the exercise of the Monitor's powers and duties;

(e) cause ResidualCo to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down of ResidualCo or the distribution of the proceeds of the ResidualCo Property or any other related activities, including in connection with bringing the within CCAA proceeding to an end;

(f) engage, deal, communicate, negotiate, agree and settle with any creditor or other stakeholder of ResidualCo in the name of or on behalf of ResidualCo;

(g) claim or cause ResidualCo to claim any and all insurance refunds or tax refunds, including refunds of harmonized sales taxes, to which ResidualCo is entitled;

(h) have access to all books and records that are the property of ResidualCo in ResidualCo's possession or control in addition to the Applicant's books and records in accordance with the terms of the SPA;

(i) assign ResidualCo, or cause ResidualCo to be assigned, into bankruptcy, and the Monitor shall be entitled but not obligated to act as trustee in bankruptcy thereof; and

(j) apply to this Court for advice and directions or any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court including for advice and directions with respect to any matter.

GENERAL

18. **THIS COURT ORDERS** that, following the Effective Time, the Purchaser and its representatives shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the New Common Shares and the Retained Assets.

19. **THIS COURT ORDERS** Swarmio Media Holdings to change its legal name to a numbered company prior to the Effective Time.

20. **THIS COURT ORDERS** that, following the Effective Time, neither Swarmio Media Holdings nor ResidualCo shall be entitled to use the name "Swarmio".

21. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

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
[●]., AND 15280362 CANADA INC.

SEALING ORDER

22. **THIS COURT ORDERS** that the Confidential Appendices to the Monitor's Second Report shall be kept sealed and confidential and shall not form part of the public record, until closing of the Transaction or until further order of the Court.

23. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

24. **THIS COURT ORDERS** that each of the Applicants 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.

25. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

____

SCHEDULE "A" – FORM OF MONITOR'S CERTIFICATE

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 [●] AND 15280362 CANADA INC.

Applicants

RECITALS

A. Pursuant to the Amended and Restated Initial Order of the Honourable Mr. Justice Koehnen of the Ontario Superior Court of Justice (Commercial List), dated June 30, 2023, as (the "**Amended and Restated Initial Order**") the Applicants were granted protection from their creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and Grant Thornton Limited was appointed as the monitor ("**Monitor**") of the Applicants.

B. Pursuant to the Approval and Vesting Order of the Court, dated August [25], 2023 (the "**Order**"), the court approved the transaction (the "**Transaction**") contemplated by the Share Purchase Agreement dated August 4, 2023 (the "**SPA**"), between Swarmio Inc. (the **"Company**"), and Triaxcess Limited (the "**Purchaser**") and ordered, *inter alia*, that (i) all of the Company's and Swarmio Media Inc.'s ("**Swarmio Media**") right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in 15280362 Canada Inc. ("**ResidualCo**"); (ii) all of the Excluded Contracts and Excluded Liabilities shall be transferred to and assumed by and vest in ResidualCo; (iii) all of the right, title and interest in and to the New Common Shares and the Retained Assets shall vest absolutely and exclusively in the Purchaser, which vesting is, in each case, to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and the Company that all conditions to closing have been satisfied or waived by the parties to the SPA.

C. Capitalized terms not defined herein shall have the meaning given to them in the Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Purchaser and from the Company, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the SPA.

2. This Monitor's certificate was delivered by the Monitor at __________ on ___________, 2023.

Grant Thornton Limited, in its capacity as Monitor of the Applicants, and not in its personal capacity.

Per: ______________________________
Name:
Title:

SCHEDULE "B"

ENCUMBRANCES

1. Business Development Bank of Canada
   Registration Number: 27424787
   Renewal: 28545358
   Amendment: 33912635
   File number: 123168

2. Royal Bank of Canada
   Registration Number: 20151009 1954 1531 8865
   File number: 710776998

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 SWARMIO MEDIA HOLDINGS INC., SWARMIO INC., AND SWARMIO MEDIA INC.

Court File No.: CV-23-00701377-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

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TAB 4

Court File No. CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 25th
	)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2023

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 [●], AND 15280362 CANADA INC.

Applicants

CCAA TERMINATION ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (the "**Order**"), among other things, (i) extending the stay of proceedings granted pursuant to the Initial Order of Justice Steele dated June 21, 2023 (the "**Initial Order**") up to the CCAA Termination Time (as defined herein); (ii) approving the activities, conduct and report of Grant Thornton Limited ("**GT**" or the "**Monitor**") in its capacity as Monitor of the Applicants in these CCAA proceedings, (iii) approving the fees and disbursements of the Monitor and the Monitor's legal counsel, as described in the Second Report of the Monitor dated August [●], 2023 (the "**Second Report**") and the fee affidavits appended thereto; (iv) terminating these CCAA proceedings and discharging the Monitor at the CCAA Termination Time; (v) terminating the Court-ordered charges approved in these CCAA proceedings effective as at the CCAA Termination Time, (vi) permitting the Applicants, or any one of them, to file for bankruptcy; and (vii) granting certain related relief, was heard this day via video conference.

ON READING the Second Report, including the Fee Affidavits attached thereto, the Affidavit of Vijai Karthigesu sworn August 15, 2023 and the exhibits thereto, and such further materials as counsel may advise, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and such other counsel as were present, and no one else appearing for any other interested person, although duly served as evidenced by the affidavit of service, filed.

DEFINED TERMS

1. **THIS COURT ORDERS** that, unless otherwise defined herein, capitalized terms used in this Order shall have the meaning given to them in the Initial Order, as amended by the Order of the Honourable Justice Koehnen dated June 30, 2023.

TERMINATION OF CCAA PROCEEDINGS

2. **THIS COURT ORDERS** that, upon service by the Monitor of an executed certificate substantially in the form attached hereto as **Schedule "A"** (the "**Termination Certificate**") on the service list in these CCAA proceedings certifying that, to the best of the knowledge and belief of the Monitor, all matters to be attended to in connection with the CCAA proceedings have been completed, the within CCAA proceedings shall be terminated without any other act or formality (the "**CCAA Termination Time**"), save and except as provided in this Order, and provided that nothing herein impacts the validity of any Orders made in these CCAA proceedings or any action or steps taken by any Person pursuant thereto.

3. **THIS COURT ORDERS** that the Monitor is hereby directed to file a copy of the Termination Certificate with the Court as soon as is practicable following the service thereof on the service list in these CCAA proceedings.

DISCHARGE OF MONITOR

4. **THIS COURT ORDERS** that effective at the CCAA Termination Time, GT shall be and is hereby discharged from its duties as the Monitor and shall have no further duties, obligations or responsibilities as Monitor from and after the CCAA Termination Time, provided that, notwithstanding its discharge as Monitor, GT shall have the authority to carry out, complete or address any matters in its role as Monitor that are ancillary or incidental to these CCAA proceedings following the CCAA Termination Time, as may be required or appropriate ("**Remaining Activities**").

5. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the Monitor's discharge or the termination of these CCAA proceedings, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor shall continue to have the benefit of, all of the rights, approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, or any other Order of this Court in these CCAA proceedings or otherwise, all of which are expressly continued and confirmed following and after the CCAA Termination Time, including in connection with any Remaining Activities and other actions taken by the Monitor following the CCAA Termination Time with respect to the Applicants or these CCAA proceedings.

RELEASES

6. **THIS COURT ORDERS** that effective upon the filing of the Monitor's Certificate, (i) the current directors, officers, employees, legal counsel and advisors of the Applicants (including, for certainty, ResidualCo) and (ii) the Monitor and its legal counsel (collectively, the

"**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future claims (including without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the filing of the Monitor's Certificate (a) undertaken or completed pursuant to the terms of this Order, (b) arising in connection with or relating to the SPA or the completion of the Transaction, (c) arising in connection with or relating to the within CCAA proceedings, or (d) related to the management, operations or administration of the Applicants (collectively, the "**Released Claims**"), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA.

APPROVAL OF ACTIVITIES AND FEES

7. **THIS COURT ORDERS** that the First Report of the Monitor dated June 26, 2023 and the Second Report of the Monitor and the activities described therein are hereby approved, provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approvals.

8. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its legal counsel as set out in the Second Report and the fee affidavits appended thereto, are hereby approved.

9. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel estimated not to exceed $[●] (exclusive of HST) for the completion of the Remaining Activities, are hereby approved.

ASSIGNMENT IN BANKRUPTCY

10. **THIS COURT ORDERS** that at such time as the Applicants determine that it is necessary or desirable to do so, including for greater certainty at a time prior to the CCAA Termination Time:

(a) The Applicants are hereby authorized to make an assignment in bankruptcy pursuant to *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended ("**BIA**"); and

(b) GT is hereby authorized and empowered, but not obligated, to act as trustee in bankruptcy in respect of the Applicants.

GENERAL

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

12. **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 without any need for filing or entry.

SCHEDULE "A"

FORM OF TERMINATION CERTIFICATE

Court File No.: CV-23-00701377-00CL

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
[●] AND 15280362 CANADA INC.

Applicants

TERMINATION CERTIFICATE

RECITALS

1. GT Canada Limited ("**GT**") was appointed as the Monitor of the Applicants in the within proceedings commenced under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") pursuant to an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated June 30, 2023 (as amended, the "**Initial Order**").

2. Pursuant to an Order of this Court dated August 25, 2023 (the "**CCAA Termination Order**"), among other things, GT shall be discharged as the Monitor and the Applicants' CCAA proceedings shall be terminated upon the service of this Termination Certificate on the service list in these CCAA proceedings.

3. Unless otherwise indicated herein, capitalized terms used in this Termination Certificate shall have the meaning given to them in the Initial Order or the Termination Order, as applicable.

THE MONITOR CERTIFIES the following:

4. To the knowledge of the Monitor, all matters to be attended to in connection with the Applicants' CCAA proceedings have been completed.

ACCORDINGLY, the CCAA Termination Time as defined in the CCAA Termination Order has occurred.

DATED at Toronto, Ontario this ________________ day of _______________, 2023.

Per: ______________________________

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
[●] AND 15280362 CANADA INC.
Applicants

Court File No.: CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST
Proceeding commenced at TORONTO

TERMINATION CERTIFICATE

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SWARMIO MEDIA HOLDINGS INC., AND 15280362 CANADA INC.
Applicants

Court File No.: CV-23-00701377-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST
Proceeding commenced at TORONTO

CCAA TERMINATION ORDER

(RETURNABLE AUGUST 25, 2023)

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