



This is the 2<sup>nd</sup> affidavit of Teri Stevens in this case and was made on the 23<sup>rd</sup> of November, 2023.

COURT OF APPEAL FILE NO. CA49489

**COURT OF APPEAL**

ON APPEAL FROM the order of Madam Justice Fitzpatrick of the Supreme Court of British Columbia pronounced on October 31, 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 AND ARRANGEMENT OF  
NEXTPOINT FINANCIAL, INC. AND THOSE PARTIES LISTED ON SCHEDULE "A"

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AFFIDAVIT #2 OF TERI STEVENS

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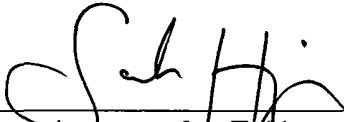
I, Teri Stevens, legal assistant, c/o 1600-925 West Georgia Street, Vancouver, British Columbia, AFFIRM THAT:

1. I am a legal assistant at Lawson Lundell LLP, counsel for the appellants in this appeal, and, as such, I have personal knowledge of the facts and matters hereinafter deposed to, except where the same are stated to be made upon information and belief, and as to such facts I verily believe the same to be true.
2. Attached hereto and marked as **Exhibit A** to this affidavit is a true copy of an email exchange on November 13, 2023 between Jeffrey Bradshaw, counsel for the petitioners in the below CCAA proceeding (S-235288), and William L. Roberts, counsel for the appellants.
3. Attached hereto and marked as **Exhibit B** to this affidavit is a true copy of an email chain on November 17 and 18, 2023 between Mr. Bradshaw and Sarah Hannigan, counsel for the appellants.

4. Attached hereto and marked as **Exhibit C** to this affidavit is a true copy of a Motion of the Foreign Representative for Leave to File Late Reply in Support of Recognition Motion, filed in Case No. 23-10983 (TMH) before the United States Bankruptcy Court for the District of Delaware. (I have not included the appendices to this document, which total over 450 pages.)

5. Attached hereto and marked as **Exhibit D** to this affidavit is a true copy of Exhibit "O" to the Affidavit #1 of Peter Kravitz, filed July 25, 2023 in the below CCAA proceeding, being a copy of an unsigned Purchase Agreement between NextPoint Financial Inc. and other entities.

AFFIRMED BEFORE ME at the City )  
of Vancouver, in the Province of British )  
Columbia, this 23<sup>st</sup> day of November, )  
2023. )  
)  
)  
)  
)

  
\_\_\_\_\_  
A Commissioner for Taking Affidavits for )  
the Province of British Columbia )

  
\_\_\_\_\_  
TERI STEVENS

**SARAH B. HANNIGAN**  
*Barrister & Solicitor*  
1600 - 925 WEST GEORGIA ST.  
VANCOUVER, B.C. V6C 3L2  
(604) 685-3456

**Teri Stevens (3362) - 14Flr**

**From:** Bradshaw, Jeffrey <jeffrey.bradshaw@dlapiper.com>  
**Sent:** Monday, November 13, 2023 12:23 PM  
**To:** William Roberts (3163) - 14Flr; Brousson, Colin; Kibben Jackson; Lisa Hiebert  
**Cc:** Munro, Craig; tom.powell@fticonsulting.com; Mascitti, Gregory  
**Subject:** RE: [EXTERNAL] URGENT: NextPoint - Disclaimer Notices

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

Hi Will,

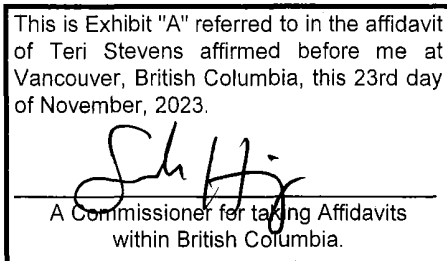
Are you available for a call on this? My cell is best at 604-649-1428.

Regards,  
 Jeffrey

**Jeffrey Bradshaw**  
 Associate

T +1 604.643.2941  
 F +1 604.605.3714  
 E jeffrey.bradshaw@dlapiper.com

Please note our new address:  
 1133 Melville St, Suite 2700  
 Vancouver, BC  
 V6E 4E5



**From:** William Roberts <wroberts@lawsonlundell.com>  
**Sent:** Monday, November 13, 2023 10:52 AM  
**To:** Bradshaw, Jeffrey <jeffrey.bradshaw@ca.dlapiper.com>; Brousson, Colin <colin.brousson@ca.dlapiper.com>; Kibben Jackson <kjackson@fasken.com>; Lisa Hiebert <lhiebert@fasken.com>  
**Cc:** Munro, Craig <Craig.Munro@fticonsulting.com>; tom.powell@fticonsulting.com; Mascitti, Gregory <gmascitti@mccarter.com>  
**Subject:** [EXTERNAL] URGENT: NextPoint - Disclaimer Notices

**DLA Piper (Canada) LLP ALERT:** This is an external email. Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Everyone,

I am in the process of being retained by a group of US creditors who received disclaimer notices. I'm told that the deadline for responding would be tomorrow.

I am writing to seek an extension of time to the end of this week to finalize my engagement, and to prepare and file applications in opposition to those notices. US counsel can prepare and file applications opposing the disclaimer tomorrow if my request is denied, but they will be doing so in a rush, and we would almost certainly need to revise and supplement those applications.

Please let me know asap if you are agreeable to an extension.

Will



**WILLIAM L. ROBERTS\*** | Partner  
D 604.631.9163 | F 604.641.4401 | E [wroberts@lawsonlundell.com](mailto:wroberts@lawsonlundell.com)  
**LAWSON LUNDELL LLP** 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2  
Vancouver | Calgary | Yellowknife | Kelowna  
\*Law Corporation



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**Teri Stevens (3362) - 14Flr**

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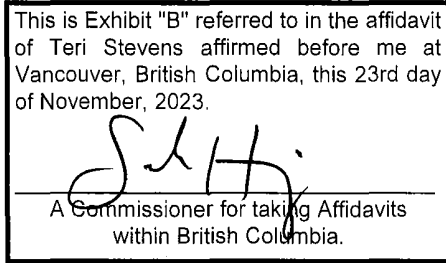
**From:** Sarah Hannigan (3144) - 14Flr  
**Sent:** Saturday, November 18, 2023 3:14 PM  
**To:** Bradshaw, Jeffrey  
**Cc:** William Roberts (3163) - 14Flr; Laura Bevan (3106) - 14Flr  
**Subject:** RE: [EXTERNAL] NextPoint CCAA

Hi Jeffrey,

We have considered your position and do not agree that the deadline for leave to appeal materials is Monday, November 20. You will have our materials the following day.

Regards,

Sarah Hannigan (she/her) | Associate  
Lawson Lundell LLP  
D 604.631.9144 | F 604.669.1620



**From:** Bradshaw, Jeffrey <jeffrey.bradshaw@dlapiper.com>  
**Sent:** Friday, November 17, 2023 3:39 PM  
**To:** Sarah Hannigan (3144) - 14Flr <shannigan@lawsonlundell.com>  
**Cc:** William Roberts (3163) - 14Flr <wroberts@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>  
**Subject:** RE: [EXTERNAL] NextPoint CCAA

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

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Hi Sarah,

The hearing was 10 am until approximately 3:30-3:40 if I remember correctly.

As to the time to file an appeal, we wanted to bring to your attention that by our calculation of the applicable time periods, the time to appeal the October 31, 2023, RVO expires at the close of the court registry on Monday November 20, 2023. We are also of the view that neither the Petitioners nor the Monitor can agree to vary that statutory timeline by agreement or consent.

The Petitioners reserve all rights to object to, and seek relief against, an appeal filed out of time and to bring this correspondence to the attention of the Court should the appeal be filed after the expiration of the time period.

Regards,  
Jeffrey

**Jeffrey Bradshaw**  
Associate

T +1 604.643.2941  
F +1 604.605.3714  
E [jeffrey.bradshaw@dlapiper.com](mailto:jeffrey.bradshaw@dlapiper.com)

Please note our new address:  
1133 Melville St, Suite 2700

Vancouver, BC  
V6E 4E5


**From:** Sarah Hannigan <[shannigan@lawsonlundell.com](mailto:shannigan@lawsonlundell.com)>  
**Sent:** Friday, November 17, 2023 11:32 AM  
**To:** Bradshaw, Jeffrey <[jeffrey.bradshaw@ca.dlapiper.com](mailto:jeffrey.bradshaw@ca.dlapiper.com)>  
**Cc:** William Roberts <[wroberts@lawsonlundell.com](mailto:wroberts@lawsonlundell.com)>; Laura Bevan <[lbevan@lawsonlundell.com](mailto:lbevan@lawsonlundell.com)>  
**Subject:** [EXTERNAL] NextPoint CCAA

**DLA Piper (Canada) LLP ALERT:** This is an external email. Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Hi Jeffrey:

We are instructed to apply for leave to appeal Justice Fitzpatrick's order of October 31, 2023. Our intention is to have our materials to you by Tuesday, November 21 ("within twenty-one days after the rendering of the order or decision being appealed": CCAA, s. 14(2)). Could you please confirm your agreement with this timing and, for the purpose of completing the notice of appeal, advise us of the length of the hearing before Fitzpatrick J. on October 31?

Thanks,

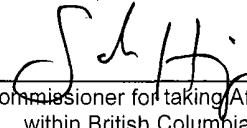
 **SARAH HANNIGAN** (she/her) | Associate  
D 604.631.9144 | F 604.669.1620 | E [shannigan@lawsonlundell.com](mailto:shannigan@lawsonlundell.com)  
**LAWSON LUNDELL LLP** 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2  
Vancouver | Calgary | Yellowknife | Kelowna



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This is Exhibit "C" referred to in the affidavit of Teri Stevens affirmed before me at Vancouver, British Columbia, this 23rd day of November, 2023.



A Commissioner for taking Affidavits  
within British Columbia.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NEXTPOINT FINANCIAL INC., *et al.*,  
Debtors in a foreign proceeding.<sup>1</sup>

Chapter 15

Case No. 23-10983 (TMH)

**Re: D.I. 80**

**Hearing Date: November 6, 2023, at  
11:00 a.m. (ET)**

**Obj. Deadline: At the Hearing**

**MOTION OF THE FOREIGN  
REPRESENTATIVE FOR LEAVE TO FILE  
LATE REPLY IN SUPPORT OF RECOGNITION MOTION**

NextPoint Financial Inc. (“**NextPoint**”) in its capacity as the duly-appointed foreign representative (the “**Foreign Representative**”) for the above-captioned foreign debtors (collectively, the “**Debtors**”), in the proceedings (the “**Canadian Proceedings**”)<sup>2</sup> currently pending before the Supreme Court of British Columbia, initiated under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, by and through its undersigned counsel, respectfully submits this motion (the “**Motion**”), seeking entry of an order, substantially in the form attached to this Motion as **Exhibit A** (the “**Proposed Order**”), granting the Foreign Representative leave to file a late reply (the “**Reply**”) to the *Area Developers’ Objection to Motion of the Foreign*

<sup>1</sup> The Debtors in these chapter 15 proceedings, together with the last four digits of their business identification numbers are: NextPoint Financial Inc. (6134); LT Holdco, LLC (8090); LT Intermediate Holdco, LLC (0811); SiempreTax+ LLC (6145); JTH Tax LLC (8391); Liberty Tax Holding Corporation (N/A); Liberty Tax Service, Inc. (N/A); JTH Financial, LLC (1522); JTH Properties 1632, LLC (0248); Liberty Credit Repair, LLC (5427); Wefile, LLC (6778); JTH Tax Office Properties, LLC (0248); LTS Software LLC (6450), JTH Court Plaza, LLC (2116); 360 Accounting Solutions, LLC (8312); LTS Properties, LLC (9088); NPI Holdco LLC (1936); CTAX Acquisition LLC (6975); Community Tax Puerto Rico LLC (4349); Community Tax LLC (8001); NPLM Holdco LLC (8132); MMS Servicing LLC (7430); LoanMe, LLC (5663); LoanMe Funding, LLC (2305); LM Retention Holdings, LLC (N/A); LoanMe Trust-Prime 2018-1 (0257); LoanMe Trust SBL 2019-1 (N/A); LoanMe Stores LLC (3810); InsightsLogic LLC (0818); and LM 2020 CM I SPE, LLC (N/A). The location of the Debtors’ headquarters is 500 Grapevine Hwy, Suite 402, Hurst, TX 76054, and the Debtors’ mailing address is 1133 Melville St., Suite 2700, Vancouver, BC V6E 4E5.

<sup>2</sup> Information on the Canadian Proceedings and documents filed in connection therewith, including reports from the Monitor (as defined herein) and motion materials, can be found at the website of the Monitor at <http://cfcanada.fticonsulting.com/nextpoint/>.



*Representative for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order, (II) Approving the Sale of Substantially all of the Debtors' Interests Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [D.I. 88] (the "**Objection**") filed in response to the *Motion of the Foreign Representative for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order, (II) Approving the Sale of Substantially All of the Debtors' Interests Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [D.I. 80] (the "**Recognition Motion**"). In support of this Motion, the Foreign Representative respectfully states as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over these chapter 15 cases under sections 1334 and 157 of title 28 of the United States Code and the "Amended Standing Order of Reference" of the United States District Court for the District of Delaware (Sleet, C.J.), dated February 29, 2012.

2. The Foreign Representative properly commenced these cases under sections 1504 and 1515 of title 11 of the United State Code (the "**Bankruptcy Code**"), and on August 16, 2023, the Court entered the *Order Recognizing Canadian Proceeding as a Foreign Main Proceeding and Granting Related Relief* [D.I. 54], which recognized the Canadian Proceeding with respect to the Foreign Debtors.

3. This Motion is a core proceeding under section 157(b)(2)(P) of title 28 of the United States Code.

4. Venue for these cases is proper in this Court under sections 1410(1) and 1410(3) of title 28 of the United States Code.

5. The basis for the relief requested in this Motion is Rule 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**").

6. The statutory basis for the relief requested by this motion is Local Rule 9006-1(d).

### **RELEVANT BACKGROUND**

7. On October 16, 2023, the Foreign Representative filed the Recognition Motion seeking entry of an order (i) recognizing and enforcing the CCAA Vesting Order, (ii) approving, under section 1520 and section 363 of the Bankruptcy Code, the sale of the Debtors' rights, title, and interests in and to the Purchased Interests to the Purchasers pursuant to the Transaction Agreement, free and clear of all liens, claims, encumbrances, and other interests (other than the Permitted Encumbrances), and (iii) granting related relief.

8. The deadline to object to the Recognition Motion was October 30, 2023, at 4:00 p.m. (ET) (the "**Initial Deadline**"). The Foreign Representative extended the Initial Deadline to October 31, 2023, at 4:00 p.m. (ET) only for the Objecting Parties (as defined below).

9. On October 31, 2023, Gorilla Tax Services, Inc., Sarkauskas Empire Inc., Sarkauskas Enterprises, LLC, Mufeed Haddad, Mary Johnson, Michael Budka, and M&M Business Group, LP (collectively, the "**Objecting Parties**") filed the Objection.

### **RELIEF REQUESTED**

10. Pursuant to Local Rule 9006-1(d), the Foreign Representative respectfully requests entry of an order allowing the Foreign Representative to file a late reply to the Objection. The proposed Reply is attached to this Motion as **Exhibit B**.

### **BASIS FOR RELIEF REQUESTED**

11. Local Rule 9006-1(d) requires reply papers to be filed by 4:00 p.m. prevailing Eastern Time the day prior to the deadline for filing the agenda. Local Rule 9029-3(a) requires that agendas be filed by 12:00 p.m. two business days prior to the hearing.

12. The hearing on the Recognition Motion is scheduled for November 6, 2023, at 11:00 a.m. (ET) (the “**Hearing**”). The agenda for the Hearing was timely filed before 12:00 p.m. (ET) on November 2, 2023.

13. Under the circumstances, cause exists to grant the Foreign Representative leave to file its Reply to the Objection after the deadline. The Foreign Representative afforded the Objecting Parties an extra day to file the Objection. The extra time will allow the Foreign Representative an opportunity to confer with the Objecting Parties to see if the Objection can be resolved or narrowed. If the Objection cannot be resolved, the extra time will permit the Foreign Representative to file a comprehensive written response to the Objection in advance of the Hearing for the benefit of the Court and the Objecting Parties.

14. Accordingly, the Foreign Representative respectfully submits that (i) there is sufficient cause to grant the relief requested in this Motion, (ii) no party in interest will be prejudiced if the Reply is filed, and (iii) the Objecting Parties and the Court would benefit from the Foreign Representative’s written reply in advance of the Hearing.

**NOTICE**

15. Notice of this Motion has been provided to (i) the Office of the United States Trustee for Region 3; (ii) counsel to the Objecting Parties; and (iii) all parties that have requested notice in these chapter 15 cases under Bankruptcy Rule 2002. The Foreign Representative submits that, in light of the relief requested, no other or further notice need be given.

*[Remainder of Page Intentionally Left Blank]*

WHEREFORE, the Foreign Representative respectfully requests entry of an order substantially in the form attached to this Motion as **Exhibit A**, granting the Foreign Representative leave to file a late Reply and granting such other and further relief as is just and proper.

Dated: November 3, 2023  
Wilmington, Delaware

Respectfully submitted,

**DLA PIPER LLP (US)**

/s/ R. Craig Martin

R. Craig Martin, Esq. (DE 5032)  
1201 N. Market Street, Suite 2100  
Wilmington, DE 19801  
Telephone: (302) 468-5700  
Facsimile: (302) 394-2462  
Email: craig.martin@us.dlapiper.com

-and-

Rachel Ehrlich Albanese, Esq. (admitted *pro hac vice*)  
Jamila Justine Willis, Esq. (admitted *pro hac vice*)  
1251 Avenue of the Americas  
New York, New York 10020  
Telephone: (212) 335-4500  
Facsimile: (212) 335-4501  
Email: rachel.albanese@us.dlapiper.com  
jamila.willis@us.dlapiper.com

*Counsel to the Foreign Representative*

**Exhibit A**

**Proposed Form of Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NEXTPOINT FINANCIAL INC., *et al.*,  
Debtors in a foreign proceeding.<sup>1</sup>

Chapter 15

Case No. 23-10983 (TMH)

**Re: D.I. 80**

**Hearing Date: November 6, 2023,  
at 11:00 a.m. (ET)**

**Obj. Deadline: At the Hearing**

**ORDER GRANTING MOTION  
OF THE FOREIGN REPRESENTATIVE  
FOR LEAVE TO FILE LATE REPLY IN  
SUPPORT OF RECOGNITION MOTION**

Upon consideration of the *Motion of the Foreign Representative for Leave to File Late Reply Brief in Support of the Motion of the Foreign Representative for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order, (II) Approving the Sale of Substantially all of the Debtors' Interests Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* (the "**Motion**")<sup>2</sup> filed by the above-captioned Foreign Representative for entry of an order granting the Foreign Representative leave to file a late Reply to the Objection and related relief, all as more fully set forth in the Motion; and upon consideration of the Motion and the record of these chapter 15 cases; and this Court having found that (i) this Court has

<sup>1</sup> The Debtors in these chapter 15 proceedings, together with the last four digits of their business identification numbers are: NextPoint Financial Inc. (6134); LT Holdco, LLC (8090); LT Intermediate Holdco, LLC (0811); SiempreTax+ LLC (6145); JTH Tax LLC (8391); Liberty Tax Holding Corporation (N/A); Liberty Tax Service, Inc. (N/A); JTH Financial, LLC (1522); JTH Properties 1632, LLC (0248); Liberty Credit Repair, LLC (5427); Wefile, LLC (6778); JTH Tax Office Properties, LLC (0248); LTS Software LLC (6450), JTH Court Plaza, LLC (2116); 360 Accounting Solutions, LLC (8312); LTS Properties, LLC (9088); NPI Holdco LLC (1936); CTAX Acquisition LLC (6975); Community Tax Puerto Rico LLC (4349); Community Tax LLC (8001); NPLM Holdco LLC (8132); MMS Servicing LLC (7430); LoanMe, LLC (5663); LoanMe Funding, LLC (2305); LM Retention Holdings, LLC (N/A); LoanMe Trust-Prime 2018-1 (0257); LoanMe Trust SBL 2019-1 (N/A); LoanMe Stores LLC (3810); InsightsLogic LLC (0818); and LM 2020 CM I SPE, LLC (N/A). The location of the Debtors' headquarters is 500 Grapevine Hwy, Suite 402, Hurst, TX 76054, and the Debtors' mailing address is 1133 Melville St., Suite 2700, Vancouver, BC V6E 4E5.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning given to them in the Motion.

jurisdiction to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012, (ii) this Court may enter a final order consistent with Article III of the United States Constitution, (iii) this is a core proceeding under 28 U.S.C. § 157(b), (iv) venue of this proceeding and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409, and (v) notice of the Motion was sufficient under the circumstances and no further or other notice of the Motion is required under the circumstances; and this Court having reviewed the Motion; and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted in this Order; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors and their creditors; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, as set forth in this Order.
2. Notwithstanding anything to the contrary contained in the Local Rules, the Foreign Representative is permitted to file the Reply, and the Reply shall be deemed timely filed.
3. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation or enforcement of this Order.

**Exhibit B**

**Reply**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:  
NEXTPOINT FINANCIAL INC., et al.,  
Debtors in a foreign proceeding.

Chapter 15  
Case No. 23-10983 (TMH)  
(Jointly Administered)  
Re: D.I. 80 & 88  
Hearing Date: November 6, 2023, at 11:00 a.m.

**FOREIGN REPRESENTATIVE’S REPLY TO AREA DEVELOPERS’ OBJECTION  
TO MOTION OF THE FOREIGN REPRESENTATIVE FOR ENTRY  
OF AN ORDER (I) RECOGNIZING AND ENFORCING THE CCAA VESTING  
ORDER, (II) APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE  
DEBTORS’ INTERESTS FREE AND CLEAR OF LIENS, CLAIMS, AND  
ENCUMBRANCES, AND (III) GRANTING RELATED RELIEF**

NextPoint Financial Inc., in its capacity as Foreign Representative for each of the above-captioned foreign debtors (the “**Debtors**”), including JTH Tax, Inc. d/b/a Liberty Tax Service (“**Liberty**”), files this reply (the “**Reply**”) to the objection filed by Gorilla Tax Services, Inc., Sarkauskas Empire Inc., Sarkauskas Enterprises, LLC, Mufeed Haddad, Mary Johnson, Mark Johnson, Michael Budka, and M&M Business Group, LP (collectively, the “**Area Developers**”) [D.I. 88] (the “**Objection**”) to the *Motion of the Foreign Representative for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order, (II) Approving the Sale of Substantially All of the Debtors’ Interests Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [D.I. 80] (the “**Motion**”).<sup>1</sup> In support of this Reply, the Foreign Representative respectfully states as follows:

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<sup>1</sup> Capitalized terms used but not defined in this Reply have the meaning set forth in the Motion or the Area Developer Agreements, as applicable.

REPLY

1. The relief sought in the Motion is the culmination of extensive negotiations and between the Purchaser, the Foreign Representative, the Debtors, and the Monitor, resulting in approval of a complex and complicated transaction by a court in Canada. The Motion seeks the assistance of this Court to apply that Canadian approval in the United States.

2. The Area Developers, the only parties who have challenged these transactions in the U.S.— and who did not object at all to the approval in Canada — have objected to the Motion on the basis that the requested relief in the Motion fails to sufficiently protect the interests of the Area Developers. In reaching this erroneous conclusion, the Area Developers raise four principal arguments, none of which is meritorious:

- **First**, the Area Developers contend that, to the extent the franchise agreements but not the Area Developer Agreements are to be retained by the Debtors, the relief requested must provide for cure of defaults and adequate assurance of future performance. This argument fails because, as discussed below, the Area Developers *are not parties to the franchise agreements* and have no rights under those agreements.
- **Second**, the Area Developers argue that, to the extent that the Area Developer Agreements and the franchise agreements are to be treated as excluded assets and transferred to a residual company, the Court must protect their rights under as licensees of intellectual property under section 365(n) of the Bankruptcy Code. This argument fails for at least two reasons. First, and as noted above, the Area Developers are not parties to the franchise agreements and are not entitled to assert rights under any licenses afforded in those agreements. And second, the Area Developer Agreements, themselves, grant extremely limited trademark licenses that are not subject to section 365(n), and which are being disclaimed in accordance with Canadian law.
- **Third**, the Area Developers contend that, to the extent that Liberty has collected postpetition franchise fees and royalties under the franchise agreements and has failed to pay the Area Developers their designated portion of such franchise fees and royalties, such amounts must be turned over to the Area Developers. The Area Developers cite no facts in support of these assertions. Instead, this appears to be a continuation of universally unsuccessful prepetition litigation related to a roundly rejected contention that the Area Developer Agreements are perpetual. To the extent that there are postpetition fees owing, that is an issue of Canadian law and should have been addressed at the CCAA Vesting Order Hearing.

- **Finally**, the Area Developers object to the proposed third-party releases and exculpation provisions set forth in the Motion. As set forth herein, courts routinely approve similar third-party releases that are included in foreign restructuring plans.

3. Fundamentally, the Area Developers' arguments are based on a flawed premise. Contrary to their assertion, they are not parties to the underlying franchise agreements. Their rights to recruit potential franchisees and receive certain fees and royalties if a franchise agreement is entered into between Liberty and a franchisee sourced by the Area Developer arise under the Area Developer Agreements. The Area Developers' contractual rights do not implicate section 365(n) of the Bankruptcy Code, *Tempnology*, or any other provision that would preclude granting the Motion.

4. Accordingly, the Motion should be granted and the Objection overruled.

#### **RELEVANT FACTUAL BACKGROUND**

5. Liberty offers franchises to operate its tax return preparation services. As part of marketing its franchises, Liberty contracts with "area developers" who agree to market to potential franchisees in exchange for a percentage of royalties generated by franchisees in their designated area. The objecting parties are eight of Liberty's "area developers."

6. Each objecting Area Developer is or was a party to an Area Developer Agreement (the "Area Developer Agreements") with Liberty, copies of which are attached hereto as **Exhibit A-1 through A-15**. Four of the Area Developer Agreements were active as of the Petition Date ("Active AD Agreements"). Eleven of the Area Developer Agreements were not active as of the Petition Date due to non-renewal<sup>2</sup> ("Inactive AD Agreements"). These Active AD Agreements and Inactive AD Agreements are identified on **Appendix A** attached hereto.

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<sup>2</sup> A number of the Area Developers who were parties to Inactive AD Agreements have litigation pending against one or more of the Debtors. This litigation has routinely found that, despite Area Developers' arguments to the contrary, there is no perpetual right to serve as an area developer. See, e.g., *JTH Tax LLC v. Grabowski*, No. 19 C 8123, 2021 WL 3857794, at \*6 (N.D. Ill. Aug. 30, 2021), *reconsideration denied sub nom. JTH Tax LLC v. Rocci*, No. 19 C 8123,

7. With respect to the Inactive AD Agreements, a notice of Non-Renewal (“**Notice of Non-Renewal**”) was mailed to the relevant Area Developer between August 14, 2019 and November 28, 2022. Copies of those Notices of Non-Renewal are attached hereto as **Exhibit B**.

8. With respect to the Active AD Agreements, on October 27, 2023, the Foreign Representative mailed notices of disclaimers to the four applicable Area Developers, providing notice of the intent to disclaim or resiliate (analogous to rejection under the CCAA) the Active AD Agreements [D.I. 97]. Copies of the notices of disclaimer are attached hereto as **Exhibit C**. As stated in the notices of disclaimers, parties have fifteen (15) days after the day on which notice is given to apply to the Canadian Court for an order that the agreement is not to be disclaimed or resiliated. Accordingly, the deadline to respond to the notices of disclaimers is November 13, 2023.

9. On October 31, 2023, the Canadian Court held a hearing on and entered the CCAA Vesting Order (“**CCAA Vesting Order Hearing**”). No objections were raised by the Area Developers or any other third party to the relief requested at the CCAA Vesting Order Hearing.

10. On November 1, 2023, the Foreign Representative filed a *Notice of Filing of (I) CCAA Vesting Order and (II) Final Transaction Agreement [D.I. 91]*, attaching the CCAA Vesting Order, a redline of the CCAA Vesting Order against the version filed with the Motion, an executed copy of the Transaction Agreement, and a redline of the Transaction Agreement against the version filed with the Motion.

11. The Active AD Agreements are identified as Excluded Assets on Schedule 2.2 of the Transaction Agreement.

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2021 WL 4844099 (N.D. Ill. Oct. 17, 2021) (finding that because the Area Developer failed to meet minimum requirements, Liberty was entitled to refuse renewal).

12. Contrary to their assertion that they are “deemed” parties to various Liberty franchise agreements, *see* Obj. ¶¶ 3-4, there is no provision in the Area Developer Agreements, the franchise agreements, or under applicable law which provides that an Area Developer would be a party to any franchise agreement, which is likely why the Area Developers do not cite to language in any of the controlling agreements to support their position. The Area Developers were not signatories to the franchise agreements that they sold.

13. The Area Developer Agreements define the rights of the Liberty and the applicable Area Developer. Importantly, the Area Developer Agreements expressly state that “Liberty owns the Franchise system, its trademarks and all other intellectual property associated with the Franchise system.” *See* Section 8.2 of Area Developer Agreement, attached as Exhibit A. While the Area Developer Agreements provide the Area Developer with the right to use Liberty’s trademarks during the term for the sole purpose of advertising the availability of franchises for sale within the territory, any marketing involving Liberty’s trademarks must be approved in writing by Liberty, and this approval can be granted or withheld in Liberty’s sole discretion. *Id.*

### ARGUMENT

#### **I. The Area Developer’s Rights Are Appropriately Protected.**

14. The Area Developer Agreements have either been non-renewed prior to the Petition Date or are subject to disclaimer under Canadian law and are not being transferred pursuant to the CCAA Vesting Order. This treatment is consistent with the rights granted under those agreements and applicable law. The concept of “sufficient protection” is procedural and is designed to ensure that the US-based creditor has the right to participate in the foreign proceedings. Here, notices have been provided to the Area Developers and they can assert their entitlements in Canada for that court to address. The mechanism in Canada for payment of these claims is not dissimilar to the way they would be treated in the United States, as further discussed below.

A. **The Active AD Agreements Are Not Licenses to Operate Locations and Are Not IP or Trademark Licenses.**

15. The Area Developers contend that the Debtors license “a system for the operation of tax return preparation offices within specified territories.” Obj. ¶1. This is fundamentally incorrect. The Area Developer Agreements provide a license for the Area Developer to advertise the availability of franchise locations and territories for sale by Liberty to potential franchisee candidates. Area Developer Agreement, at ¶8.2. The agreements *do not* grant a license for the operation of Liberty-branded tax return preparation offices. *Id.* The Area Developer Agreements specify that Liberty owns the franchise system, its trademarks, and all other intellectual property associated with the franchise system. *Id.* While Active Area Developers have a limited right to use Liberty’s trademarks during the term for the sole purpose of advertising the availability of franchises within the Area Developer’s territory, this limited grant requires Liberty’s prior written consent, which may be withheld in Liberty’s sole discretion. *Id.*

16. Accordingly, the Active AD Agreements<sup>3</sup> are routine executory contracts, not specialized IP licenses, that can be disclaimed under Canadian law (and, in a plenary proceeding in the U.S., would be subject to rejection under section 365 without implicating any of the concerns addressed by section 365(n) or *Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652 (2019)). The Area Developers have no special rights that are implicated, or that must be protected. Their rights are limited to that of a counterparty to a contract under Canadian law. CCAA § 32 (detailing the rights of counterparties to executory contracts).<sup>4</sup>

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<sup>3</sup> Those Area Developers who have Inactive AD Agreements do not hold any trademark license. Any protections under section 365(n)/*Tempnology* only apply to rights in existence as of the Petition Date. Therefore, as a matter of law, the Debtors do not have the right to assume or preserve agreements with any Area Developer that was terminated or nonrenewed prior to filing for chapter 15 protection.

<sup>4</sup> For ease of reference, copies of all Canadian legal statutes referenced in this Reply are attached as **Exhibit D** hereto.

**B. The Area Developers Are Not Parties to Franchise Agreements.**

17. Similarly, the Area Developers attempt to bolster their argument that they are entitled to special intellectual property related rights by stating, without attaching a single exhibit, that they are “deemed” parties to any franchise agreement that a proposed candidate entered into or enters into with Liberty in the specified territory. Obj. ¶3. This is incorrect. Nowhere in the Objection do the Area Developers explain what provision of the Area Developer Agreements they are relying upon in making that determination.<sup>5</sup> This is because there is no such provision. The franchise agreements do not include Area Developers as a party, signatory, or otherwise.

18. Because the Area Developers are not parties to the franchise agreements that they market, they are not entitled to any rights that a *franchisee* may be entitled to. Their rights are limited to that of a counterparty to a contract under Canadian law. CCAA § 32 (detailing the rights of counterparties to executory contracts).

**C. Section 365(n) of the Bankruptcy Code Does Not Apply on these Facts.**

19. Even if the Area Developers had shown that the Area Developer Agreements were subject to the provisions of section 365(n) and *Tempnology* (and they have not), this Court should

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<sup>5</sup> Liberty is aware that the Area Developers have been referencing an expired form of franchise agreement from 2008, which purports to make the Area Developer a party to the franchise agreement. Not included in rights, if any, granted to Area Developers under the franchise agreement are the rights to use Liberty trademarks, which are expressly granted to the franchisee.

Further, the referenced form of franchise agreement was entered into in 2008 and (1) has since expired and (2) relates to a territory that is not covered by any of the Area Developers. The Area Developers are not parties to franchise agreements in general and certainly not to old, expired franchise agreements from 2008. Even if they were a party, the Area Developers may not enforce contracts that expired well over 15 years ago. *See, e.g., Rockbridge Area Conservation Council v Virginia Outdoors Foundation*, No. CL15-186, 2018 WL 1053753, at \*3 (Va.Cir.Ct. Feb. 23, 2018) (“The Court thus finds and concludes that VOF is not liable for breach of contract in this case, because the contract expired by its terms, and in effect left no contract to breach.”); *Litton Fin. Printing Div., a Div. of Litton Bus. Sys., Inc. v N.L.R.B.*, 501 U.S. 190, 206 (1991) (“[A]n expired contract has by its own terms released all its parties from their respective contractual obligations, except obligations already fixed under the contract but as yet unsatisfied”); *17A Am. Jur. 2d Contracts § 519* (“Where a contract specifies the period of its duration, it terminates on the expiration of such period. An expired contract releases all its parties from their respective contractual obligations.”). Liberty’s standard franchise agreement is five years. *More recent franchise agreements do not appear to contain the referenced language.*

exercise its discretion and not apply those provisions to the cases here. It is axiomatic that not all provisions of the Bankruptcy Code automatically apply in chapter 15 cases even upon recognition. *See* 11 U.S.C. § 1520 (listing certain Bankruptcy Code provisions that automatically apply upon recognition of a foreign main proceeding). Not listed among them is section 365 of the Bankruptcy Code or its subsection 365(n). Instead, the purpose of chapter 15 is to recognize and aid foreign courts, not to provide a second bite at the apple to parties who are dissatisfied with the rulings of foreign courts. *In re Just Energy Group Inc.*, Case No. 21-30823, Hr’g Tr. 24:12-22, Dec. 1, 2022 (“What we are doing here today is not second-guessing the Canadian court. That is the opposite of what we are supposed to do today. We are determining whether the orders of the Canadian court should be recognized in the United States, and the argument that you are making as to why this is admissible is that perhaps the judge in Canada could have made a different decision. But that does not go to whether we should recognize the order, which at this point you have not suggested any reason why those proceedings were in some manner so irregular that they are not entitled to recognition.”); *Id.*, Hr’g Tr. 17:20 – 18:2, Dec. 15, 2022 (“Well, let me just say that largely the job of a recognition court is not to serve as an appellate court to the Canadian proceeding, but is to determine whether what the Canadian proceeding has undertaken somehow offends U.S. law or is inconsistent with U.S. law, things of that nature. But if you knew the Canadian proceeding since March of 1 2021, then you had an opportunity to present this evidence in Canada, which has been rejected.”). Here, the Area Developers were on full notice of the CCAA proceedings and chose not to appear, objecting only now in the chapter 15.

20. The Area Developers cite to *Jaffe v. Samsung Electronics Company, Limited* for the proposition that licensees in a chapter 15 bankruptcy proceeding were entitled to the protections afforded by section 365(n) of the Bankruptcy Code. *See* Obj. ¶19. Section 365(n) of the Bankruptcy Code applies to “Intellectual Property” as defined in section 101 of the Bankruptcy



Code. Under section 101(35A) of the Bankruptcy Code, intellectual property “means-(A) trade secret; (B) invention, process design, or plant protected under title 35; (C) patent application; (D) plant variety; (F) work of authorship protected under chapter 9 of title 17.” 11 U.S.C. § 101 (35A). Notably, trademarks are excluded by omission from the definition of “intellectual property” under this section. Under the Active AD Agreements, the only intellectual property that may be implicated is a license to use Liberty trademarks. Consequently, section 365(n) of the Bankruptcy Code does not apply here.

21. Moreover, the *Jaffe* and *Qimonda* decisions are factually distinct from the present situation. Both decisions focused heavily on evidence presented at trial, with the bankruptcy court in *Qimonda* indicating the issue on balance was “close” but finding compelling the facts and circumstances of the industry-specific issues raised during the trial. *In re Qimonda AG*, 462 B.R. 165 (Bankr. E.D. Va. 2011).

22. The Area Developer Agreements specify that Liberty owns the franchise system, its trademarks and all other intellectual property associated with the franchise system, and the Area Developer Agreements only provide the Area Developer with the right to use Liberty’s trademarks during the term for the sole purpose of advertising the availability of franchises within the territory. *See* Section 8.2 of Area Developer Agreement. This is not an intellectual property right that can be used by the Area Developer under section 365(n) because it still requires Liberty’s prior written consent to such use and states that such consent may be withheld in Liberty’s sole discretion. *Jaffe v. Samsung Elecs. Co.*, 737 F.3d 14 (4th Cir. 2013) is irrelevant here because the Area Developer Agreements allow Liberty to withhold consent for the use of the intellectual property at any time.

23. Further, unlike in *Jaffe* where it was presumed that there were fewer protections provided under German law, the CCAA proceedings already ensure sufficient protection of creditors. A determination of sufficient protection “requires a balancing of the respective parties’

interests.” *In re ENNIA Caribe Holding N.V.*, 596 B.R. 316, 322 (Bankr. S.D.N.Y. 2019) (citing *AJW Offshore, Ltd.*, 488 B.R. 551, 559 (Bankr. E.D.N.Y. 2013)); *SNP Boat Serv. S.A. v. Hotel Le St. James*, 483 B.R. 776, 784 (S.D. Fla. 2012)). Courts have explained “sufficient protection” as embodying three basic principles: the just treatment of all holders of claims against the bankruptcy estate, the protection of U.S. claimants against prejudice and inconvenience in the processing of claims in the foreign proceeding, and the distribution of proceeds of the foreign estate substantially in accordance with the order prescribed by U.S. law. *ENNIA Caribe Holding N.V.*, 596 B.R. at 322 (quoting *In re Atlas Shipping A/S*, 404 B.R. 726, 740 (Bankr. S.D.N.Y. 2009)).

24. As further discussed in the Motion, the CCAA is a just and reasonable procedure, as previously recognized by numerous United States courts, and principles of comity dictate that the law of the plenary proceeding govern over congruent considerations of U.S. law. *See* Mot. ¶43; *Cornfeld v. Invs. Overseas Servs., Ltd.*, 471 F. Supp. 1255, 1259 (S.D.N.Y. 1979) (“The fact that the foreign country involved is Canada is significant. It is well-settled in New York that the judgments of the Canadian courts are to be given effect under principles of comity. . . . More importantly, Canada is a sister common law jurisdiction with procedures akin to our own, and thus there need be no concern over the adequacy of the procedural safeguards of Canadian proceedings.”) (internal quotation marks and citations omitted); *see also In re Grant Forest Prod., Inc.*, 440 B.R. 616, 622 (Bankr. D. Del. 2010); *In re Crystallex Int’l Corp.*, No. 11-14074 (LSS), 2022 WL 17254660, at \*6 (Bankr. D. Del. Nov. 28, 2022).

25. In Canada, there are protections afforded to licensees of intellectual property under the CCAA which are largely similar to those granted under section 365(n) of the Bankruptcy Code. Section 32(6) of the CCAA provides that “[i]f the company has granted a right to use intellectual property to a party to an agreement, the disclaimer or resiliation does not affect the party’s right to use the intellectual property — including the party’s right to enforce an exclusive use — during

the term of the agreement, including any period for which the party extends the agreement as of right, as long as the party continues to perform its obligations under the agreement in relation to the use of the intellectual property.” CCAA §32(6). Further, the protections provided to creditors are arguably even more robust than those provided in the U.S., as the CCAA provides for the existence of a Monitor to act as a neutral third party and requires that the Monitor approve the proposed disclaimer or resiliation (a process which was undertaken here). CCAA §32(1). Lastly, in considering whether to disclaim contracts, the Canadian Court is to consider several factors, including whether the disclaimer would likely cause significant financial hardship to a party to the agreement. CCAA §32(4). To the extent the Area Developers wish to object to the disclaiming of their Area Developer Agreements, they can and should apply to the Canadian Court.

26. Accordingly, this Court should overrule the Objection and find that section 365(n) does not apply to prohibit the disclaimer or exclusion of the Area Developer Agreements, and that the objection should be addressed in the Canadian Proceedings.

**II. The Area Developers Have Not Shown that Liberty Collected Franchise Fees that Must Be Turned Over and Entitlement, if any, to Postpetition Franchise Fees Is a Matter of Canadian Law.**

27. The Area Developers contend that, to the extent that Liberty has collected postpetition franchise fees and royalties under the franchise agreements and has failed to pay the Area Developers their designated portion of franchise fees and royalties, these amounts must be turned over to the Area Developers. The Area Developers cite no facts in support of this contention and mere conjecture is not sufficient to raise a factual dispute on this point. Moreover, this argument appears to be a continuation of a roundly rejected position proffered by Area Developers that were parties to the Inactive AD Agreements that the Area Developer Agreements are perpetual (and that they are then entitled to perpetual franchise fee royalties) and does not serve as a basis to overrule the Motion. *See, e.g., JTH Tax LLC v. Grabowski*, No. 19 C 8123, 2021 WL 3857794, at

\*6 (N.D. Ill. Aug. 30, 2021), *reconsideration denied sub nom. JTH Tax LLC v. Rocci*, No. 19 C 8123, 2021 WL 4844099 (N.D. Ill. Oct. 17, 2021) (finding that because the area developer failed to meet minimum requirements, Liberty was entitled to refuse renewal).

28. To the extent there are postpetition franchise fees that are owed under Active AD Agreements, that is an issue of Canadian law and should have been addressed at the CCAA Vesting Order Hearing. The Area Developers' unfounded statements are nothing more than distraction and attempts to thwart a wholly permissible and authorized transaction, simply because they do not agree with their proposed treatment thereunder.

### **III. The Third Party Releases Should Be Enforced.**

29. Finally, in a single sentence without citation, the Area Developers object to the proposed third-party releases and exculpation provisions set forth in the Motion on the grounds that the Motion fails to identify any basis for such relief under the Bankruptcy Code. Obj. ¶12. Granting comity to the Transaction Agreement and CCAA Vesting Order should appropriately extend to the releases and exculpations provided for therein. “[P]rinciples of enforcement of foreign judgments and comity in chapter 15 cases strongly counsel approval of enforcement in the United States of the third-party non-debtor release and injunction provisions [appropriately granted in a foreign proceeding], even if those provisions could not be entered in a plenary chapter 11 case.” *In re Metcalfe & Mansfield*, 421 B.R. 685, 696 (Bankr. S.D.N.Y. 2010); *Avanti*, 582 B.R. 603, 619 (Bankr. S.D.N.Y. 2018) (enforcing a scheme and sanction order including third-party releases); *In re Sino-Forest Corp.*, 501 B.R. 655, 665 (Bankr. S.D.N.Y. 2013) (“[W]here third-party releases are not categorically prohibited, it cannot be argued that the issuance of such releases is manifestly contrary to public policy . . .”).

30. Courts have enforced similar third-party releases in various foreign proceedings. Recognition of such releases is appropriate and routinely granted to foreign debtors through

chapter 15 of the Bankruptcy Code. *See, e.g., In re Acerus Pharma. Corp.*, No. 23-10111 (TMH) (Bankr. D. Del. June 13, 2023) (D.I. 78) (granting recognition to orders issued by the Canadian court, including the releases set forth therein); *In re Avanti*, 582 B.R. at 606 (recognizing and enforcing a United Kingdom scheme and sanction order where “failure of a U.S. bankruptcy court to enforce [certain third-party releases] could result in prejudicial treatment of creditors to the detriment of the Debtor’s reorganization”); *In re Sino-Forest Corp.*, 501 B.R. at 665 (enforcing foreign order containing third-party releases); *In re Ocean Rig UDW Inc.*, 570 B.R. 687, 687 (Bankr. S.D.N.Y. 2017) (recognizing and enforcing terms of Cayman scheme that released subsidiary guarantees); *In re Catalyst Paper Corp.*, No. 16-12419 (CSS), 2017 WL 5479405, at \*2 (Bankr. D. Del. Jan. 20, 2017) (granting recognition to orders issued by the Canadian court, including the releases set forth therein); *In re CDS U.S. Holdings, Inc.*, No. 20-11719 (CSS) (Bankr. D. Del. Oct. 29, 2020) (D.I. 112) (recognizing and giving effect in the United States to the Approval and Vesting Order entered in the Canadian Proceeding, including third-party releases therein).

31. The same circumstances are present here. If the Court declines to enforce the release, exculpation, and injunction provisions set forth in the in the CCAA Vesting Order, then creditors could seek to obtain judgments in the U.S. against the Debtors or other Released Parties (as defined in the CCAA Vesting Order). This outcome would undermine the Canadian Proceedings and the Canadian Court’s order and would result in prejudicial treatment of certain creditors and parties in interest to the detriment of the Debtors’ reorganization efforts and will prevent the fair and efficient administration of the restructuring contemplated in the Transaction Agreement.

32. If creditors are permitted to commence actions in the United States in contravention of the CCAA Vesting Order, Transaction Agreement, and the release, exculpation, and injunction

provisions set forth therein, the Foreign Representative and the Debtors will be forced to waste resources defending those actions. The relief requested is necessary to achieve comity and prevent parties from undermining the purpose of the CCAA Vesting Order and the authority of the Canadian Court.

**CONCLUSION**

The Foreign Representative respectfully submits that, for the reasons set forth herein, the Objection should be overruled and the Motion granted.

November 3, 2023  
Wilmington, Delaware

**DLA PIPER LLP (US)**

/s/ R. Craig Martin

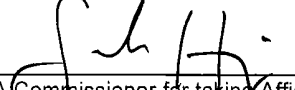
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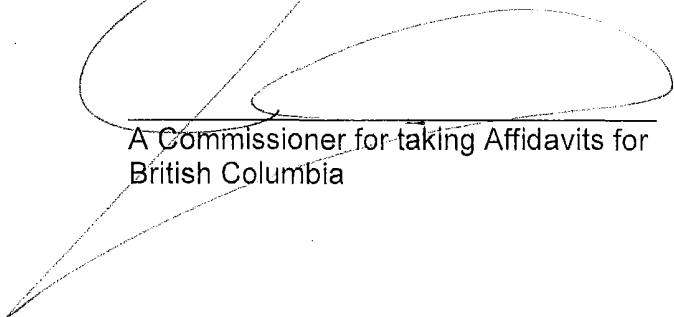
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*Counsel to the Foreign Representative*

This is Exhibit "D" referred to in the affidavit of Teri Stevens affirmed before me at Vancouver, British Columbia, this 23rd day of November, 2023.

  
A Commissioner for taking Affidavits  
within British Columbia.

This is **Exhibit "O"** referred to in the Affidavit of Peter Kravitz sworn before me at Vancouver, British Columbia on this the 25th day of July, 2023

  
A Commissioner for taking Affidavits for  
British Columbia



**PURCHASE AGREEMENT**

**NEXTPPOINT FINANCIAL INC.**

**as NextPoint Parent**

**-and-**

**NPI HOLDCO LLC AND CERTAIN OF ITS SUBSIDIARIES (as set forth herein)**

**each as a Vendor and collectively, as the Vendors**

**-and-**

**THE LENDERS UNDER THE BP NP-LIBERTY CREDIT AGREEMENT (as defined herein)**

**each as a Purchaser and collectively, as the Purchasers**

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**Disclosure Letter, Schedules and Exhibits**

Disclosure Letter

Schedule A – Purchased CTAX Assets

Schedule B – Purchased LT Assets

Exhibit 1 – Form of Vesting Order

## PURCHASE AGREEMENT

THIS AGREEMENT is made as of July [●], 2023

## AMONG:

NextPoint Financial Inc. ("**NextPoint Parent**")

-and-

NPI Holdco LLC ("**HoldCo**"); LT Holdco, LLC ("**LT Holdco**"); LT Intermediate Holdco, LLC ("**LT Intermediate Holdco**"); SiempreTax+ LLC ("**Siempre**"); JTH Tax LLC ("**JTH Tax**"); JTH Financial, LLC; JTH Properties 1632, LLC; JTH Tax Office Properties, LLC; Wefile LLC ("**Wefile**"); Liberty Credit Repair, LLC; LTS Properties, LLC; 360 Accounting Solutions, LLC; JTH Court Plaza, LLC; LTS Software LLC; CTAX Acquisition LLC; Community Tax LLC ("**CTAX LLC**"); and Community Tax Puerto Rico LLC ("**CTAX Puerto Rico**," and together with CTAX Acquisition LLC and CTAX LLC, collectively, the "**CTAX Entities**," and each a "**CTAX Entity**") (each, a "**Vendor**" and collectively, the "**Vendors**");

-and-

the undersigned entities as lenders under the BP NP-Liberty Credit Agreement (as defined below) (such lenders in such capacity, each, a "**Purchaser**" and collectively, the "**Purchasers**").

## RECITALS:

- A. Pursuant to the Restructuring Support Agreement dated as of the date hereof, by and among NextPoint Parent and its Subsidiaries (including each Vendor) (collectively, the "**Applicants**"), the Purchasers and any other parties signatory thereto from time to time (as amended, supplemented, or otherwise modified from time to time, the "**Support Agreement**"), the parties have negotiated the terms of a SISP to be implemented in proceedings (the "**CCAA Proceedings**") under the CCAA before the Supreme Court of British Columbia (the "**CCAA Court**").
- B. In accordance with the Support Agreement, the Applicants will seek recognition of applicable Orders in the CCAA Proceedings in ancillary insolvency proceedings under Chapter 15 of Title 11 of the United States Code (the "**U.S. Proceedings**") in the U.S. Bankruptcy Court.
- C. The Purchasers are lenders under that certain Revolving Credit Agreement, dated as of July 2, 2021, by and among Holdco, LT Holdco, NextPoint Parent, the subsidiary guarantors from time to time party thereto, the agent for the Purchasers and the lenders from time to time party thereto (as amended restated, supplemented, or otherwise modified from time to time, the "**BP NP-Liberty Credit Agreement**").

- D. The Purchasers have agreed to act as a “stalking horse” bidder and, if selected or deemed as having submitted the Successful Bid in accordance with the terms of the SISP, to purchase the Purchased Interests and the Purchased Assets and assume the Assumed Liabilities from the Vendors, pursuant to and in accordance with the terms of the SISP and subject to and in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

“**Acquired Entity**” means LT Holdco or, if the Purchasers make the election described in Section 2.1(a)(i), LT Intermediate Holdco, as applicable.

“**Affiliate**” means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person’s investment funds and managed accounts and any funds managed or directed by the same investment advisor.

“**Affiliated Group**” means any affiliated group as defined in Section 1504 of the Code that has filed a consolidated return for U.S. federal income tax purposes (or any consolidated, combined or unitary group under state, local or non-U.S. Applicable Law).

“**Agreement**” means this purchase agreement and all attachments, including the Disclosure Letter and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this transaction agreement and all attached Exhibits, and unless otherwise indicated, references to Articles, Sections, the Disclosure Letter and Exhibits are to Articles, Sections, the Disclosure Letter and Exhibits in this transaction agreement.

“**Alternative Restructuring Proposal**” means any bona fide written proposal for the sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more NextPoint Entity, one or more NextPoint Entity’s material assets, or the debt, equity, or other interests in any one or more NextPoint Entity that is an alternative to or otherwise inconsistent with either or both of the LT Acquisition and the CTAX Acquisition and any amendment to or variation of any such inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement, and is with a counterparty other than the Purchasers or any Affiliate of any Purchaser.

**“Antitrust Approvals”** means any approval, clearance, filing or expiration or termination of a waiting period pursuant to which a transaction would be deemed to be unconditionally approved in relation to the transactions contemplated hereby under any Antitrust Law of any country or jurisdiction that the Purchasers agree, acting reasonably, is required.

**“Antitrust Laws”** means all Applicable Laws, including any antitrust, competition or trade regulation laws (including the HSR Act), that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade or lessening or preventing competition through merger or acquisition.

**“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Transaction Regulatory Approval, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the NextPoint Entities, the Purchasers, the Business, or any of the Purchased Interests, the Purchased Assets or the Assumed Liabilities.

**“Applicants”** has the meaning given to such term in Recital A.

**“Assignment Order”** means an order or orders of the CCAA Court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance acceptable to the Purchasers, acting reasonably, authorizing and approving the assignment of any Contract included in the Purchased Assets for which a Consent and Approval has not been obtained and preventing any counterparty to the Contract from exercising any right or remedy under the Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendors.

**“Assumed Liabilities”** has the meaning given to such term in Section 2.4.

**“BP NP-Liberty Credit Agreement”** has the meaning given to such term in Recital C.

**“Break-Up Fee”** has the meaning given to such term in Section 9.3(a)(i).

**“Business”** means the financial services businesses carried on by the Compromised LT Entities and the CTAX Entities, as applicable, as of the date hereof and as of immediately prior to the Closing.

**“Business Day”** means any day, other than a Saturday or Sunday, on which the principal commercial banks in Vancouver, British Columbia and Houston, Texas are open for commercial banking business during normal banking hours.

**“Causes of Action”** means any action, claim, cross claim, third party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or

unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the applicable Acquired Entity and its Subsidiaries against any Person, in each case based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Closing Time.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Court**” has the meaning given to such term in Recital A.

“**CCAA Proceedings**” has the meaning given to such term in Recital A.

“**Closing**” means the completion of the LT Acquisition and/or the CTAX Acquisition, as applicable.

“**Closing Cash Payment**” means an amount to be determined with the Vendors which will be sufficient to pay any outstanding Priority Payables.

“**Closing Date**” means a date no later than five (5) Business Days after the conditions set forth in Article 6 to such Closing have been satisfied or waived, other than the conditions set forth in Article 6 that by their terms are to be satisfied or waived (to the extent permitted by Applicable Law) at such Closing, but subject to the satisfaction or waiver (to the extent permitted by Applicable Law) of such condition at such Closing; provided that, if there is to be a Closing hereunder, then the Closing Date for such Closing shall be no later than the Outside Date.

“**Closing Documents**” means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.

“**Closing Time**” means 12:01 a.m. (Vancouver 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.

“**Code**” means the United States Internal Revenue Code of 1986, as amended.

“**Compromised LT Entities**” means, collectively, Siempre, JTH Tax, Wefile and such other Vendors that are Subsidiaries of the Acquired Entity as the Purchasers may designate by notice in writing delivered to the Vendors not less than three (3) Business Days prior to the Closing Date of the LT Acquisition, and “**Compromised LT Entity**” means any one of them; provided that “**Compromised LT Entities**” shall not include any Subsidiary that the Purchasers elect to remove as a Compromised LT Entity by notice in writing delivered to the Vendors not less than three (3) Business Days prior to the Closing Date of the LT Acquisition.

“**Confidential Information**” means non-public, confidential, personal or proprietary information which is furnished to the Purchasers or any of their Affiliates by the NextPoint Entities or any of the NextPoint Entities’ representatives, including information about identifiable individuals, any information relating to the NextPoint Entities, or any customer or supplier of the NextPoint Entities, but does not include information that (a) is or becomes generally available to the public other than as a result of disclosure by any Purchaser or its representatives in breach of this Agreement, (b) is received by a Purchaser from an independent



third party that, to the knowledge of such Purchaser, obtained it lawfully and was under no duty of confidentiality or (c) is independently developed or acquired by a Purchaser, its Affiliates or their respective representatives without reference to any Confidential Information.

**“Consents and Approvals”** means the consents, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) as may be required to complete the LT Acquisition or the CTAX Acquisition, as applicable, in form and substance satisfactory to the Purchasers, acting reasonably.

**“Contracts”** means contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements.

**“CTAX Acquisition”** means the sale and purchase of the Purchased CTAX Assets pursuant to this Agreement at the applicable Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased CTAX Assets.

**“CTAX Acquisition Credit Bid Amount”** has the meaning given to such term in Section 3.1(a)(ii).

**“CTAX Entity”** and **“CTAX Entities”** have the meanings given to such terms in the preamble to this Agreement.

**“CTAX LLC”** has the meaning given to such term in the preamble to this Agreement.

**“CTAX Puerto Rico”** has the meaning given to such term in the preamble to this Agreement.

**“CTAX Second Lien Debt”** means debt which is secured by a second priority lien on assets securing the Drake Credit Agreement and which is not documented by the BP CTAX Term Loan Credit Agreement, as such term is defined in the Support Agreement.

**“Cure Costs”** means amounts that must be paid, if any, in connection with the assignment and assumption of the Purchased Assets, including costs to cure any monetary defaults thereunder that are required to be cured as a condition of such assignment, subject to the CCAA as applicable, together with such other reasonable costs required to obtain any Consent and Approval, up to a maximum of \$[50,000] in the aggregate.

**“DIP Financing”** means the debtor-in-possession financing facility made available to the NextPoint Entities by the Purchasers pursuant to the DIP Term Sheet.

**“DIP Term Sheet”** means the Interim Financing Term Sheet between, among others, the NextPoint Entities party thereto and the Purchasers, dated as of the date hereof, as such term sheet may be amended, restated, supplemented and/or otherwise modified in accordance with the terms thereof.

“**Disclosure Letter**” means the disclosure letter dated the date hereof regarding this Agreement.

“**Drake Credit Agreement**” means the Credit Agreement, dated as of June 29, 2022, by and among CTAX Acquisition LLC, the subsidiary guarantors from time to time party thereto, Drake Enterprises Ltd. as administrative agent and the lenders from time to time party thereto, as may be amended restated, supplemented, or otherwise modified from time to time.

“**Encumbrance**” means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.

“**Equity Interests**” means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of a Person.

“**ETA**” means the *Excise Tax Act* (Canada).

“**Excluded Assets**” has the meaning given to such term in Section 2.3.

“**Excluded Contracts**” means contracts of the Compromised LT Entities or the CTAX Entities, as applicable, as specified on Schedule 2.2(c) of the Disclosure Letter.

“**Excluded Liabilities**” has the meaning given to such term in Section 2.5.

“**Expense Reimbursement**” has the meaning given to such term in Section 9.3(a)(ii).

“**Final Order**” means with respect to any order or judgment of the CCAA Court or the U.S. Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the U.S. Proceedings or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Vendors and the Purchasers, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the U.S. Bankruptcy Code, may be filed relating to such order shall not cause such order to not be a Final Order.

“**Fundamental Representations and Warranties**” means the representations and warranties of the Vendors included in Sections 4.1 [*Due Authorization and Enforceability of*

Obligations], 4.2 [Existence and Good Standing], 4.4 [Absence of Conflicts], 4.5 [Approvals and Consents] and 4.8 [Title to Assets].

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

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the ETA or any other statute in any jurisdiction of Canada.

“**HSR Act**” means the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976.

“**Holdco**” has the meaning given to such term in the preamble to this Agreement.

“**IFRS**” means International Financial Reporting Standards as issued by the International Accounting Standards Board.

“**Initial CCAA Order**” means an initial order of the CCAA Court pursuant to the CCAA commencing the CCAA Proceedings, as amended, restated, supplemented and/or modified from time to time, to be sought promptly after the date hereof.

“**Insolvency Orders**” means the SISP Order, the Vesting Order, the SISP Recognition Order, and the Vesting Recognition Order.

“**Investment Canada Act**” means the *Investment Canada Act* (Canada), R.S.C., 1985, c. 28 (1<sup>st</sup> Supp).

“**JTH Tax**” has the meaning given to such term in the preamble to this Agreement.

“**Liberty Term Loan**” means the term loan debt borrowed by LT Holdco and guaranteed by certain of the other NextPoint Entities which is documented by the BP NP-Liberty Credit Agreement, as such term is defined in the Support Agreement.

“**LoanMe Entities**” means, collectively, NPLM Holdco LLC, MMS Servicing LLC, LoanMe, LLC, LoanMe Funding, LLC, LoanMe Stores LLC, LM Retention Holdings, LLC, LM BP Holdings, LLC, InsightsLogic LLC, LM 2020 CM I SPE, LLC, LoanMe Trust Prime 2018-1 and LoanMe Trust SBL 2019-1 and each of their respective predecessors and successors.

“**LT Acquisition**” means the sale and purchase of the Purchased Interests and the Purchased LT Assets pursuant to this Agreement at the applicable Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased Interests and the Purchased LT Assets.

“**LT Acquisition Credit Bid Amount**” has the meaning given to such term in Section 3.1(a)(i).

“**LT Holdco**” has the meaning given to such term in the preamble to this Agreement.

“**LT Intermediate Holdco**” has the meaning given to such term in the preamble to this Agreement.

“**Material Adverse Effect**” means any change, effect, event, occurrence, state of facts or development that has had, or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on (i) the business, assets, liabilities, financial conditions or results of operations of the Acquired Entity and its Subsidiaries (including the Compromised LT Entities), taken as a whole, in the case of the LT Acquisition, or the CTAX Entities, taken as a whole, in the case of the CTAX Acquisition, or (ii) prevents the ability of the applicable Vendors to perform their obligations under, or to consummate the transactions contemplated by, this Agreement with respect to the LT Acquisition or the CTAX Acquisition, as applicable; provided, in the case of the foregoing clause (i), no change, effect, event, occurrence, state of facts or development resulting from the following shall constitute a Material Adverse Effect or be taken into account in determining whether a Material Adverse Effect has occurred, is occurring or would be occurring: (a) general economic or business conditions; (b) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including (i) any disruption in any of the foregoing markets, (ii) any change in the currency exchange rates or (iii) any decline or rise in the price of any security, commodity, contract or index); (c) acts of God or other calamities (including plagues or outbreaks of epidemics or pandemics (including the novel coronavirus)), national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (d) the identity of the Purchasers or their Affiliates; (e) conditions affecting generally the industry in which the applicable NextPoint Entities participate; (f) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the transactions contemplated by this Agreement, or the identity of the Parties, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with the NextPoint Entities; (g) changes in Applicable Laws or the interpretation thereof; (h) any change in IFRS or other accounting requirements or principles; (i) national or international political, labor or social conditions; (j) the failure of the applicable NextPoint Entities to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); or (k) any material and uncured breach by Purchaser of this Agreement, or any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (a), (b), (c), (e), (g), (h) or (i) shall not apply to the extent that such event is disproportionately adverse to the applicable NextPoint Entities, taken as a whole, as

compared to other companies in the industries in which the applicable NextPoint Entities operate.

**“Monitor”** means FTI Consulting Canada Inc., as Court-appointed monitor of the NextPoint Entities in the CCAA Proceedings pursuant to the Initial CCAA Order and not in its personal capacity.

**“Monitor’s Certificate”** means the certificate delivered to the Purchasers and filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Vendors and the Purchasers that all conditions to the applicable Closing have been satisfied or waived by the applicable Parties and the LT Acquisition and/or the CTAX Acquisition, as applicable, has been completed.

**“NextPoint Entities”** has the meaning given to such term in the Support Agreement.

**“NextPoint Parent”** has the meaning given to such term in the preamble to this Agreement.

**“Order”** means any order of the Court made in the CCAA Proceedings, any order of the U.S. Court made in the U.S. Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Outside Date”** has the meaning given to such term in the Support Agreement.

**“Parties”** means the Vendors and the Purchasers, collectively, and **“Party”** means either the Vendors or the Purchasers, as the context requires.

**“Permitted Encumbrances”** means the Encumbrances listed in Schedule 1.1(b).

**“Person”** means includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

**“Post-Filing Costs”** means any amounts owing or incurred and not paid under any Contracts included in the Purchased LT Assets or the Purchased CTAX Assets, as applicable, arising on account of goods delivered and services rendered from and after the commencement of the CCAA Proceedings to but excluding the Closing Date that are permitted to be paid pursuant to the Initial CCAA Order.

**“Pre-Closing Reorganization”** has the meaning given to such term in Section 2.6.

**“Pre-Closing Tax Period”** means all taxable periods ending on or before the Closing Date.

**“Priority Payables”** means any Encumbrances on the Purchased Assets that rank prior to the interests of the Purchasers’ security interest in the Purchased Assets, and are not otherwise an Assumed Liability, in an aggregate amount not exceeding \$500,000 (the purchase of a tail directors’ and officers’ liability insurance policy shall be considered a Priority Payable).

**“Purchase Price”** has the meaning given to such term in Section 3.1(a).

**“Purchased Assets”** means, collectively, the Purchased LT Assets and the Purchased CTAX Assets.

**“Purchased CTAX Assets”** means all of the right, title and interest of the CTAX Entities in, to and under, or relating to, the assets, property and undertaking, owned or used or held by each of the CTAX Entities for use in, or relating to its respective Business, of whatsoever nature or kind and wherever situated, including the assets set forth in Schedule B, but excluding any Excluded Assets.

**“Purchased Entities”** means the Acquired Entity and its Subsidiaries (other than the Compromised LT Entities) and any Subsidiary of Vendors that is a Purchased Asset.

**“Purchased Interests”** has the meaning given to such term in Section 2.1(a)(i).

**“Purchased LT Assets”** means all of the right, title and interest of the Compromised LT Entities in, to and under, or relating to, the assets, property and undertaking, owned or used or held by each of the Compromised LT Entities for use in, or relating to its respective Business, of whatsoever nature or kind and wherever situated, including the assets set forth in Schedule C, but excluding any Excluded Assets.

**“Purchaser”** and **“Purchasers”** have the meanings given to such terms in the preamble to this Agreement.

**“Released Claims”** means all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including “claims” as defined in the CCAA or the U.S. Bankruptcy Code and including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

**“Siempre”** has the meaning given to such term in the preamble to this Agreement.

**“SISP”** means the Sale and Investment Solicitation Process substantially in the form as appended as Exhibit B of the Support Agreement or otherwise in form and substance satisfactory to the Vendors and the Purchasers, each acting reasonably.

**“SISP Order”** means an order of the CCAA Court that, among other things, approves the SISP and related matters, substantially in the form as contained in Exhibit [●] of the

Restructuring Term Sheet (as such term is defined in the Support Agreement), or as otherwise acceptable to the Vendors and the Purchasers, each acting reasonably.

**“SISP Recognition Order”** means the Order of the U.S. Bankruptcy Court entered in the U.S. Proceedings recognizing and giving effect to the SISP Order, which order shall be in form and substance acceptable to the Vendors and the Purchasers, each acting reasonably.

**“Straddle Period”** means any taxable period that includes (but does not end on) the Closing Date.

**“Subsidiary”** means, with respect to any Person, each Person that is controlled by the first Person (for the purposes of this definition, “control”, as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise).

**“Successful Bid”** has the meaning given to such term in the SISP.

**“Support Agreement”** has the meaning given to such term in Recital A.

**“Tax”** and **“Taxes”** means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, escheat, unclaimed property, estimated, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and other government pension plan premiums or contributions, and including those payable or creditable in respect of, arising out of or under any COVID-19 economic support.

**“Tax Act”** means the *Income Tax Act (Canada)* and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.

**“Tax Return”** means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.

**“Taxing Authority”** means His Majesty the King in right of Canada, His Majesty the King in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the U.S. and each and every state and locality of the U.S., and any

Canadian, U.S. or other Governmental Authority exercising taxing authority or power, and “Taxing Authority” means any one of the Taxing Authorities.

“**Transaction Regulatory Approvals**” means any material licenses, permits or approvals required from any Governmental Authority or under any Applicable Laws relating to the business and operations of the applicable NextPoint Entities that would be required to be obtained in order to permit the Vendors and the Purchasers to complete the transactions contemplated by this Agreement and the Support Agreement, including but not limited to, and in each case to the extent it has been agreed to in accordance this Agreement that such approval shall be obtained, the Antitrust Approvals.

“**Transfer Taxes**” means all transfer, documentary, sales, use, stamp, registration, customs duties, import and export taxes, surtaxes, value added, GST/HST, provincial sales/retail Taxes, conveyance fees, security interest filing or recording fee and any other similar Taxes (including any real property transfer Tax and any other similar Tax), any governmental assessment, and any related penalties and interest.

“**U.S.**” means the United States of America.

“**U.S. Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq, as amended.

“**U.S. Bankruptcy Court**” means the United States Bankruptcy Court for the District of Delaware, overseeing the U.S. Proceedings.

“**U.S. Proceedings**” has the meaning given to such term in Recital B.

“**Vendor**” and “**Vendors**” have the meanings given to such terms in the preamble to this Agreement.

“**Vesting Order**” means an order of the CCAA Court substantially in the form of Exhibit 1 hereto (or as otherwise acceptable to the Vendors and the Purchasers, each acting reasonably).

“**Vesting Recognition Order**” means an order of the U.S. Bankruptcy Court entered in the U.S. Proceedings in form and substance acceptable to the Purchasers, acting reasonably, which shall, among other things, recognize and give effect to the Vesting Order and otherwise approve this Agreement and the transactions contemplated hereby.

“**Wefile**” has the meaning given to such term in the preamble to this Agreement.

## 1.2 Statutes

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



### 1.3 Headings, Table of Contents, etc.

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

### 1.4 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, and words importing gender include all genders.

### 1.5 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in U.S. dollars. References to "\$" are to U.S. dollars. References to "C\$" are to Canadian dollars.

### 1.6 Certain Phrases

In this Agreement (i) the words "including", "includes" and "include" and any derivatives of such words mean "including (or includes or include) without limitation" and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expression "Article", "Section" and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

### 1.7 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

### 1.8 Knowledge

Any reference to the knowledge of (i) a Vendor, means the actual knowledge, after reasonable inquiry, of Scott Terrell, and (ii) a Purchaser, means the actual knowledge, after reasonable inquiry, of [Eric Schneider].

## **1.9 Entire Agreement**

This Agreement, the Disclosure Letter, the Support Agreement and the agreements and other documents required to be delivered pursuant to this Agreement or the Support Agreement, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement or the Support Agreement and any document required to be delivered pursuant to this Agreement or the Support Agreement.

## **1.10 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## **1.11 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.7 shall be deemed effective service of process on such Party.

## **1.12 Incorporation of Disclosure Letter, Schedules and Exhibits**

The Disclosure Letter and any schedule or exhibit attached thereto, and any schedule or exhibit attached to this Agreement, is an integral part of this Agreement.

## **1.13 Accounting Terms**

All accounting terms used in this Agreement are to be interpreted in accordance with IFRS unless otherwise specified.

### 1.14 Non-Business Days

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### 1.15 Computation of Time Periods

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Agreement to Purchase and Sell

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to, as applicable, the completion of the Pre-Closing Reorganization required to be completed prior to the Closing Time, the Vendors hereby agree to sell, assign and transfer to the Purchasers and the Purchasers agree to purchase from the Vendors, all of the Vendors' right, title and interest in and to:
- (i) all of the Equity Interests of LT Holdco or, if the Purchasers so elect by notice in writing delivered to the Vendors not less than ten (10) Business Days prior to the Closing Date of the LT Acquisition, all of the Equity Interests of LT Intermediate Holdco (which Equity Interests of LT Intermediate Holdco shall, for greater certainty, in the event of such election be acquired in lieu of the Equity Interests of LT Holdco) (as applicable, the "**Purchased Interests**");
  - (ii) the Purchased LT Assets; and
  - (iii) the Purchased CTAX Assets,
- in each case free and clear of all Encumbrances other than the Permitted Encumbrances. Upon and subject to the terms and conditions of this Agreement and the SISP, this Agreement may be the Successful Bid (as determined pursuant to the SISP) with respect to solely the LT Acquisition or the CTAX Acquisition, or with respect to both the LT Acquisition and the CTAX Acquisition.
- (b) At any time prior to the applicable Closing, the Purchasers may remove any property, asset, right or Contract as a Purchased Asset, upon notification to the Vendors in writing together with the applicable amended Schedule reflecting such removal; provided, however, that there shall be no reduction in the Purchase Price as a result of such removal.

## 2.2 Assignment of Contracts

- (a) Subject to the terms and conditions of this Agreement, at the applicable Closing Time, the Vendors shall assign to the Purchasers all of the Vendors' rights, benefits and interests in and to any Contracts included in the Purchased LT Assets or the Purchased CTAX Assets, as applicable, and the Purchasers shall, on the terms and subject to the conditions set forth in such Contracts, assume the obligations and liabilities of the Vendors under such Contracts at, and arising after, the Closing Time (including Cure Costs but excluding Post-Filing Costs). Notwithstanding the foregoing, this Agreement and any document delivered under this Agreement shall not constitute an assignment or an attempted assignment of any Purchased Asset contemplated to be assigned to the Purchasers under this Agreement that is not assignable without the Consent and Approval of a third party unless (i) such Consent and Approval has been obtained or (ii) the assignment has been ordered by the CCAA Court.
- (b) Prior to the application for the Vesting Order, the Vendors shall use their commercially reasonable efforts to obtain any Consent and Approval necessary for the assignment of any Contracts included in the Purchased Assets to the Purchasers. No Vendor shall agree to pay any amount, provide other consideration or otherwise grant any accommodation in connection with obtaining such Consent and Approval without Purchasers' prior written consent. The Purchasers shall provide their reasonable cooperation to assist the Vendors in obtaining any such Consents and Approvals.
- (c) To the extent any Consent and Approval necessary for the assignment of any Contract included in the Purchased Assets to the Purchasers is not obtained prior to the application for the Vesting Order, the Vendors shall bring an application to the CCAA Court for approval of the Assignment Order and, if required, to the U.S. Bankruptcy Court for recognition.

## 2.3 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, as of the Closing, the Purchased Assets shall not include any of the following assets of the Vendors or their respective Subsidiaries or any other assets as set forth on Schedule 2.3 of the Disclosure Letter, which Schedule may be modified as agreed upon by the Vendors and the Purchasers, each acting reasonably, at least three (3) days prior to the applicable Closing (collectively, the "**Excluded Assets**"):

- (a) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, to the extent related to any of the Excluded Liabilities or Taxes paid by NextPoint Parent or any Vendor, provided that the Purchasers may take copies of all Tax records and books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Business that has been acquired by the Purchasers after the applicable Closing, including the filing of any Tax Return;

- (b) the Excluded Contracts;
- (c) all communications, information or records, written or oral, that are in any way related to (i) the transactions contemplated by this Agreement, (ii) the sale of the Purchased Interests or the Purchased Assets, (iii) any Excluded Asset or (iv) any Excluded Liability;
- (d) the equity interests of each entity set forth on Schedule 2.3(d), which Schedule may be modified as agreed upon by the Vendors and the Purchasers, each acting reasonably, at least three (3) days prior to the applicable Closing;
- (e) escrowed cash (i) in the amount of \$600,000 for wind down, and (ii) for professional fee retainers held in the segregated escrow bank account set forth in the DIP Term Sheet;
- (f) personal information that cannot be transferred without violating law; and
- (g) claims and/or causes of actions solely and directly related to Excluded Assets or the Excluded Liabilities.

#### 2.4 Assumed Liabilities

The Purchasers shall assume and perform, discharge and pay when due the following obligations and liabilities of the Vendors (the “**Assumed Liabilities**”) on and after the Closing Date:

- (a) all debts, liabilities and obligations under the Contracts (to the extent assigned or transferred to the Purchasers on such Closing) for the period from and after the applicable Closing Date and all Cure Costs (other than Post-Filing Costs);
- (b) all Taxes to be borne by the Purchasers pursuant to Section 7.4;
- (c) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets transferred to the Purchasers on such Closing for the period from and after the Closing Date; and
- (d) the Liberty Term Loan.

#### 2.5 Excluded Liabilities

Except as expressly assumed pursuant to or specifically contemplated by Section 2.4, the Purchasers shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any claims, debts, obligations, or liabilities of the Vendors or any predecessors of the Vendors, of any kind or nature, including, for the avoidance of doubt, any Taxes to be borne by the Vendors pursuant to Section 7.4 (collectively, the “**Excluded Liabilities**”). For the avoidance of any doubt, any CTAX Second Lien Debt is an Excluded Liability.

## 2.6 Pre-Closing Reorganization

In the event that the Purchasers elect to acquire the Equity Interests of LT Intermediate Holdco in accordance with Section 2.1(a)(i) then, on or prior to the Closing Date for the LT Acquisition, the Vendors shall effect a pre-closing reorganization (the “**Pre-Closing Reorganization**”) to transfer all of the Equity Interests of the Compromised LT Entities to LT Holdco.

## ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS

### 3.1 Purchase Price

- (a) The purchase price (the “**Purchase Price**”) payable by the Purchasers shall be:
- (i) \$[75,000,000] (the “**LT Acquisition Credit Bid Amount**”) for the Purchased Interest and the Purchased LT Assets;
  - (ii) an amount equal to the outstanding obligations owing pursuant to the DIP Financing, including the principal amount of such claims and interest and fees accrued as of the Closing Date for the CTAX Acquisition, up to a maximum of \$[25,000,000] (the “**CTAX Acquisition Credit Bid Amount**”) for the Purchased CTAX Assets;
  - (iii) the Closing Cash Payment; and
  - (iv) the assumption of the Assumed Liabilities as set forth herein.
- (b) Each Purchaser shall satisfy the obligations pursuant to Section 3.1 and the Purchase Price as follows:
- (i) at the Closing Time for the LT Acquisition:
    - (A) in respect of the LT Acquisition Credit Bid Amount, by causing the release of the applicable NextPoint Entities from amounts outstanding and obligations owing pursuant to any and all Revolving Credit Loans (as such term is defined in the BP NP-Liberty Credit Agreement) outstanding under the BP NP-Liberty Credit Agreement, including the principal amount of such claims and interest and fees accrued as of the Closing Date for the LT Acquisition, and any other documents or agreements entered into therewith, in an aggregate amount equal to the LT Acquisition Credit Bid Amount; and
    - (B) by the assumption by the Purchasers of the Assumed Liabilities associated with the Purchased LT Assets; and
  - (ii) at the Closing Time for the CTAX Acquisition:

- (A) in respect of the CTAX Acquisition Credit Bid Amount, by causing the release of the applicable NextPoint Entities from amounts outstanding and obligations owing pursuant to the DIP Financing, including the principal amount of such claims and interest and fees accrued as of the Closing Date for the CTAX Acquisition, in an aggregate amount equal to the CTAX Acquisition Credit Bid Amount; and
- (B) by the assumption by the Purchasers of the Assumed Liabilities associated with the Purchased CTAX Assets.
- (c) The Purchasers and their Affiliates, on the one hand, and the Vendors, and any of their Affiliates, on the other hand, shall be entitled to deduct and withhold from the Purchase Price or other amounts otherwise payable pursuant to this Agreement such amounts as such Person is required to deduct and withhold under Applicable Law, provided, however, that the Purchasers and their Affiliates shall not make any such deduction or withholding pursuant to Section 1445 of the Code, as long as at Closing, the Vendors shall have delivered to the Purchasers certification required by Section 10.2(e). Before making any such deduction or withholding, the withholding agent shall use commercially reasonable efforts to provide the Person in respect of which deduction or withholding is proposed to be made reasonable advance written notice of the intention to make such deduction or withholding, and the withholding agent shall cooperate with any reasonable request from such Person to obtain reduction of or relief from such deduction or withholding to the extent permitted by Applicable Law. To the extent that amounts are so deducted and withheld and remitted to the appropriate Taxing Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

### **3.2 Allocation of Purchase Price**

The Vendors and the Purchasers agree that the allocation of the Purchase Price among the Purchased Interests and each of the classes of the Purchased Assets of each of the Vendors shall be determined by the Purchasers, acting reasonably, on a date no later than five (5) Business Days before the applicable Closing Date. Each of the Vendors and the Purchasers shall report the sale and purchase of the Purchased Interests and the Purchased Assets for all tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to each Closing Date and may not take any position inconsistent with such allocation. Purchasers shall take into account Vendors' reasonable comments regarding such allocation.

**ARTICLE 4**  
**REPRESENTATIONS AND WARRANTIES OF THE VENDORS**

Each of the Vendors represents and warrants, severally and not jointly, and only as to itself, to the Purchasers as follows, and acknowledge that the Purchasers are relying upon the following representations and warranties in connection with their purchase of the Purchased Interests and the Purchased Assets:

**4.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by it, and, subject to the granting of the SISP Order and the SISP Recognition Order, this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

**4.2 Existence and Good Standing**

It is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and, subject to the granting of the SISP Order and the SISP Recognition Order, (i) has all requisite power and authority to execute and deliver this Agreement and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transaction contemplated hereunder.

**4.3 Sophisticated Parties**

It (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

**4.4 Absence of Conflicts**

Subject to the granting of the SISP Order and the SISP Recognition Order, the execution and delivery of this Agreement by the Vendor and the completion by the Vendor of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets (subject to the receipt of any Transaction Regulatory Approvals), and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents. Subject to the granting of the SISP Order and the SISP Recognition Order, and the receipt of any Transaction Regulatory Approvals, the execution, delivery and performance by the Vendor does not and will not: (a) violate any provision of law, rule, or regulation applicable to it or its charter or by-laws (or other similar governing documents) or those of any of its Subsidiaries; (b) except for the BP NP-Liberty Credit Agreement, conflict



with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under any material agreement to which the Vendor is a party or any debt for borrowed money to which it is a party that, in any case, is not remedied, cured or waived, or (c) violate any Order, statute, rule, or regulation.

#### **4.5 Approvals and Consents**

The execution and delivery of this Agreement by the Vendor, the completion by the Vendor of its obligations hereunder and the consummation by the Vendor of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than the Insolvency Orders and as contemplated by the SISP Order and the Transaction Regulatory Approvals.

#### **4.6 No Actions**

Other than the CCAA Proceedings and the U.S. Proceedings, there is not pending or, to the Vendor's knowledge, threatened in writing against the Vendor or any of its properties, nor has the Vendor received any written notice in respect of, any claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder, and consummating the transactions and agreements contemplated by this Agreement.

#### **4.7 Subsidiaries**

Schedule 4.7 sets forth a complete and correct list of the name and jurisdiction of organization of each Vendor and each of the direct and indirect Subsidiaries of each of LT Holdco and LT Intermediate Holdco. All the outstanding Equity Interests of LT Holdco are owned by Holdco, all the outstanding Equity Interests of LT Intermediate Holdco are owned by LT Holdco, and all of the outstanding Equity Interests of their respective Subsidiaries set forth in Schedule 4.7 are owned by LT Holdco or LT Intermediate Holdco, as applicable, or by one or more of their respective Subsidiaries. All such Equity Interests of LT Intermediate Holdco, LT Holdco and their respective Subsidiaries are owned free and clear of all pledges, claims, liens, charges, options, security interests, licenses or other encumbrances of any kind or nature whatsoever (other than Permitted Encumbrances), except for transfer restrictions imposed by applicable securities laws, and, except as would not be material to the applicable Vendors, taken as a whole, are duly authorized, validly issued, fully paid and nonassessable and not subject to any pre-emptive rights. Except for the Equity Interests in the Subsidiaries listed on Schedule 4.7, neither LT Holdco nor LT Intermediate Holdco owns, directly or indirectly, any Equity Interests in, any Person.

#### **4.8 Title to Assets**

Except as disclosed in the Disclosure Letter:

- (a) each Vendor has good and valid title to all of the Purchased Assets and the Purchased Interests owned by it, and subject to the Vesting Order and the Vesting

Recognition Order, will convey good and valid title, free and clear of all Encumbrances other than Permitted Encumbrances; and

- (b) at the Closing, the Acquired Entity and its Subsidiaries will have good and valid title to all of their owned assets, free and clear of all Encumbrances other than Permitted Encumbrances.

#### 4.9 Taxes

- (a) Each of the Vendors with respect to the Purchased Assets and the Business and each of the Purchased Entities has duly and timely filed all Tax Returns required to be filed by or with respect to it under applicable Laws, and all such Tax Returns are true, complete and correct in all respects and have been prepared in compliance with all applicable Laws.
- (b) Each of the Vendors with respect to the Purchased Assets and the Business and each of the Purchased Entities has timely paid all Taxes, including all installments on account of Taxes for the current year, due and owing by it (whether or not such Taxes are related to, shown on or required to be shown on any Tax Return), and has timely withheld or deducted and paid over to the appropriate Taxing Authority all Taxes which it is required to withhold or deduct from amounts paid or owing or deemed paid or owing or benefits given to any employee, stockholder, creditor or other Third Party, including for services performed outside the city, state, province or country where any employee is based.
- (c) None of the Vendors with respect to the Purchased Assets and the Business nor any of the Purchased Entities has (i) waived any statute of limitations with respect to any Taxes or agreed to any extension of time for filing any Tax Return or (ii) consented to any extension of time with respect to any Tax assessment or deficiency, which waiver or extension of time is currently outstanding.
- (d) No Tax audits or assessments or administrative or judicial claims are pending or are threatened in writing with respect to the Purchased Assets, the Business, or any of the Purchased Entities, and there are no matters under discussion, audit or appeal with any Taxing Authority with respect to Taxes of any Purchased Entity.
- (e) There are no Encumbrances on any of the Purchased Assets or any assets of any Purchased Entity that arose in connection with any failure (or alleged failure) to pay any Tax.
- (f) No claim has ever been made by a Taxing Authority in a jurisdiction where the Vendors or Purchased Entities do not file Tax Returns that the Vendors or any of the Purchased Entities is or may be subject to taxation by that jurisdiction, which claim has not been resolved, and none of the Purchased Entities has a taxable presence or nexus other than in the jurisdictions in which it currently files Tax Returns.

- (g) None of the Purchased Entities (i) has been a member of an Affiliated Group, (ii) has any liability or obligation for the Taxes of any Person other than itself under Section 1.1502-6 of the Treasury Regulations (or any similar provision of U.S. state or local or non-U.S. Law), as a transferee or successor, by Contract or otherwise, or (iii) is party to or bound by or has any obligations under any Tax allocation, Tax sharing, Tax indemnification or other similar Contract (other than any such Contract entered into in the ordinary course and the principal purpose of which is not the allocation or sharing of Taxes).
- (h) No Purchased Entity has engaged in any “listed transaction” within the meaning of Sections 6111 and 6112 of the Code or any similar provisions of U.S. state or local or non-U.S. Law or any “tax shelter” within the meaning of Section 6662 of the Code or the Treasury Regulations promulgated thereunder (or any similar provision of applicable U.S. state or local or non-U.S. Law).
- (i) Each Purchased Entity is, and has been since its formation, properly classified as a disregarded entity for U.S. federal income tax and applicable state and local tax purposes.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASERS**

Each Purchaser represents and warrants, severally and not jointly, and only as to itself, to the NextPoint Parent and the Vendors as follows, and acknowledges that the NextPoint Parent and the Vendors are relying upon the following representations and warranties in connection with the sale of the Purchased Interests and the Purchased Assets:

### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by such Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors’ rights generally or by equitable principles relating to enforceability.

### **5.2 Existence and Good Standing**

Such Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

### **5.3 Sophisticated Party**

Such Purchaser (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent

advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

#### 5.4 Absence of Conflicts

The execution and delivery of this Agreement by such Purchaser and the completion by such Purchaser of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, (subject to the receipt of any Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

#### 5.5 Approvals and Consents

The execution and delivery of this Agreement by the Purchaser, the completion by such Purchaser of its obligations hereunder and the consummation by such Purchaser of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by any Order and the Transaction Regulatory Approvals.

#### 5.6 No Actions

There is not, as of the date hereof, pending or, to such Purchaser's knowledge, threatened against it or any of its properties, nor has such Purchaser received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

#### 5.7 Accredited Investor

Such Purchaser is an "accredited investor", as such term is defined in National Instrument 45-106 - *Prospectus Exemptions* and in Rule 501 of Regulation D under the United States Securities Act of 1933 (the "**Securities Act**") and it was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of "accredited investor" in National Instrument 45-106 - *Prospectus Exemptions* and acknowledges that the Purchased Interests will be subject to resale restrictions under applicable securities laws. The Purchased Interests are being acquired by such Purchaser for its own account, and not with a view to, or for the offer or sale in connection with, any public distribution or sale of the Purchased Interests or any interest in them. Such Purchaser has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of its acquisition of the Purchased Interests, and such Purchaser is capable of bearing the economic risks of such acquisition. Such Purchaser acknowledges that the Purchased Interests are not registered under the Securities Act, any state securities law, regulation or rule or any applicable foreign securities law, regulation or rule, and agrees that the Purchased Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of except pursuant to a

registered offering in compliance with, or in a transaction exempt from, the registration requirements of the Securities Act and any other applicable state and foreign securities laws.

### **5.8 Financial Ability**

Such Purchaser has and will have at all relevant times, the financial ability and sufficient funds to perform all of its obligations under this Agreement, and the availability of such funds will not be subject to the consent, approval or authorization of any Person or the availability of any financing.

### **5.9 Credit Bid**

Such Purchaser has executed, on or prior to the date hereof, the requisite instruction letters to fully authorize the Purchasers, and the Purchaser is duly authorized, to, among other things, deliver the consideration set forth in Sections 3.1(a)(i) and 3.1(a)(ii), as applicable, in connection with the consummation of the applicable Closing hereunder.

### **5.10 Investment Canada Act**

Such Purchaser is a “trade agreement investor” within the meaning of the Investment Canada Act.

### **5.11 No Taxable Canadian Property**

None of the Purchased Interests or Purchased Assets is “taxable Canadian property” as defined in the Tax Act.

## **ARTICLE 6 CONDITIONS**

### **6.1 Conditions for the Benefit of the Purchasers and the Vendors**

The respective obligations of each Purchaser and each Vendor to consummate the LT Acquisition and the CTAX Acquisition, as applicable, contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the applicable Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no judgment, injunction or Order shall have been enacted, announced, issued or entered by any Governmental Authority of competent jurisdiction that prevents, restrains, enjoins, renders illegal or otherwise prohibits the consummation of the LT Acquisition or the CTAX Acquisition, as applicable;
- (b) *Final Orders* – each of the SISP Order and the Vesting Order shall have been issued and entered and shall be a Final Order;

- (c) *Final U.S. Order* – each of the SISP Recognition Order and Vesting Recognition Order shall have been issued and entered by the U.S. Bankruptcy Court and shall be a Final Order; and
- (d) *Transaction Regulatory Approvals* – the Vendors and the Purchasers shall have received all required Transaction Regulatory Approvals, and all required Transaction Regulatory Approvals shall be in full force and effect, except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of each Purchaser and each Vendor. The Parties acknowledge, for the avoidance of doubt, that it shall not be a condition to completion of the LT Acquisition that the CTAX Acquisition shall have been completed prior to or concurrently therewith.

## 6.2 Conditions for the Benefit of the Purchasers

The obligation of any Purchaser to consummate the LT Acquisition and the CTAX Acquisition, as applicable, is subject to the satisfaction of, or compliance with, or waiver (to the extent permitted by Applicable Law) by any Purchaser of, at or prior to the applicable Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of each Purchaser):

- (a) *Performance of Covenants* – the covenants contained in this Agreement required to be performed or complied with by the Vendors at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the Fundamental Representations and Warranties of the Vendors shall be true and correct in all respects (other than de minimis inaccuracies) as of the date hereof and as of the applicable Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) and (ii) all other representations and warranties of the Vendors contained in Article 4 shall be true and correct in all respects as of the date hereof and as of the applicable Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect (and, for this purpose, any reference to “material”, “Material Adverse Effect” or other concepts of materiality in such representation and warranties shall be ignored);
- (c) *Officer’s Certificates* – the Purchasers shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.2(a) (*Performance of Covenants*), 6.2(b) (*Truth of Representations and Warranties*) and 6.2(d) (*No Material Adverse Effect*), signed for and on behalf of the Vendors without personal liability by an executive officer of each of the applicable Vendors or

other Persons acceptable to the Purchasers, in each case in form and substance reasonably satisfactory to the Purchasers;

- (d) *No Material Adverse Effect* – since the date hereof, no Material Adverse Effect shall have occurred;
- (e) *Vendors' Deliverables* – the Vendors shall have delivered to the Purchasers all of the deliverables contained in Section 10.2 in form and substance reasonably satisfactory to the Purchasers;
- (f) *Vesting Order Approval* – the Vesting Order shall have been granted by the applicable date set forth in Section 4(b)(iv) of the Support Agreement;
- (g) *CTAX Acquisition* – in respect of the Closing of the CTAX Acquisition only, the LT Acquisition shall have been determined to constitute a Successful Bid pursuant to the SISP; and
- (h) *Pre-Closing Reorganization* – the applicable Vendors shall have completed the Pre-Closing Reorganization that is required to be completed prior to such Closing, in form and substance reasonably acceptable to the Purchasers.

For the avoidance of doubt, the Closing of the CTAX Acquisition and the determination that the CTAX Acquisition constitutes a Successful Bid pursuant to the SISP shall not be conditions to the obligation of the Purchasers to consummate the LT Acquisition.

### **6.3 Conditions for the Benefit of the Vendors**

The obligation of the Vendors to consummate the LT Acquisition and the CTAX Acquisition, as applicable, is subject to the satisfaction of, or compliance with, or waiver where applicable by any Vendor on behalf of the Vendors, at or prior to the applicable Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Vendors):

- (a) *Truth of Representations and Warranties* – the representations and warranties of the Purchasers contained in Article 5 will be true and correct in all respects (other than de minimis inaccuracies) as of the date hereof and as of the applicable Closing Date as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not reasonably be expected to have a material and adverse effect on the Purchasers' ability to consummate the transactions contemplated by this Agreement;
- (b) *Performance of Covenants* – the covenants contained in this Agreement required to be performed or complied with by the Purchasers at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;

- (c) *Officer's Certificate* – the Vendors shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.3(a) and 6.3(b) signed for and on behalf of each Purchaser without personal liability by an authorized signatory of the Purchaser or other Persons acceptable to the Vendors, acting in a commercially reasonable manner, in each case, in form and substance satisfactory to the Vendors, acting in a commercially reasonable manner;
- (d) *Support Agreement* – the Support Agreement shall not have been terminated by any party thereto; and
- (e) *Purchaser Deliverables* – the Purchasers shall have delivered to the Vendors all of the deliverables contained in Section 10.3 in form and substance satisfactory to the Vendors, acting in a commercially reasonable manner.

#### **6.4 Waiver of Conditions**

Any condition in Sections 6.1, 6.2 or 6.3 may be waived by any Purchaser on behalf of the Purchasers or NextPoint Parent on behalf of the Vendors, as applicable, in whole or in part, without prejudice to any of their respective 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 Purchasers or the Vendors, as applicable, only if made in writing.

### **ARTICLE 7 ADDITIONAL AGREEMENTS OF THE PARTIES**

#### **7.1 Access to Information**

- (a) From the date hereof until the earlier of (x) the Closing Time of the latest to occur of the LT Acquisition and the CTAX Acquisition and (y) the termination of this Agreement pursuant to Article 9, the Vendors shall give to the Purchasers' and their accountants, legal advisers, consultants, financial advisers and other representatives engaged in the transactions contemplated by this Agreement during normal business hours reasonable access to its premises and to all of the books and records relating to the Business, the Vendors, the Assumed Liabilities and the employees, and shall furnish them with all such information relating to the Business, the Vendors, the Assumed Liabilities and the employees of the Business as the Purchasers or such representatives may reasonably request in connection with the transactions contemplated by this Agreement; provided that such access shall be conducted at the Purchasers' expense, in accordance with Applicable Law and under supervision of the Vendors' personnel and in such a manner as to maintain confidentiality, and the Vendors will not be required to provide access to or copies of any such books and records if (a) the provision thereof would cause the Vendors or the NextPoint Parent to be in contravention of any Applicable Law or (b) making such information available would (1) result in the loss of any lawyer-client or other legal privilege, or (2) cause the Vendors or the NextPoint Parent to be found in contravention of any Applicable Law, or contravene any agreement (including any confidentiality agreement to which the Vendors, the



NextPoint Parent, or any of their respective Affiliates are a party); provided, that with respect to the foregoing clauses (a) and (b), the Vendors shall use commercially reasonable efforts to find a suitable alternative to disclose information in such a way that such disclosure does not contravene any such Applicable Law or agreement or jeopardize such privilege. The Vendors shall use commercially reasonable efforts to also deliver to the Purchasers authorizations to the Vendors and their applicable Subsidiaries necessary to permit the Purchasers to obtain information in respect of such NextPoint Entities from the files of such Governmental Authorities.

- (b) For a period of seven (7) years following the Closing, the Purchasers shall make all books and records of the Acquired Entity and its Subsidiaries reasonably available to the Monitor and any trustee in bankruptcy of any of the NextPoint Entities upon at least five (5) Business Days prior notice and shall, at such party's expense, permit any of the foregoing Persons to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that the Purchasers shall not be obligated to make such books and records available to the extent that doing so would (a) violate Applicable Law, (b) jeopardize the protection of a solicitor-client privilege, or (c) unreasonably and materially interfere with the ongoing business and operations of the Purchasers, the Acquired Entity and their respective Affiliates, as determined by the Purchasers, acting reasonably; provided, that with respect to the foregoing clauses (a), (b), and (c), the Purchasers shall use commercially reasonable efforts to find a suitable alternative to disclose information in such a way that such disclosure does not contravene any such Applicable Law, jeopardize such privilege, or unreasonably and materially interfere with such ongoing business and operations.

## 7.2 Approvals and Consents

- (a) The Vendors shall be responsible for the payment of any filing fees required to be paid in connection with any filing made in respect of the Antitrust Approvals.
- (b) The Parties shall use commercially reasonable efforts to apply for an obtain any Transaction Regulatory Approvals as soon as reasonably practicable and no later than the time limits imposed by Applicable Laws, in accordance with Section 7.2(c), in each case at the sole cost and expense of the Vendors.
- (c) The Parties shall use commercially reasonable efforts to apply for and obtain the Transaction Regulatory Approvals and shall co-operate with one another in connection with obtaining such approvals. Without limiting the generality of the foregoing, the Parties shall: (i) give each other reasonable advance notice of all meetings or other oral communications with any Governmental Authority relating to the Transaction Regulatory Approvals and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Authority necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first

giving the other Party (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Authority; (iii) if any Governmental Authority initiates an oral communication regarding the Transaction Regulatory Approvals, promptly notify the other Party of the substance of such communication; (iv) subject to Applicable Laws relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals) made or submitted by or on behalf of a Party with a Governmental Authority regarding the Transaction Regulatory Approvals; and (v) promptly provide each other with copies of all written communications to or from any Governmental Authority relating to the Transaction Regulatory Approvals.

- (d) Each of the Parties may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 7.2 as “Outside Counsel Only Material”, provided that the disclosing Party also provides a redacted version to the receiving Party. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Parties, will not be disclosed by such outside legal counsel to employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.
- (e) The obligations of the Parties to use commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require the Purchasers (or any Affiliate thereof) to initiate, commence, contest or resist any commenced, threatened, or foreseeable proceeding that would reasonably be expected to seek to prevent, materially impede or materially delay the consummation of the transactions contemplated by this Agreement, or to offer, accept or agree to: (i) the sale, divestiture, licensing, or disposition of any part of the businesses or assets of the Purchasers or their Affiliates or of the Purchased Interests, the Purchased LT Assets or the Purchased CTAX Assets; (ii) the termination of any existing contractual rights, relationships and obligations, or entry into, or amendment of, any such contractual arrangements; (iii) the taking of any action that, after consummation of the transactions contemplated by this Agreement, would limit the freedom of action of, or impose any other requirement on the Purchasers with respect to the operation of their or their Affiliates’ businesses or assets, or that of the Purchased Interests, the Purchased LT Assets or the Purchased CTAX Assets; or (iv) any other remedial action in order to obtain the Transaction Regulatory Approvals.

### **7.3 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in

connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and prior to the Outside Date, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, from the date hereof until the earlier of (x) the Closing Date of the latest to occur of the LT Acquisition and the CTAX Acquisition and (y) the termination of this Agreement pursuant to Article 9, each Party shall and, where appropriate, shall cause each of its Affiliates to:

- (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the transactions contemplated hereby; and
  - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) From the date hereof until the Closing Date, the Purchasers hereby agree, and hereby agree to cause their representatives to, keep the Vendors informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Vendors or the Monitor, as to the Purchasers' progress in terms of the satisfaction of the conditions precedent contained herein.
  - (c) From the date hereof until the Closing Date of the latest to occur of the LT Acquisition and the CTAX Acquisition, the Vendors (other than, following the Closing Date of the LT Acquisition, any Acquired Entity) hereby agree, and hereby agrees to cause their representatives to, keep the Purchasers informed, as reasonably requested by the Purchasers or the Monitor, as to the Vendors' progress in terms of the satisfaction of the conditions precedent contained herein.
  - (d) The Vendors and the Purchasers agree to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.
  - (e) From the date hereof until the earlier of (x) the Closing Date of the latest to occur of the LT Acquisition and the CTAX Acquisition and (y) the termination of this Agreement pursuant to Article 9, the Vendors (other than, following the Closing Date of the LT Acquisition, any Acquired Entity) hereby agree, and hereby agrees

to cause its representatives to, promptly notify the Purchasers of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement, or (ii) any Material Adverse Effect occurring from and after the date hereof prior to such Closing Date.

- (f) The Vendors and the Purchasers agree to use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals as may be required in connection with the transaction contemplated by this Agreement.

#### 7.4 Tax Matters

- (a) The Purchasers and the Vendors agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Interests, the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters; *provided* that Purchasers shall not be required to provide any Vendors any Tax Return or portion thereof (including any work papers or related documentation) of Purchasers or its Affiliates. The Purchasers and the Vendors also agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Interests, the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the Purchasers to acquire them in a tax efficient manner for both Vendors and the Purchasers.
- (b) The Purchasers and the Vendors shall each be responsible for the preparation of their own Tax Returns required to be filed under Applicable Law in respect of the purchase of the Purchased Interests and the Purchased Assets.
- (c) The Purchasers shall be responsible for and shall pay, or cause to be paid, any Transfer Tax in respect of the purchase and sale of the Purchased Interests and the Purchased Assets under this Agreement (other than any Transfer Taxes that are not required to be paid under the CCAA, the U.S. Bankruptcy Code, or any other applicable law) and such Transfer Tax shall be remitted to the appropriate Governmental Authority as provided for under Applicable Law (except any Transfer Tax which, under Applicable Law, is collectible by the Vendors, in which case such Transfer Tax shall be collected by the applicable Vendor and remitted by the Vendor to the appropriate Governmental Authority as provided for under the Applicable Law but, for the avoidance of doubt, the Purchasers shall remain economically responsible for and shall pay to or reimburse, or cause to be paid or reimbursed, as the case may be, the Vendors for any such Transfer Tax). For the avoidance of doubt any Transfer Taxes in connection with the Pre-Closing Reorganization are not covered by this Section 7.4(c) and shall be borne by the

Purchasers. The Vendors and the Purchasers shall reasonably cooperate to mitigate and/or eliminate the amount of Transfer Taxes resulting from the transactions contemplated herein (provided, for the avoidance of doubt, this shall not require the parties to structure the transactions in a manner eligible for the benefits of Section 1146(a) of the United States Bankruptcy Code).

- (d) The Purchasers shall be responsible for preparing and filing all necessary Tax Returns or other documents with respect to such Transfer Taxes; provided, however, that in the event any such Tax Return requires execution by any Vendor, the Purchasers shall deliver it to such Vendor not less than ten (10) Business Days before the due date thereof, and the Vendors shall reasonably promptly execute such Tax Return and return it to the Purchasers.
- (e) Purchasers shall prepare or cause to be prepared and file or cause to be filed all Tax Returns of the Purchased Entities that have not been filed as of the Closing Date. Purchasers shall provide drafts of each such Tax Return that relates solely to the Pre-Closing Tax Period and requested by Vendors in writing to Vendors for the Vendors' review and comment and shall consider in good faith all reasonable comments made in writing by the Vendors within a reasonable time period prior to the due date for filing such Tax Return. The Vendors shall pay to the Purchasers the amount of the Taxes with respect to such Tax Returns for which the Vendors are responsible under Section 7.4(g) within five (5) days of filing the applicable Tax Return to which such Taxes relate.
- (f) For any Straddle Period, Taxes shall be attributable to the portion of such period ending on the Closing Date in an amount equal to: (i) in the case of any gross receipts, income, payroll, employment or similar Taxes, the portion of such Taxes allocable to the portion of the Straddle Period ending on or before the Closing Date, as determined on the basis of the deemed closing of the books and records of the Purchased Entity at the end of the Closing Date (unless otherwise required by applicable Tax law) and (ii) in the case of any Taxes other than those described in clause (i), the Taxes for the entire Straddle Period multiplied by a fraction the numerator of which is the number of days in the Straddle Period from the beginning of the Straddle Period through and including the Closing Date and the denominator of which is the number of days in the entire Straddle Period.
- (g) The Vendors shall be responsible for (i) all Taxes (or the non-payment thereof) of any Vendor and (ii) all Taxes (or the non-payment thereof) of or imposed on the Purchased Entities for any Pre-Closing Tax Period and the portion through the end of the Closing Date for any Straddle Period.
- (h) Vendors shall promptly notify Purchasers in writing of any proposed assessment or the commencement of any Tax audit or administrative or judicial proceeding or of any demand or claim with respect to Taxes with respect to the Purchased Assets, the Business, or any Purchased Entity. Buyer shall control and shall have the right to discharge, settle, or otherwise dispose of, at its own expense, all tax contests or proceedings.

## 7.5 Certain Payments or Instruments Received from Third Persons

- (a) To the extent that, after the Closing Date: (a) the Purchasers or any of their Affiliates receives any payment or instrument that is for the account of the Vendors (other than any Vendor that is an Acquired Entity or a Subsidiary of an Acquired Entity) according to the terms of any Closing Document, the Purchasers shall, and shall cause their Affiliates to, promptly deliver such amount or instrument to the applicable Vendor; or (b) any of the Vendors (other than any Vendor that is an Acquired Entity or a Subsidiary of an Acquired Entity) or any of their Affiliates receives any payment or instrument that is for the account of the Purchasers, any Acquired Entity or a Subsidiary of an Acquired Entity according to the terms of any Closing Document or that relates to the Business, such Vendor shall promptly deliver such amount or instrument to the Purchaser.
- (b) All amounts due and payable under this Section 7.5 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account designated in writing by the relevant Party. Notwithstanding the foregoing, each Party hereby undertakes to use its commercially reasonable efforts to direct or forward all bills, invoices or like instruments to the appropriate Party.

## 7.6 Release by the Purchasers

Except in connection with any obligations of the Vendors or the Monitor contained in this Agreement or any Closing Documents, effective as of the Closing, each Purchaser hereby releases and forever discharges the Vendors, the Monitor and their respective Affiliates (excluding the LoanMe Entities), and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to the Purchased Interests, the Purchased Assets or the Assumed Liabilities, save and except for Released Claims arising out of fraud or willful misconduct.

## 7.7 Release by the Vendors

Except in connection with any obligations of each Purchaser and the Monitor contained in this Agreement or any Closing Documents, effective as of the Closing, the Vendors hereby release and forever discharge each Purchaser, the Monitor and their respective Affiliates (including the Acquired Entities), and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to the Purchased Interests, the Purchased Assets, the Assumed Liabilities, the Excluded Assets or the Excluded Liabilities, save and except for Released Claims arising out of fraud or willful misconduct.

**ARTICLE 8**  
**INSOLVENCY PROVISIONS**

**8.1 Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date of the latest to occur of the LT Acquisition and the CTAX Acquisition, the Vendors (other than, following the Closing Date of the LT Acquisition, any Acquired Entity) shall deliver to the Purchasers drafts of any and all pleadings, motions, notices, statements, applications, schedules, reports, and other papers to be filed or submitted by any NextPoint Entity in connection with or related to this Agreement, including with respect to the SISP Order, the Vesting Order, the Vesting Recognition Order, and the SISP Recognition Order, for the Purchasers' prior review at least three (3) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for three (3) days' review, with as much opportunity for review and comment as is practically possible in the circumstances). The Vendors (other than, following the Closing Date of the LT Acquisition, any Acquired Entity) acknowledge and agree (i) that any such pleadings, motions, notices, statements, applications, schedules, reports, or other papers shall be in form and substance satisfactory to the Purchasers, acting reasonably, and (ii) to consult and cooperate with the Purchasers regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motions seeking the issuance of the Vesting Order, the Vesting Recognition Order, the SISP Order, and the SISP Recognition Order shall be served by the Vendors on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, the U.S. Bankruptcy Code, the U.S. Bankruptcy Court and any other Person determined necessary by the Vendors or the Purchasers, acting reasonably.
- (c) Notwithstanding any other provision herein, it is expressly acknowledged and agreed that in the event that (i) the SISP Order has not been issued and entered by the CCAA Court by August 4, 2023 or such later date agreed to in writing by the Purchasers in their sole discretion; (ii) the SISP Recognition Order, if any, has not been issued and entered by the U.S. Bankruptcy Court within two (2) Business Days of the SISP Order being entered by the CCAA Court or such later date agreed to in writing by the Purchasers in their sole discretion; (iii) the Vesting Order has not been issued and entered by the CCAA Court by the applicable date set forth in Section 4(b)(iv) of the Support Agreement or such later date agreed to in writing by the Purchasers in their sole discretion; or (iv) the Vesting Recognition Order has not been issued and entered by the U.S. Bankruptcy Court within fourteen (14) days after the Vesting Order being entered by the CCAA Court or such later date agreed to in writing by the Purchasers in their sole discretion, the Purchasers may terminate this Agreement; provided that in each case, such deadlines are subject to court availability.

- (d) If the Vesting Order or the Vesting Recognition Order, as applicable, relating to this Agreement is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, the Vendors (other than, following the Closing Date of the LT Acquisition, any Acquired Entity) agree to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.
- (e) The Vendors acknowledge and agree, that the Vesting Order and the Vesting Recognition Order shall provide that, on the applicable Closing Date and concurrently with the applicable Closing, the Purchased Interests and the Purchased Assets, as applicable, shall be transferred to the Purchasers free and clear of all Encumbrances, other than Permitted Encumbrances.

## ARTICLE 9 TERMINATION

### 9.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Vendors and the Purchasers (for greater certainty, with respect to the LT Acquisition or the CTAX Acquisition individually, or with respect to the entire Agreement);
- (b) by the Purchasers or the Vendors, if this Agreement is not the Successful Bid (as determined pursuant to, the SISP) with respect to the LT Acquisition;
- (c) by the Purchasers or the Vendors, if Closing has not occurred on or before the Outside Date, provided that the terminating Party is not then in breach of any representation, warranty, covenant or other agreement in this Agreement and such breach resulted in the failure of the Closing to occur by the Outside Date;
- (d) by the Purchasers, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of any Vendor or any of the property of any Vendor, other than with the prior written consent of the Purchaser;
- (e) by the Purchasers, pursuant to Section 8.1(c);
- (f) by the Purchasers or the Vendors, upon the termination, dismissal or conversion of the CCAA Proceedings and the U.S. Proceedings;
- (g) by the Purchasers or the Vendors, upon denial of the SISP Order, the Vesting Order, the SISP Recognition Order or the Vesting Recognition Order (or if any such order is stayed, vacated or varied without the consent of the Purchasers);
- (h) by the Purchasers or the Vendors, if a court of competent jurisdiction, including the CCAA Court or the U.S. Bankruptcy Court, or other Governmental Authority has issued an Order or taken any other action that permanently restrains, enjoins



or otherwise prohibits the consummation of Closing and such Order or action has become a Final Order;

- (i) by the Vendors, if there has been a violation or breach by the Purchasers of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.3(a) or Section 6.3(b) and such violation or breach has not been waived by the Vendors or cured upon the earlier of (i) ten (10) Business Days after written notice thereof from the Vendors and (ii) the Outside Date, unless the Vendors are in violation or breach of their obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.2(a) or Section 6.2(b);
- (j) by the Purchasers, if there has been a violation or breach by the Vendors of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.2(a) or Section 6.2(b) and such violation or breach has not been waived by the Purchasers or cured upon the earlier of (i) ten (10) Business Days after written notice thereof from the Purchasers and (ii) the Outside Date, unless the Purchasers are in violation or breach of their obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.2(a) or Section 6.2(b);
- (k) by the Purchasers or the Vendors, if the Support Agreement is terminated pursuant to the terms thereof; and
- (l) by the Purchasers, if there has been a default under the DIP Financing.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

In addition to the foregoing termination rights set forth in this Section 9.1, in the event that this Agreement is not the Successful Bid (as determined pursuant to the SISP) with respect to the CTAX Acquisition only, then the Purchasers or the Vendors may, by written notice of termination given to the other Party or Parties, as applicable, terminate all further obligations and liabilities of the Parties hereunder solely in relation to the CTAX Acquisition. In the event of such termination, this Agreement shall be deemed to be amended to remove all such obligations and liabilities; provided, however, that all other provisions of this Agreement shall continue in full force and affect unamended and no such amendment shall relieve any Party of any liability for any wilful breach by it of this Agreement prior to such amendment.

In the event that this Agreement is terminated with respect to the LT Acquisition or the CTAX Acquisition individually pursuant to Section 9.1(a), then this Agreement shall be deemed to be amended to remove all such obligations and liabilities with respect to the LT Acquisition or the CTAX Acquisition, as applicable, only; provided, however, that all other provisions of this Agreement shall continue in full force and affect unamended and no such amendment shall

relieve any Party of any liability for any breach by it of this Agreement prior to such amendment or fraud.

## 9.2 Effect of Termination

In the event of termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that (a) Article 1, this Section 9.2, Section 9.3, Section 11.3, Section 11.5, Section 11.6, Section 11.7 and Section 11.8 shall survive and (b) no termination of this Agreement shall relieve any Party of any liability for any breach by it of this Agreement prior to such termination or fraud.

## 9.3 Termination Fee and Expense Reimbursement

- (a) Upon CCAA Court approval of an Alternative Restructuring Proposal that is not provided by the Purchasers or any of their Affiliates in accordance with the terms of the SISP Order, or upon the NextPoint Entities' termination of the Support Agreement pursuant to Section 8(b)(iii) thereof a fee in cash equal to, in the aggregate, the Vendors shall pay from the proceeds of such transaction to the Purchasers concurrently with the consummation of an Alternative Restructuring Proposal to the Purchasers:
- (i) \$700,000 (such amount, the "**Break-Up Fee**"); plus
  - (ii) an expense reimbursement for the Purchasers' reasonable and documented, legal and other costs incurred in connection with the transactions contemplated by this Agreement (the "**Expense Reimbursement**").
- (b) For the avoidance of doubt, and notwithstanding anything to the contrary set forth in this Section 9.3, under no circumstances shall the Vendors be obligated to pay the Break-Up Fee or the Expense Reimbursement more than once.
- (c) The Vendors acknowledge (i) that the Purchasers have made a substantial investment of management time and incurred substantial out-of-pocket expenses in connection with the negotiation and execution of this Agreement, their due diligence of the Business and the NextPoint Entities, and their effort to consummate the transactions contemplated hereby, and (ii) that the Parties' efforts have substantially benefited the Vendors and the bankruptcy estates of the NextPoint Entities through the submission of the offer that is reflected in this Agreement, that will serve as a minimum bid on which other potential interested bidders can rely, thus increasing the likelihood that the price at which the applicable NextPoint Entities or their assets are sold will reflect their true worth. The Parties hereby acknowledge that the amounts payable pursuant to this Section 9.3 are commercially reasonable and necessary to induce the Purchasers to enter into this Agreement and consummate the transactions contemplated hereby. For the avoidance of doubt, the covenants set forth in this Section 9.3 are continuing obligations and survive termination of this Agreement.

**ARTICLE 10  
CLOSING**

**10.1 Location and Time of the Closing**

Each Closing shall take place at the applicable Closing Time on the Closing Date at the offices of Osler, Hoskin & Harcourt LLP, 155 West Hastings Street, Suite 1700, The Guinness Tower, Vancouver, British Columbia, V6E 2E9, or at such other location as may be agreed upon by the Parties.

**10.2 Vendors' Deliveries at Closing**

At each Closing, the Vendors shall deliver to the Purchasers the following:

- (a) a true copy of each of the Vesting Order, the SISP Order, the Vesting Recognition Order, the SISP Recognition Order, each of which shall be final;
- (b) an executed copy of the Monitor's Certificate;
- (c) a certificate of a senior officer or director of each Vendor in form and substance reasonably satisfactory to the Purchasers: (a) certifying that the board of directors of the Vendor, has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the applicable Closing Date; and (b) certifying as to the incumbency and signatures of the officers and directors of the Vendor;
- (d) the certificates contemplated by Section 6.2(c); and
- (e) an affidavit, signed under penalties of perjury, stating that the applicable company is not and has not been at any time during the period specified in Section 897(c)(1)(A)(ii) of the Code a United States real property holding corporation, dated as of the Closing Date and in form and substance reasonably satisfactory to the Purchasers and as required under Treasury Regulation Section 1.897-2(h) so that the Purchasers are exempt from withholding any portion of the Purchase Price thereunder, together with proof reasonably satisfactory to the Purchasers that the applicable Vendor has provided notice of such affidavit to the IRS in accordance with Treasury Regulation Section 1.897-2(h)(2).

**10.3 Purchasers' Deliveries at Closing**

At each Closing, the Purchasers shall deliver to the Vendors:

- (a) the applicable payment contemplated by Section 3.1;
- (b) a certificate of an authorized signatory of each Purchaser (in such capacity and without personal liability), in form and substance reasonably satisfactory to the

Vendors: (a) certifying that the board of directors, member(s) or manager(s), as applicable, of the administrator of the Purchaser has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (b) certifying as to the incumbency and signature of the authorized signatory of or on behalf of the Purchaser executing this Agreement and the other transaction documents contemplated herein, as applicable;

- (c) the certificate contemplated by Section 6.3(c); and
- (d) all other documents required to be delivered by the Purchasers on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Vendors in good faith.

#### **10.4 Monitor**

When the conditions to the applicable Closing set out in Article 6 have been satisfied and/or waived by the Vendors or the Purchasers, as applicable, the Vendors or the Purchasers, or their respective counsel, shall each deliver to the Monitor written confirmation that all conditions to such Closing have been satisfied or waived. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Vendors and the Purchasers). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Vendors and the Purchasers that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability to the Vendors or the Purchasers or any other Person as a result of filing the Monitor's Certificate.

#### **10.5 Further Assurances**

As reasonably required by a Party in order to effectuate the transactions contemplated by this Agreement, the Purchasers and the Vendors shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and make effective the transactions contemplated by this Agreement.

### **ARTICLE 11 GENERAL MATTERS**

#### **11.1 Confidentiality**

After the Closing Time, the Vendors (other than any Vendor that is an Acquired Entity or a Subsidiary of an Acquired Entity) shall and shall cause their Affiliates to, maintain the confidentiality of all confidential information relating to the Business, the applicable Purchased Assets, the Acquired Entity and each Subsidiary of the Acquired Entity (but does not include information that is or becomes generally available to the public other than as a result of

disclosure by the Vendors or their representatives in breach of this Agreement), including the Confidential Information, except any disclosure of such information and records as may be required by Applicable Law or permitted by Purchasers in writing. If the Vendors, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall, provide the Purchasers with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with the Purchasers, at the Purchasers' expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, the Vendors shall, or shall cause their Affiliate or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. The Vendors (other than any Vendor that is an Acquired Entity or a Subsidiary of an Acquired Entity) shall instruct their Affiliates and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 11.1 by any of their Affiliates or representatives.

## 11.2 Public Notices

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by the Vendors or the Purchasers, or any of their respective Affiliates, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings and the U.S. Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by (A) the Vendors with the CCAA Court and the U.S. Bankruptcy Court; and (B) NextPoint Parent on its profile on [www.sedar.com](http://www.sedar.com); and (ii) the transactions contemplated in this Agreement may be disclosed by the Vendors to the CCAA Court and the U.S. Bankruptcy Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by this Agreement and the terms of such transactions;
- (b) the Vendors, the Purchasers and their respective professional advisors may prepare and file such reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by

this Agreement and the terms of such transactions as may reasonably be necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith; and

- (c) the Purchasers and their respective Affiliates may make announcements regarding the transactions contemplated by this Agreement to their existing and prospective investors provided that the information contained in such announcements is consistent with information that has been filed with the CCAA Court and the U.S. Bankruptcy Court or otherwise contained in a press release or other public filing permitted by this Section 11.2.

The Parties shall be afforded an opportunity to review and comment on such materials prior to their filing. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to them.

### 11.3 Injunctive Relief

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.
- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 11.3, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything herein to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and election to pursue one shall be deemed to be an irrevocable waiver of the other.

### 11.4 Survival

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 11 and Sections 7.1(b), 7.2(a), 7.4, 7.5, 7.6, 7.7, and 10.5, to the extent they are to be performed after any Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive the applicable Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

### 11.5 Non-Recourse

No past, present or future director, officer, employee, incorporator, member, partner, securityholder, Affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Purchasers or the Vendors, as applicable, under this Agreement, or for any Causes of Action based on, in respect of or by reason of the transactions contemplated hereby.

### 11.6 Assignment; Binding Effect

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent the Purchasers may, upon prior notice to the Vendors: (a) assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of their Affiliates; or (b) direct that title to all or some of the Purchased Interests or the Purchased Assets be transferred to, and the corresponding Assumed Liabilities be assumed by, one or more of their Affiliates; provided that no such assignment or direction shall relieve the Purchasers of their obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

### 11.7 Notices

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (a) the date of personal delivery; (b) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (c) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (d) five (5) days after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

- (a) If to the Purchasers at:

BP Commercial Funding Trust, Series SPL-X, a statutory series of BP  
Commercial Funding Trust, a Delaware statutory trust, for itself and for no other  
series of BP Commercial Funding Trust  
c/o BasePoint Capital LLC  
75 Rockefeller Plaza, 25th Floor  
New York, NY 10019  
Attention: Michael Petronio  
Email: mpetronio@basepointcapital.com

With a copy to:

BasePoint Capital LLC

75 Rockefeller Plaza, 25th Floor  
New York, NY 10019  
Attention: General Counsel  
Email: BPG-LegalNotices@basepointcapital.com

With a copy to:

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Attention: Brian Schartz, P.C.  
(brian.schartz@kirkland.com) and Allyson B. Smith  
(allyson.smith@kirkland.com)

and

300 N. LaSalle  
Chicago, Illinois 60654  
Attention: Gabriela Zamfir Hensley  
(gabriela.hensley@kirkland.com)

and

Osler, Hoskin & Harcourt LLP  
155 West Hastings Street  
Suite 1700, The Guinness Tower  
Vancouver, British Columbia  
V6E 2E9  
Canada  
Attention: Mary Buttery, KC (mbuttery@osler.com)

and

100 King Street West  
1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto, Ontario  
M5X 1B8  
Canada  
Attention: Marc Wasserman (mwasserman@osler.com) and David Rosenblat  
(drosenblat@osler.com)

With a copy to:

Tom Powell and Paul Bishop  
FTI Consulting Canada Inc.



701 West Georgia Street  
 Suite 1450, PO Box 10089  
 Vancouver, BC V7Y 1B6  
 Email: tom.powell@fticonsulting.com; paul.bishop@fticonsulting.com

With a copy to:

Kibben Jackson and Fergus McDonnell  
 Fasken Martineau Dumoulin LLP  
 2900 – 550 Burrard Street  
 Vancouver, British Columbia, V6C 0A3  
 Email: kjackson@fasken.com; fmcdonnell@fasken.com

(b) If to the Vendors at:

DLA Piper LLP (US)  
 1251 Avenue of the Americas  
 New York, New York 10020-1104  
 United States of America  
 Attention: Rachel Ehrlich Albanese and Jamila Justine Willis  
 Email: rachel.albanese@us.dlapiper.com; jamila.willis@us.dlapiper.com

and

DLA Piper (Canada) LLP  
 Suite 2800, Park Place  
 666 Burrard St.  
 Vancouver, British Columbia  
 V6C 2Z7  
 Canada  
 Attention: Colin Brousson and Russel Drew  
 Email: colin.brousson@dlapiper.com; russel.drew@dlapiper.com

With a copy to the Monitor, and if to the Monitor, at:

Tom Powell and Paul Bishop  
 FTI Consulting Canada Inc.  
 701 West Georgia Street  
 Suite 1450, PO Box 10089  
 Vancouver, BC V7Y 1B6  
 Email: tom.powell@fticonsulting.com; paul.bishop@fticonsulting.com

With a copy to:

Kibben Jackson and Fergus McDonnell  
Fasken Martineau Dumoulin LLP  
2900 – 550 Burrard Street  
Vancouver, British Columbia, V6C 0A3  
Email: kjackson@fasken.com; fmcdonnell@fasken.com

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

#### **11.8 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

#### **11.9 Language**

The Parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English.

*[Signature pages to follow]*

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

**NEXTPPOINT PARENT:**

**NEXTPPOINT FINANCIAL, INC.**

**VENDORS:**

**NPI HOLDCO LLC  
LT HOLDCO, LLC  
JTH TAX LLC  
LT INTERMEDIATE HOLDCO, LLC  
SIEMPRE TAX+ LLC  
JTH FINANCIAL, LLC  
JTH PROPERTIES 1632, LLC  
JTH TAX OFFICE PROPERTIES, LLC  
WEFILE LLC  
LIBERTY CREDIT REPAIR, LLC  
LTS PROPERTIES, LLC  
360 ACCOUNTING SOLUTIONS LLC  
JTH COURT PLAZA, LLC  
LTS SOFTWARE LLC  
CTAX ACQUISITION LLC  
COMMUNITY TAX LLC  
COMMUNITY TAX PUERTO RICO LLC**

By: \_\_\_\_\_  
Name:  
Title:

**PURCHASERS:**

**BP COMMERCIAL FUNDING TRUST, SERIES SPL-X,**

a statutory series of BP Commercial Funding Trust, a Delaware statutory trust, for itself and for no other series of BP Commercial Funding Trust[, in its capacity as holder of Revolving Credit Promissory Note A under the BP NP-Liberty Credit Agreement]

By: BasePoint Capital II, LLC,  
not in its individual capacity but solely as  
Administrator of BP Commercial Funding  
Trust

By: \_\_\_\_\_  
Name: Michael Petronio  
Title: Authorized Signatory

**BP COMMERCIAL FUNDING TRUST, SERIES SPL-X,**

a statutory series of BP Commercial Funding Trust, a Delaware statutory trust, for itself and for no other series of BP Commercial Funding Trust[, in its capacity as holder of Revolving Credit Promissory Note B-1 under the BP NP-Liberty Credit Agreement]

By: BasePoint Capital II, LLC,  
not in its individual capacity but solely as  
Administrator of BP Commercial Funding  
Trust

By: \_\_\_\_\_  
Name: Michael Petronio  
Title: Authorized Signatory

**BP COMMERCIAL FUNDING TRUST, SERIES SPL-X,**

a statutory series of BP Commercial Funding Trust, a Delaware statutory trust, for itself and for no other series of BP Commercial Funding Trust[, in its capacity as holder of Revolving Credit Promissory Note B-2 under the BP NP-Liberty Credit Agreement]

By: BasePoint Capital II, LLC,  
not in its individual capacity but solely as  
Administrator of BP Commercial Funding  
Trust

By: \_\_\_\_\_  
Name: Michael Petronio  
Title: Authorized Signatory

**BP COMMERCIAL FUNDING TRUST, SERIES SPL-X,**

a statutory series of BP Commercial Funding Trust, a Delaware statutory trust, for itself and for no other series of BP Commercial Funding Trust[, in its capacity as holder of Term Loan Promissory Note A under the BP NP-Liberty Credit Agreement]

By: BasePoint Capital II, LLC,  
not in its individual capacity but solely as  
Administrator of BP Commercial Funding  
Trust

By: \_\_\_\_\_  
Name: Michael Petronio  
Title: Authorized Signatory

**BP COMMERCIAL FUNDING TRUST,  
SERIES SPL-X,**

a statutory series of BP Commercial Funding Trust, a Delaware statutory trust, for itself and for no other series of BP Commercial Funding Trust[, in its capacity as holder of Term Loan Promissory Note B under the BP NP-Liberty Credit Agreement]

By: BasePoint Capital II, LLC, not in its individual capacity but solely as Administrator of BP Commercial Funding Trust

By: \_\_\_\_\_

Name: Michael Petronio

Title: Authorized Signatory

Disclosure Letter

COURT OF APPEAL FILE NO. CA49489

**COURT OF APPEAL**

ON APPEAL FROM the order of Madam Justice Fitzpatrick of the Supreme Court of British Columbia pronounced on the 31<sup>st</sup> day of October, 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 AND ARRANGEMENT OF  
NEXTPOINT FINANCIAL, INC. AND THOSE  
PARTIES LISTED ON SCHEDULE "A"

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**AFFIDAVIT #2 OF TERI STEVENS**

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Barristers and Solicitors  
1600 Cathedral Place  
925 West Georgia Street  
Vancouver, British Columbia  
V6C 3L2

Phone: (604) 685-3456

Attention: William L. Roberts / Laura L. Bevan /  
Sarah B. Hannigan