



This is the 1st affidavit  
of Wen-Shih Yang in this case  
and was made on July 25, 2023

No. S-235288  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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"

PETITIONERS

**AFFIDAVIT**

I, Wen-Shih Yang, of Suite 2700 - 1133 Melville Street, Vancouver, British Columbia, Legal Assistant, AFFIRM THAT:

1. I am an employee of the law firm of DLA Piper (Canada) LLP, counsel for the Petitioners, NextPoint Financial Inc. and those parties listed on Schedule "A" in this proceeding. I have personal knowledge of the facts and matters hereinafter deposed to in this Affidavit, except where they are stated to be made upon information and belief and where so stated I verily believe them to be true.

- Attached and marked as **Exhibit "A"** to my affidavit is a true copy of the Accommodation Agreement between First Century Bank, N.A. and JTH Tax LLC, dated July 25, 2023.

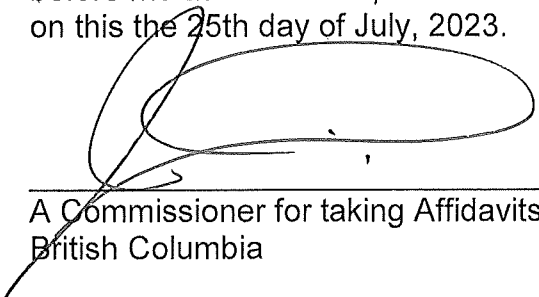
AFFIRMED BEFORE ME at Vancouver,  
British Columbia, on July 25, 2023.

\_\_\_\_\_  
A Commissioner for taking Affidavits for  
British Columbia.

\_\_\_\_\_  
Wen-Shih Yang

Jeffrey Bradshaw  
Barrister & Solicitor  
DLA Piper (Canada) LLP  
1133 Melville Street, Suite 2700  
Vancouver, BC V6E 4E5  
604.687.9444

This is **Exhibit "A"** referred to in the Affidavit of Wen-Shih Yang sworn before me at Vancouver, British Columbia on this the 25th day of July, 2023.



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A Commissioner for taking Affidavits for  
British Columbia

## ACCOMMODATION AGREEMENT

This **ACCOMMODATION AGREEMENT** (this “**Agreement**”) is entered into as of July 25, 2023, by and among JTH Tax, LLC (the “**Company**”) and First Century Bank, N.A. (the “**Bank**” and together with the Company, the “**Parties**”).

### RECITALS

**WHEREAS**, the Company and certain of its affiliates (collectively, the “**Petitioners**”) intend to make an application to the British Columbia Supreme Court (the “**CCAA Court**”) for an initial order (as may be amended and restated from time to time, the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the proceedings thereunder being the “**CCAA Proceedings**”).

**WHEREAS** the Petitioners intend to commence ancillary insolvency proceedings under chapter 15 of title 11 of the United States Code to recognize the CCAA Proceedings.

**WHEREAS**, the Company and the Bank have entered into that certain Franchisee Loan Program Agreement, dated as of June 8, 2022, by and among the Company and the Bank (as amended, restated, supplemented or otherwise modified from time to time, the “**Existing Agreement**”).

**WHEREAS**, the Bank previously provided the Company with notices of default and a notice of termination related thereto, pursuant to which the Bank, *inter alia*: (i) purported to terminate the Existing Agreement; (ii) purported to permanently suspended the issuance of Loans to any Franchisee; and (iii) indicated it may modify the Underwriting Criteria (as defined in the Existing Agreement) (collectively, the “**Notices**”).

**NOW, THEREFORE**, in consideration of the foregoing, the terms, covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. **Definitions.** “**CCAA Court**” is defined in the Recitals.

“**Bank Post-Petition Claims**” means any claims in respect of Priority Franchisee Loan Obligations.

“**Bank Rights**” means, collectively, any right to terminate, disclaim, suspend or modify (including with respect to the Underwriting Criteria) the Existing Agreement, or any Loans, extensions of credit or transactions thereunder, to accelerate or make demand for any Loans, or to take any other enforcement or collection action under the Existing Agreement for any reason whatsoever.

“**CCAA Proceeding**” is defined in the Recitals.

“**Company**” is defined in the Recitals.

“**Event of Default**” has the meaning set forth in Section 6.

“**Existing Agreement**” is defined in the Recitals.

“**Franchisee Lender Charge**” a priority charge granted by the CCAA Court on all present and after acquired personal and real, tangible or intangible property of the Company and the Petitioners listed on Schedule “A” hereto, of any kind or nature whatsoever and wheresoever situated, as security for all Priority Franchisee Loan Obligations, which Priority Franchisee Loan Charge shall rank *pari passu* with the charge granted in the Initial Order and any subsequent order to secure the debtor-in-possession financing provided to the Petitioners.

“**Franchisees**” has the meaning set forth in the Existing Agreement.

“**Initial Order**” is defined in the Recitals.

“**Loans**” has the meaning set forth in the Existing Agreement

“**Notices**” is defined in the Recitals.

“**Parties**” is defined in the Preamble.

“**Petition Date**” means the date of the Initial Order.

“**Petitioners**” is defined in the Recitals.

“**Priority Franchisee Loan Obligations**” means all of the Company’s indebtedness, interest, fees, liabilities and obligations to the Bank incurred after the granting of the Initial Order under and pursuant to the Existing Agreement. For the avoidance of doubt, Priority Franchisee Loan Obligations shall not include any indebtedness, interest, fees, liabilities and obligations that exists before the granting of the Initial Order.

## SECTION 2. **Agreement not to Exercise Bank Rights.**

(a) The Bank hereby covenants and agrees to refrain from exercising any Bank Rights so long as no Event of Default has occurred. Any Bank Rights asserted as being exercised in the Notices shall be deemed to not have been exercised (to the extent capable of being exercised) and subject to the terms of this Agreement.

(b) Except as provided in this Agreement, the Bank hereby covenants and agrees to refrain from imposing any more onerous or restrictive terms or conditions with respect to Loans made or Loans requested under the Existing Agreement than those that have been historically applied with respect to Loans made or Loans requested, notwithstanding any rights with respect to the foregoing being provided for in the Existing Agreement, so long as no Event of Default has occurred.

SECTION 3. **Conditions Precedent.** The obligations of the Bank hereunder shall not become effective until the date on which each of the following conditions are satisfied (or waived in writing by the Bank in its sole discretion):

(a) The CCAA Court shall have entered the Initial Order granting the Franchisee Lender Charge a priority charge granted by the CCAA Court on all present and after acquired

personal and real, tangible or intangible property of the Company and the Petitioners listed on Schedule "A" hereto, of any kind or nature whatsoever and wheresoever situated, as security for all Priority Franchisee Loan Obligations, which Franchisee Lender Charge shall rank *pari passu* with the charge granted in the Initial Order and any subsequent order to secure the debtor-in-possession financing provided to the Petitioners;

(b) the Initial Order shall be in form and substance reasonably satisfactory to the Bank and shall be in full force and effect; and

(c) the Company shall have executed and delivered to the Bank such other documents in connection with the matters contemplated herein as the Bank may have reasonably requested.

SECTION 4. **Events of Default.** The Bank may immediately suspend the issuance of Loans and exercise any and all Bank Rights if any of the following events (each, an "Event of Default")

SECTION 5. occurs:

(a) The Company defaults in the payment when due of any amount owing to the Bank under the Existing Agreement and arising after the Petition Date and fails to cure such default within ten (10) days of receiving written notice thereof;

(b) the CCAA Proceedings are dismissed or converted to a liquidation proceeding including a receivership, bankruptcy, or otherwise ("**Liquidating Proceeding**") or the Company shall file a motion or other pleading seeking the dismissal of the CCAA Proceedings or conversion to a Liquidating Proceeding; or

(c) any action is taken by the Company to discontinue or to assert the invalidity or unenforceability of the Franchisee Lender Charge.

SECTION 6. **Term.** Section 9.1 of the Existing Agreement is hereby deleted and replaced with the following: **Section 9.1. Term.** The term of this Agreement shall commence on the Effective Date and continue for two (2) years (the "**Term**") unless terminated earlier as provided below. From March 1 until March 31 during the second year of the Term, Company agrees to an exclusive negotiation period with Bank related to the extension of the Agreement and Company agrees not to negotiate a similar agreement with any other bank, lender or similar entity during this period.

SECTION 7. **Minimum Required Interest.** Section 1.1 of the Existing Agreement is hereby modified by deleting the definition of "Minimum Required Interest" and substituting therefor the following: "**Minimum Required Interest**" means the greater of (i) one million two hundred thousand dollars (\$1,200,000.00) or (ii) an amount equal to 7% per annum on the average daily outstanding balance of Loans made by the Bank to Franchisees during the Term.

SECTION 8. **Interest Rate Hedge and Swap Carve-out.** Section 7.4 of the Existing Agreement is hereby deleted and replaced with the following: **Section 7.4 Interest Rate Hedge and Swap Carve-out.** Bank will facilitate the funding of Loans for the Canadian Franchisees in Canadian dollars. The Company is aware of the cost associated with the foreign exchange trades. The Bank will provide at the end of each Program Period a detailed accounting with back up documentation of all costs and losses incurred by the Bank in converting U.S. Dollars to Canadian dollars and converting Canadian dollars to U.S. Dollars to fund loans or to perform any of the Bank's services under this Agreement (collectively, the "**Foreign Exchange Cost**"). The Company will be responsible and agrees to reimburse the Bank for the Foreign Exchange Cost within 30 days of the end of each Program Period. This Foreign Exchange Cost is outside of and in addition to the fees delineated in the definition of Minimum Required Interest.

SECTION 9. **Costs and Expenses.** The Company shall reimburse the Bank for all reasonable fees and expenses incurred (including legal, financial advisory and professional fees and expenses on a full indemnity basis) (the "**Bank Expenses**") by the Bank or any of its affiliates in connection with the negotiation, development, and implementation of this Agreement (including the administration of this Agreement) and in connection with the CCAA Proceedings, including pre-petition expenses and costs. The Bank Expenses shall form part of the Priority Franchisee Loan Obligations secured by the Franchisee Lender Charge. Professionals for the Bank shall not be required to file applications or motions with, or obtain approval of, the CCAA Court for compensation and reimbursement of fees and expenses.

SECTION 10. **Existing Agreement to Remain in Full Force.** Except as expressly provided to the contrary in this Agreement, the Existing Agreement shall remain in full force and effect.

SECTION 11. **Governing Law; Submission to Jurisdiction and Venue.** **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE PROVINCE OF BRITISH COLUMBIA AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN. THE PARTIES SUBMIT TO THE JURISDICTION OF THE CCAA COURT, WHICH SHALL HEAR MATTERS REGARDING THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT.**

SECTION 12. **Construction.** This Agreement and all other agreements and documents executed and/or delivered in connection herewith have been prepared through the joint efforts of all of the Parties. Neither the provisions of this Agreement nor any such other agreements and documents nor any alleged ambiguity therein shall be interpreted or resolved against any Party on the ground that such Party or its counsel drafted this Agreement or such other agreements and documents, or based on any other rule of strict construction. Each of the Parties hereto represents and declares that such Party has carefully read this Agreement and all other agreements and documents executed in connection therewith, and that such Party knows the contents thereof and signs the same freely and voluntarily. The Parties acknowledge that they have been represented by legal counsel of their own choosing in negotiations for and preparation of this Agreement and all other agreements and documents executed in connection herewith and that each of them has read the same and had their contents fully explained by such counsel and is fully aware of their contents and legal effect. Unless, otherwise provided herein, if any matter is left to the decision, right, requirement, request, determination, judgment, opinion, approval, consent, waiver, satisfaction, acceptance, agreement, option, or discretion of the Bank or their employees, counsel, such action shall be deemed to be exercisable by the Bank in their reasonable discretion and according to standards established in its

reasonable discretion. Without limiting the generality of the foregoing, “option” and “discretion” shall be implied by the use of the words “if” and “may”.

SECTION 13. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which shall be deemed to be an original and such counterparts taken together shall constitute one agreement, and any of the Parties may execute this Agreement by signing any such counterpart. Delivery of an executed signature page to this Agreement by facsimile, e-mail or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 14. **Severability.** Each provision of this Agreement is intended to be severable and if any provision is illegal, invalid or unenforceable, such illegality, unenforceability or invalidity shall not affect the validity of this Agreement or the remaining provisions.

SECTION 15. **Further Assurances.** The Parties agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof, including all acts, deeds and agreements as may be necessary or desirable for the purpose of registering or filing notice of the terms of this Agreement.

SECTION 16. **Section Headings.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute part of this Agreement for any other purpose.

SECTION 17. **Notices.** All notices, requests, and demands to or upon the Parties shall be given in accordance with the Existing Agreement with additional copies to counsel for the Parties as required by the CCAA Court.

SECTION 18. **Assignments; Third Party Beneficiaries.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided that the Company shall not be entitled to assign any of its rights or remedies set forth in this Agreement without the prior written consent of the Bank, which is not to be unreasonably withheld. No person other than the Parties hereto and the other Petitioners shall have any rights hereunder or shall be entitled to rely on this Agreement.

*[Signature pages follow]*



IN WITNESS WHEREOF, this Support Agreement has been executed by the Parties as of the date first written above.

**JTH TAX, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FIRST CENTURY BANK, N.A.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## SCHEDULE "A"

- NextPoint Financial, Inc.
- NPI Holdco LLC
- LT Holdco, LLC
- LT Intermediate Holdco, LLC
- SiempreTax+ LLC
- Wefile LLC
- LTS Properties, LLC
- JTH Court Plaza, LLC
- LTS Software LLC
- JTH Tax Office Properties, LLC
- Liberty Credit Repair, LLC
- 360 Accounting Solutions, LLC
- JTH Financial, LLC
- JTH Properties 1632, LLC
- Liberty Tax Holding Corporation
- Liberty Tax Service, Inc.

**Schedule "A"**

1. NextPoint Financial, Inc.
2. NPI Holdco LLC

**Liberty Tax Entities**

1. LT Holdco, LLC
2. LT Intermediate Holdco, LLC
3. SiempreTax+ LLC
4. JTH Tax LLC
5. Liberty Tax Holding Corporation
6. Liberty Tax Service Inc.
7. JTH Financial, LLC
8. JTH Properties 1632, LLC
9. Liberty Credit Repair, LLC
10. Wefile, LLC
11. JTH Tax Office Properties, LLC
12. LTS Software LLC
13. JTH Court Plaza, LLC
14. 360 Accounting Solutions, LLC
15. LTS Properties, LLC

**Community Tax Entities**

16. CTAX Acquisition LLC

- 17. Community Tax Puerto Rico LLC
- 18. Community Tax LLC

**LoanMe Entities**

- 19. NPLM Holdco LLC
- 20. MMS Servicing LLC
- 21. LoanMe, LLC
- 22. LoanMe Funding, LLC
- 23. LM Retention Holdings, LLC
- 24. LoanMe Trust Prime 2018-1
- 25. LoanMe Trust SBL 2019-1
- 26. LoanMe Stores LLC
- 27. InsightsLogic LLC
- 28. LM 2020 CM I SPE, LLC

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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"

PETITIONERS

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**AFFIDAVIT**

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JDB/day