

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2123125 ONTARIO INC.

Applicant

**MOTION RECORD
(Motion Returnable October 28, 2016)
(Re Claims Bar and Stay Extension)**

October 21, 2016

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5300 Commerce Court West
199 Bay Street
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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2123125 ONTARIO INC.

Applicant

NOTICE OF MOTION
(Returnable October 28, 2016)
(Re Claims Bar and Stay Extension)

2123125 Ontario Inc., formerly known as "FirstOnSite G.P. Inc." ("**212**"), the general partner of Former Restoration L.P., formerly known as "FirstOnSite Restoration L.P." ("**Former LP**" and together with 212, "**FirstOnSite**"), will make a motion to a judge presiding over the Commercial List on October 28, 2016 at 9:30 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order, among other things:
 - (a) setting a bar date for any:

- (i) claims for the payment of approved goods and services provided to FirstOnSite from the CCAA filing date of April 21, 2016 to May 31, 2016 (“**Post-Filing/Pre-Closing Expenses**”);
 - (ii) trust claims pursuant to the *Construction Lien Act* or equivalent provincial legislation;
 - (iii) other trust claims pursuant to applicable law

(collectively, the “**Eligible Claims**”);
- (b) approving the Fourth Report of the Monitor to be filed, and the activities of the Monitor as set out therein; and
 - (c) extending the stay of proceedings (the “**Stay of Proceedings**”) set out at paragraph 15 of the order of Justice Newbould dated April 21, 2016 to January 27, 2017; and
2. Such further and other relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

3. FirstOnSite carried on business in Canada and, through its subsidiary FirstOnSite Restoration, Inc., the United States, providing remediation, restoration and reconstruction services in the commercial, industrial and residential sectors;
4. FirstOnSite faced severe financial and liquidity issues, and defaulted on its senior secured revolving credit facility - triggering a cascade of cross-defaults with respect to its senior and junior subordinated debt;

5. FirstOnSite did not have the liquidity needed to meet its obligations. Accordingly, FirstOnSite sought and was granted protection from its creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pursuant to the Initial Order;

6. Substantially all of FirstOnSite's operating assets have been sold (the "**Sale Transaction**") pursuant to the Asset Purchase Agreement (the "**APA**") between FirstOnSite and 3297167 Nova Scotia Limited (the "**Purchaser**") dated April 20, 2016;

7. The Sale Transaction was approved by the Court on May 9, 2016 and closed on June 1, 2016;

Stub Bonus Motions

8. The APA contemplates a purchase price adjustment based on the difference between the estimated working capital of FirstOnSite at the time of closing, and the final working capital calculated after closing (the "**Working Capital Calculation**"). FirstOnSite and the Purchaser agreed upon a Working Capital Calculation, subject to a determination by this Court of an issue relating to the payment of stub bonus amounts to certain former employees of FirstOnSite (the "**Stub Payments**") by the Purchaser (the "**WCC Motion**");

9. BDC Capital Inc. ("**Capital**") has indicated that it intends to bring a motion for a declaration that its security interest is entitled to priority over any Stub Bonus

Payments (the “**Capital Motion**”). The Capital Motion and WCC Motion are both scheduled to be heard on November 16, 2016;

Claims Bar

10. The Monitor, in consultation with FirstOnSite, has made distributions to certain secured creditors of FirstOnSite in accordance with the priority of their interest in the proceeds from the Sale Transaction (the “**Sale Proceeds**”). The Monitor is currently holding Sale Proceeds in order to satisfy any deemed trust claims against FirstOnSite that may arise under provincial legislation in accordance with the Distribution Order of this Court;

11. The Monitor and FirstOnSite are working towards a final distribution of the Sale Proceeds. To facilitate such final distribution, FirstOnSite, in consultation with the Monitor, propose sending a notice to such creditors of FirstOnSite that based on the books and records of FirstOnSite have outstanding amounts owing to them by FirstOnSite that were not assumed by the Purchaser advising such parties of the intended final distribution by the Monitor and soliciting invoices and documentation in respect of any potential Eligible Claims (the “**Claims Notice**”);

12. FirstOnSite is aware of approximately \$110,000 of potential Eligible Claims;

13. FirstOnSite, with the support of the Monitor, seeks an order from this Court stating that all Eligible Claims not received by the Monitor by **5 p.m. (eastern**

standard time) November 15, 2016 (the “**Claims Bar Date**”) will be barred and extinguished as against FirstOnSite;

14. The proposed Claims Bar Date provides parties with a reasonable time period to submit any Eligible Claims, as well as providing finality and certainty to facilitate a final distribution of the proceeds of the Sale Transaction in a timely manner;

Extension of Stay of Proceedings

15. An extension of the Stay of Proceedings to January 27, 2017 is necessary to give FirstOnSite time to:

- (a) attempt to negotiate a resolution, or otherwise complete the WCC Motion and the Capital Motion with the interested parties;
- (b) review any responses to the Claims Notice and consult with the Monitor with respect to the payment of Eligible Claims (if any); and
- (c) consult with the Monitor with respect to a final distribution;

16. FirstOnSite has acted and continues to act in good faith and with due diligence in these CCAA proceedings;

17. It is just and convenient and in the interests of all creditors and interested parties that the orders sought herein be granted;

18. The provisions of the CCAA and the inherent and equitable jurisdiction of this Court;

19. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended; and

20. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. the Affidavit of Kevin McElcheran sworn October 21, 2016;
2. the Fourth Report of the Monitor, to be filed; and
3. such further and other materials as counsel may advise and this Court may permit.

October 21, 2016

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Lawyers for the Applicant

TO: THE SERVICE LIST

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE OCTOBER 28, 2016)**

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TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

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Applicant

AFFIDAVIT OF KEVIN MCELCHERAN
(Sworn October 21, 2016)
(Re Claims Bar and Stay Extension)

I, Kevin McElcheran, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the principal to Oriole Advisors Ltd. ("**Oriole**"), the court-appointed Chief Restructuring Officer (in such capacity, the "**CRO**") of the Applicant, 2123125 Ontario Inc., formerly known as "FirstOnSite G.P. Inc." ("**212**"), and Former Restoration L.P., formerly known as "FirstOnSite Restoration L.P." ("**Former LP**" and together with 212, "**FirstOnSite**"), a limited partnership formed under the laws of Ontario. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records of FirstOnSite and have spoken with certain of the other directors, officers and/or employees of FirstOnSite, as necessary, and where I have relied upon such information do verily believe such information to be true.

2. This affidavit is sworn in support of the motion brought by FirstOnSite seeking an order, among other things, (a) setting a bar date for claims for the submission of any Eligible Claims (as defined below), (b) extending the Stay Period (as defined below) to January 27, 2017, (c) approving the Fourth Report of the Monitor (as defined below) and the activities set out therein.

A. Status of the CCAA Proceedings

3. FirstOnSite carried on business in Canada and, through its subsidiary FirstOnSite Restoration, Inc., the United States, offering remediation, restoration and reconstruction services in the commercial, industrial and residential sectors. FirstOnSite serviced, *inter alia*, properties damaged by flood, fire, wind, mold and catastrophic events.

4. As described in greater detail in the affidavit sworn by Dave Demos in support of the Initial Order (the “**Initial Order Affidavit**”), FirstOnSite faced financial and liquidity difficulties due to, among other issues, an overleveraged balance sheet, marked and substantial net losses and an escalating debt burden.

5. On April 20, 2016, Former LP, by its general partner, 212 (in such capacity, the “**Vendor**”), and 3297167 Nova Scotia Limited (the “**Purchaser**”) entered into an Agreement of Purchase and Sale (the “**APA**”) for the sale of substantially all of its assets (the “**Purchased Assets**” as defined more particularly in the APA).

6. On April 21, 2016, pursuant to the order of Justice Newbould (the “**Initial Order**”), FirstOnSite obtained protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The Initial Order imposed a stay of proceedings up to and including May 20, 2016 (the “**Stay Period**”). FTI Consulting Canada Inc. (“**FTI**”) was appointed as the monitor of FirstOnSite (the “**Monitor**”) in these CCAA proceedings (the “**CCAA Proceedings**”). The commencement of the CCAA Proceedings and the transaction contemplated under the APA (the “**Sale Transaction**”) were publicly announced by FirstOnSite by way of a press release dated April 21, 2016.

7. Further details regarding the background to the CCAA Proceedings are set out in the Initial Order Affidavit and, unless relevant to this motion, are not repeated herein.

8. On May 2, 2016, FirstOnSite sought an order (the “**Amended and Restated Initial Order**”) granting super-priority ranking to the Court-ordered charges provided for in the Initial Order. A copy of the Amended and Restated Initial Order is attached hereto as **Exhibit “A”**. This Order, together with all other filings in the CCAA Proceedings, is available on the Monitor's website at:

<http://cfcanada.fticonsulting.com/firstonsite>.

9. On May 9, 2016, FirstOnSite sought an order (the “**Original AVO**”), among other things, approving the Sale Transaction and vesting the Purchased Assets in the Purchaser upon the delivery of a Monitor’s certificate certifying that the Sale Transaction had closed to the Monitor’s satisfaction.

10. On May 18, 2016, FirstOnSite sought orders, among other things, (a) extending the Stay Period in this matter to June 27, 2016, (b) assigning certain contracts to the Purchaser, as contemplated by the APA, and (c) authorizing and directing the distribution of the assets of FirstOnSite (the “**Distribution Order**”).

11. The Sale Transaction closed on June 1, 2016 (“**Closing**”).

12. On June 27, 2016, FirstOnSite brought a motion (the “**June 27 Motion**”) seeking an order, among other things, (a) extending the Stay Period in this matter to October 31, 2016, and (b) appointing Oriole as CRO of FirstOnSite (the “**Stay Extension Order**”). A copy of my affidavit sworn June 22, 2016, without exhibits, is attached hereto as **Exhibit “B” (the “June Affidavit”)**.

i. Transition Agreement

13. As noted above, pursuant to the Original AVO, all of FirstOnSite’s right, title and interest in the Purchased Assets vested in the Purchaser free and clear of any claims and encumbrances upon the delivery of the Monitor's Certificate.

14. The Purchased Assets include certain contracts (the “**Quebec Contracts**”) between the Vendor and certain customers relating to work for which a licence from the *Regie du Batiment du Quebec* (“**RBQ**”) is required. The Vendor holds an existing licence issued pursuant to the *Builder’s Act* (Quebec) and bearing number 8353-0295-53. The Purchaser requires an equivalent replacement licence to continue working under the Quebec Contracts.

15. The Purchaser was unable to acquire an equivalent licence by the time the Sale Transaction was scheduled to close. Consequently, the Purchaser requested that the Vendor temporarily hold, and continue to perform the work under, the Quebec Contracts (the “**Transition Services**”). The Vendor has agreed to the Purchaser’s request and entered into a Transition Agreement with the Purchaser dated June 1, 2016 (the “**Transition Agreement**”).

16. The Transition Agreement has been amended twice to, among other things, extend the term. The current term of the Transition Agreement, provided that the Purchaser does not breach the agreement or obtain an equivalent licence beforehand, is November 15, 2016. Attached as **Exhibits “C”** and “**D**” are the Amendment to the Transition Agreement dated August 31, 2016 and the Second Amendment to the Transition Agreement dated October September 30, 2016 (the “**Second Amendment**”), respectively.

17. In consideration for the extension of the term in the Second Amendment, the Purchaser has agreed to:

- (a) provide FirstOnSite and the Monitor with information on its progress in obtaining an equivalent replacement licence; and
- (b) pay or otherwise satisfy any remaining outstanding amounts on the Potential Trust Claimants List that are owing to Potential Trust

Claimants (as such terms are defined in the APA) prior to November 15, 2016.

18. I am advised by Matthew Bernardo of Norton Rose Fulbright LLP, counsel to the Purchaser, that the Purchaser has provided all of the information requested by the RBQ with respect to the license proper and are awaiting a response. In parallel, Purchaser is in the process of obtaining its accreditation with the *Garantie du Construction Residentielle* of Quebec ("**GCR**") which, together with obtaining the RBQ licence, is a requirement in order to undertake new residential construction in Quebec. The Purchaser is well advanced in this process, but has been asked by GCR to provide them with a review engagement opening balance sheet for the Purchaser. The Purchaser anticipates that it will be in a position to provide the requested statements to GCR within two weeks.

ii. Motion of BDC Capital Inc.

19. On June 2, 2016, the day after Closing, counsel for BDC Capital Inc. ("**Capital**") advised counsel for FirstOnSite that Capital objects to the payments to three former senior members of FirstOnSite's management under a stub bonus program (the "**Stub Payments**").¹ On June 15, 2016, Capital served a motion (the "**Capital Motion**"), returnable on a day to be set by the Court, seeking an order declaring that Capital is entitled to payment of its secured loan in priority to any Stub Payments.

20. All of the parties to the Capital Motion agreed to postpone the scheduling of the Capital Motion and are currently in discussion with respect to same. The Capital Motion is scheduled for November 16, 2016. The parties to the Capital Motion are in discussions with the aim of consensually resolving the matter.

¹ The Stub Payments are described in greater detail in the Initial Order Affidavit at paragraph 148.

iii. Working Capital Cost Adjustment

21. Section 3.5 of the APA contemplates an adjustment to the Purchase Price (the “**Purchase Price Adjustment**”) based on the difference between the Final Working Capital and the Estimated Closing Working Capital (each as defined in the APA) (the “**Working Capital Calculation**”).

22. Pursuant to article 3.5(c) of the APA, the Purchaser delivered its calculation of the Purchase Price Adjustment to FirstOnSite on August 30, 2016 (the “**Purchaser’s WCC**”).

23. On September 27, 2016, FirstOnSite delivered a list of objections to the Purchaser’s WCC pursuant to section 3.5(c) of the APA. Since that time FirstOnSite and the Purchaser, in consultation with the Monitor, have worked diligently and in good faith to resolve the objections.

24. On October 17, 2016, FirstOnSite and the Purchaser executed a settlement agreement with respect to the Purchase Price Adjustment (the “**WCC Settlement**”). The WCC Settlement resolves all of the issues with respect to the Working Capital Calculation except for the inclusion of Stub Payments made by the Purchaser to two former employees of FirstOnSite.

25. The key terms of the WCC Settlement include:

- (a) FirstOnSite will bring a motion before this Court for a determination of whether the Purchaser is entitled to include the Stub Payments made in respect of two former FirstOnSite Employees in the Working Capital Calculation (the “**WCC Motion**”);
- (b) The Vendor will direct the Monitor to pay \$87,278.29 to the Purchaser in full satisfaction of FirstOnSite’s obligations in respect of the Final Working Capital (the “**Purchase Price Payment**”);

- (c) the Purchaser confirms the release of its charge (the "**Purchaser's Charge**") over the trust claim reserve created pursuant to paragraph 12 of the order of Justice Newbould dated May 18, 2016 (the "**Distribution Order**"). Attached as **Exhibit "E"** is the Distribution Order; and
- (d) Upon the determination of the Stub Bonus Motion, the Purchaser will pay any amounts payable in respect of the Final Working Capital to FirstOnSite within five (5) business days.

26. The Capital Motion and WCC Motion are currently scheduled to be heard together on November 16, 2016 (collectively, the "**Stub Bonus Motion**").

27. I am advised by Michael Basso that, October 20, 2016, the Monitor, at the direction of the Vendor, made the Purchase Price Payment.

iv. Reports from Purchaser

28. Pursuant to the APA, on June 15, 2016, and every 14 days thereafter, the Purchaser must deliver a report (the "**Trust Claimant Report**") to FirstOnSite and the Monitor detailing which of the amounts owing to persons on the Potential Trust Claimant List have not been paid or satisfied.

29. I am informed by Matthew Bernardo that, since the May 31, 2016 report, the Purchaser has paid approximately \$13.7 million dollars in amounts owing to persons listed on the Potential Trust Claimants List. As of October 5, 2016, approximately \$480,000 of potential trust claims remains outstanding from the Potential Trust Claims List.

30. As noted above, the Purchaser has agreed to pay all outstanding amounts owing to persons on the Potential Trust Claimant List by November 15, 2016.

v. Distributions

31. The Distribution Order, among other things, provided for the distribution of certain of the sale proceeds from the Sale Transaction and any other proceeds that may be delivered to or on behalf of FirstOnSite by the Monitor in consultation with FirstOnSite.

32. Among other things, FirstOnSite is to consult with the Monitor with respect to:

- (a) the retention of a reserve of funds pursuant to paragraph 2(ii) of the Distribution Order; and
- (b) the disbursement of funds from the proceeds of the Sale Transaction pursuant to paragraphs 4-10 of the Distribution Order.

33. Prior to the CRO Motion, The Monitor, in consultation with FirstOnSite, made distributions in full and final satisfaction of the claims of Wells Fargo Capital Finance Corporation, Business Development Bank of Canada, the KERP Participants (as defined in the Initial Order, and Alvarez & Marsal Canada Securities ULC. Further information with respect to prior distributions may be found in my June Affidavit at paragraphs 30 to 31.

34. On September 20, 2016, the Monitor, in consultation with FirstOnSite, issued a \$400,000 interim distribution to Capital. The Applicants expect that additional amounts from the proceeds from the Sale Transaction will be distributed to Capital, subject to, among other things, the determination and payment of any claims (a) in respect of statutory deemed trusts, (b) with respect to expenses incurred by FirstOnSite after the commencement of these CCAA Proceedings and before the Closing (collectively, "**Eligible Claims**").

B. Claims Bar

35. The Monitor and FirstOnSite are working towards a final distribution of the proceeds from the Sale Transaction. To facilitate a final distribution, the Applicants are seeking to determine whether there may be any Eligible Claims that must be paid.

36. In order to ascertain whether there are any outstanding Eligible Claims, FirstOnSite, in consultation with the Monitor, proposes that a notice to creditors in the form attached as **Exhibit "F"** hereto (the "**Claims Notice**") be sent by the Monitor to all known creditors of FirstOnSite, based on its books and records, that have outstanding amounts owing to them by FirstOnSite that were not assumed by the Purchaser pursuant to the APA.

37. For clarity, pursuant to section 6.9 of the APA, the Purchaser has assumed those trust claims described in the Potential Trust Claimants List (as defined in the APA). As noted in paragraph 29, the Purchaser has paid approximately \$13.7 million in respect of such potential trust claims and has agreed to pay the remaining approximately \$480,000 by November 15, 2016 pursuant to the Second Amendment to the Transition Agreement.

38. I am advised by Michael Basso, of the Monitor, that the Monitor is currently aware of approximately \$110,000 of potential Eligible Claims. No final determination has been made as to the validity of these potential Eligible Claims at this point.

39. The Claims Letter is to be sent by October 31, 2016, or as soon thereafter as possible, and requests that any party with an Eligible Claim submit their claim along with any supporting documentation to the Monitor by November 15, 2016 (the "**Claims Bar Date**"). The Claims Letter further states that all claims not received by the Monitor by the Claims Bar Date will be barred.

40. It is my opinion that the proposed Claims Bar Date provides parties with a reasonable time period to submit any Eligible Claims, as well as providing finality and certainty so that distributions may be made in a timely manner.

C. Stay Extension to January 27, 2017, 2016

41. FirstOnSite has been diligently working since the commencement of the CCAA Proceedings. Among other things, FirstOnSite has:

- (a) resolved the Working Capital Calculation, subject to the determination of the Stub Payments;
- (b) amended and extended the Transition Agreement;
- (c) consulted with the Monitor with respect to certain distributions; and
- (d) scheduled the Stub Bonus Motion.

42. As noted above, the Stay Period granted under the Initial Order was extended by further orders of this Court to October 31, 2016. A further extension of the Stay Period to January 27, 2017 is necessary to provide FirstOnSite with sufficient time to:

- (a) file materials in respect of the Stub Bonus Motion;
- (b) attempt to resolve the Stub Bonus Motion with the interested parties;
- (c) if necessary, appear on the Stub Bonus Motion;
- (d) if applicable, collect any amounts owing from the Purchaser in respect of Stub Payment and make any payable Stub Payments in accordance with this Court's determination in respect of the Stub Bonus Motion;
- (e) review and consult with the Monitor with respect to any Eligible Claims submitted in response to the Claims Letter;

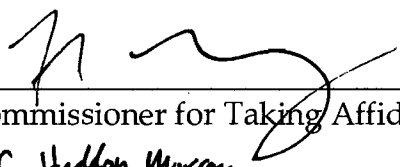
- (f) pay any valid Eligible Claims; and
 - (g) consult with the Monitor with respect to a final distribution of the proceed from the Sale Transaction to Capital
- (collectively, the "Outstanding Matters").

43. I am advised by Harvey Chaiton, counsel for Capital, that Capital supports the stay extension to January 27, 2017.

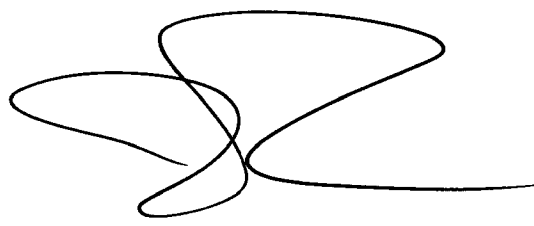
44. FirstOnSite has acted and continues to act in good faith and with due diligence. I do not believe that any creditor will suffer any material prejudice if the Stay Period is extended to January 27, 2017.

45. The stability provided by the stay of proceedings is critical to allow FirstOnSite to complete the Outstanding Matters in the CCAA Proceedings.

SWORN BEFORE ME at the
Toronto, Province of Ontario,
October 21, 2016.



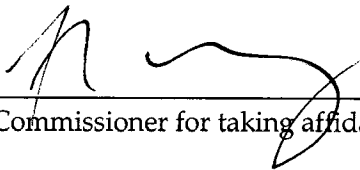
Commissioner for Taking Affidavits
C. Haddon Murray
LSUC #: 61840P



Kevin McElcheran

EXHIBIT "A"

Exhibit "A" to the Affidavit
Of Kevin McElcheran sworn
October 21, 2016



Commissioner for taking affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR) THURSDAY, THE 21st
)
JUSTICE NEWBOULD) DAY OF APRIL, 2016
)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FIRSTONSITE G.P. INC.

Applicant

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by FirstOnSite G.P. Inc. ("**FirstOnSite GP**" or "**the Applicant**"), the general partner of FirstOnSite Restoration L.P. ("**FirstOnSite LP**", collectively with FirstOnSite GP, "**FirstOnSite**"), a limited partnership formed under the laws of Ontario, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of David Demos sworn April 20, 2016 and the Exhibits thereto (the "**Demos Affidavit**"), the pre-filing report of FTI Consulting Canada Inc. ("**FTI**"), dated April 20, 2016 (the "**Pre-Filing Report**") and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice of this application, and on hearing the submissions of counsel for FirstOnSite, FTI, 3297167 Nova Scotia Limited (the "**Purchaser**"), Wells Fargo Capital Finance Corporation Canada, the Business Development Bank of Canada ("**BDC**"), BDC Capital Inc. and the DIP Lender (as defined further below) no one appearing for any other party although duly served as appears from the affidavit of

service, filed, and on reading the consent of FTI to act as the Monitor (in such capacity, the “**Monitor**”),

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that FirstOnSite GP is a company to which the CCAA applies. Although not an Applicant, FirstOnSite LP shall enjoy the benefits of the protection and authorizations provided to the Applicant by this Order.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that FirstOnSite shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, FirstOnSite shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. FirstOnSite is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

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

6. **THIS COURT ORDERS** that, subject to availability under the DIP Facility (as defined further below) and in accordance with the Budget as defined in the DIP Agreement (as defined further below), FirstOnSite shall be entitled but not required to pay the following expenses whether incurred prior to, on or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reasonable director fees, expenses and reimbursements payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by FirstOnSite in respect of these proceedings, at their standard rates and charges;

- (c) with the consent of the Monitor for amounts in excess of \$10,000 each, any amounts owing to or in respect of individuals working as independent contractors or temporary workers in connection with the FirstOnSite Business; and
- (d) amounts owing for goods and services actually supplied to FirstOnSite, or to obtain the release of goods contracted for, prior to the date of this Order, by suppliers with the consent of the Monitor for amounts in excess of \$10,000 each, if in the opinion of FirstOnSite, the supplier of the goods or services is critical to the FirstOnSite Business and ongoing operations of the FirstOnSite enterprise.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to availability under the DIP Facility and in accordance with the Budget, FirstOnSite shall be entitled but not required to pay all reasonable expenses incurred by FirstOnSite in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) payment for goods or services actually supplied to FirstOnSite following the date of this Order; and
- (c) the fees and disbursements of any Assistants retained or employed by FirstOnSite in respect of these proceedings, at their standard rates and charges.

8. **THIS COURT ORDERS** that, with the consent of the Monitor, and subject to availability under the DIP Facility and in accordance with the Budget, FirstOnSite shall be entitled but not required to pay all expenses and capital expenditures of FirstOnSite Restoration, Inc. ("FOS US") reasonably necessary for the preservation of FirstOnSite's Property and Business.

9. **THIS COURT ORDERS** that FirstOnSite shall remit, in accordance with legal requirements, or pay:

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

10. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, FirstOnSite shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty,

common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between FirstOnSite and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

RESTRUCTURING

12. **THIS COURT ORDERS** that FirstOnSite shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (both as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$150,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) in accordance with paragraphs 13 and 14, and with the prior consent of the Monitor or further Order of the Court, vacate, abandon or quit the whole but

not part of any leased premises and/or disclaim or resiliate any real property lease and any ancillary agreements relating to any leased premise, in accordance with Section 32 of the CCAA;

- (d) with the prior consent of the Monitor or further Order of the Court, disclaim or resiliate any agreement to which the company is a party in accordance with Section 32 of the CCAA; and
- (e) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

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

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

NO PROCEEDINGS AGAINST FIRSTONSITE OR THE PROPERTY

15. **THIS COURT ORDERS** that until and including May 20, 2016, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of FirstOnSite or the Monitor, or affecting the Business or the Property, except with the written consent of FirstOnSite and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of FirstOnSite or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of FirstOnSite or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of FirstOnSite and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower FirstOnSite to carry on any business which FirstOnSite is not lawfully entitled to carry

on, or (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA.

NO INTERFERENCE WITH RIGHTS

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by FirstOnSite, except with the written consent of FirstOnSite and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

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

TREATMENT OF LIEN CLAIMS

19. **THIS COURT ORDERS** that, without limiting the generality of paragraphs 15 to 18 hereof, the rights of any person who has supplied services and/or materials to FirstOnSite to preserve and perfect a lien under the *Construction Lien Act* (Ontario) or any applicable provincial equivalent (the "**Provincial Lien Legislation**") in respect of a project to which FirstOnSite is a contracting party (the "**FOS Lien Claims**") be and are hereby stayed and any person seeking to preserve, perfect or otherwise enforce such a claim shall be required to comply with the process and seek the rights and remedies set out in paragraphs 19 to 22 hereof subject to further Order of the Court.

20. **THIS COURT ORDERS** that any person who wishes to assert an FOS Lien Claim (a "**Lien Claimant**") shall serve a notice of such FOS Lien Claim setting out the amount and particulars thereof to the Monitor at firstonsite@fticonsulting.com and copy, Goodmans LLP, counsel to the monitor at: cdescours@goodmans.ca and Applicant c/o Stikeman Elliott LLP: hmurray@stikeman.com within the timeframes prescribed by the applicable Provincial Lien Legislation (a "**Lien Notice**") or such other time frame as may be ordered by the Court.

21. **THIS COURT ORDERS** that upon serving a Lien Notice, the Lien Claimant shall be entitled to a charge over the Property of FirstOnSite equivalent to the value that the Lien Claimant would otherwise be entitled to as a lien under the applicable Provincial Lien Legislation (the "**Lien Charge**").

22. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and elsewhere in this Order, is hereby authorized and empowered to review the Lien Notices and reduce or disallow the FOS Lien Claims set out therein, or refer such matter for determination by the Court, on notice to the applicable Lien Claimant. Any such Lien Claimant shall have 10 days to give notice to the Monitor and FirstOnSite that it intends seek a review by the Court of the decision of the Monitor on a motion before a judge of this Court.

23. **THIS COURT ORDERS** that nothing in paragraphs 19 to 22 hereof shall be construed as limiting or prejudicing the rights of the Monitor, FirstOnSite or any other interested party from challenging:

- (a) the validity or timeliness of a Lien Notice;
- (b) the validity or quantum of an FOS Lien Claim under the applicable Provincial Lien Legislation, except for failure to preserve a lien by registration;
- (c) a Lien Claimant's entitlement to a Lien Charge under paragraph 21 of this Order; or
- (d) the priority of a Lien Charge under paragraph 49 of this Order.

24. **THIS COURT ORDERS** that in connection with the matters in paragraphs 19 to 22 of this Order, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in the CCAA Proceedings, (ii) shall incur no liability or obligation as a result of carrying out matters in connection with paragraphs 19 to 23 of this Order, (iii) shall be entitled to rely on the books and records of FirstOnSite and any information provided by FirstOnSite, all without independent investigation, (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be required to carry out matters in connection with paragraphs 19 to 23 of this Order from FirstOnSite or any of its subsidiaries.

NON-DEROGATION OF RIGHTS

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

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

ENGAGEMENT OF THE FINANCIAL ADVISOR

27. **THIS COURT ORDERS** that the agreement dated as of October 31, 2015, engaging Alvarez & Marsal Canada Securities ULC (the "**Financial Advisor**") as financial advisor to FirstOnSite, a copy of which is attached as Exhibit "F" to the Demos Affidavit (the "**A&M Engagement Letter**"), and the retention of the Financial Advisor under the terms thereof are hereby approved, including, without limitation, the Success Fee (as the term is defined in the A&M Engagement Letter). The Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the "**Financial Advisor's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1.1 million, as security for the Success Fee. The Financial Advisor's Charge shall have the priority set out in paragraphs 49 and 51 herein.

APPOINTMENT OF MONITOR

28. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of

FirstOnSite with the powers and obligations set out in the CCAA or set forth herein and that FirstOnSite and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by FirstOnSite pursuant to this Order, and shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor FirstOnSite's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist FirstOnSite, to the extent required by FirstOnSite, in its dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between FirstOnSite and the DIP Lender and as contemplated to be provided to the DIP Lender pursuant to the DIP Agreement and the Definitive Documents;
- (d) advise FirstOnSite in its preparation of FirstOnSite's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise FirstOnSite in its development of the Plan and any amendments to the Plan;
- (f) assist FirstOnSite, to the extent required by FirstOnSite, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

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

30. **THIS COURT ORDERS** that the Monitor, in its capacity as Escrow Agent under the Escrow Agreement, in connection with the agreement of purchase and sale (the "APA") entered into as between FirstOnSite LP, by its general partner FirstOnSite GP, and the Purchaser, is authorized and empowered to (a) hold the Deposit in a segregated account in the name of the Monitor, and (b) release the Deposit as contemplated by the Escrow Agreement or subject to further Order of the Court, and the Monitor shall incur no liability with respect to the foregoing. Unless otherwise defined in this Order, each capitalized term in this paragraph shall have the meaning ascribed to it in the APA.

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

32. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a

spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to FirstOnSite shall be paid their reasonable fees and disbursements, in each case at their

standard rates and charges, by FirstOnSite as part of the costs of these proceedings. FirstOnSite is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for FirstOnSite on a weekly basis and, in addition, FirstOnSite is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to FirstOnSite, retainers in the amount of \$100,000 each to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and FirstOnSite's counsel and the Financial Advisor (in respect of their monthly fees and expenses as set out in the A&M Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for the professional fees and disbursements, incurred at standard rates and charges, of the Monitor, counsel to the Monitor and counsel to FirstOnSite, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 49 and 51 hereof.

DIP FINANCING

38. **THIS COURT ORDERS** that FirstOnSite is hereby authorized and empowered to obtain and borrow under a credit facility (the "**DIP Facility**") from Wells Fargo Capital Finance Corporation Canada (the "**DIP Lender**"), in order to finance FirstOnSite's working capital requirements and other general corporate purposes, expenses relating to these CCAA proceedings, and capital expenditures, provided that

borrowings under such DIP Facility shall not exceed the availability under the DIP Facility and, in any event, shall not exceed \$15 million, subject to the further Order of this Court.

39. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached to the Demos Affidavit as **Exhibit "H"** (the "**DIP Agreement**"), and the Definitive Documents.

40. **THIS COURT ORDERS** that the DIP Facility and the DIP Agreement are hereby approved.

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

42. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure any obligation to the ABL Lender (as defined in the Demos Affidavit) that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 49 and 51 hereof.

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five (5) days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against FirstOnSite or the Property under or pursuant to the DIP Agreement, the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to FirstOnSite and set off and/or consolidate any amounts owing by the DIP Lender to FirstOnSite against the obligations of FirstOnSite to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against FirstOnSite and for the appointment of a trustee in bankruptcy of FirstOnSite; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of FirstOnSite or the Property.

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

KEY EMPLOYEE RETENTION PLAN ("KERP")

45. **THIS COURT ORDERS** that the KERP, as described in the Demos Affidavit, the details of which are included in the Confidential Supplement to the Pre-Filing Report, is

hereby approved and FirstOnSite is authorized and directed to make payments in accordance with the terms thereof.

46. **THIS COURT ORDERS** that the KERP Participants (as such term is defined in the Demos Affidavit) shall be entitled to the benefit of and are hereby granted a charge (the “KERP Charge”) on the Property, which charge shall not exceed an aggregate amount of \$2.26 million, to secure the amounts payable to the KERP Participants pursuant the KERP.

47. **THIS COURT ORDERS** that the KERP Charge shall have the priority set out in paragraphs 49 and 51 herein.

48. **THIS COURT ORDERS** that the summary of the KERP included in the Confidential Supplement to the Pre-Filing Report be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court File, in a sealed envelope attached to a notice that sets out the title of these proceedings a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

49. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender’s Charge, the KERP Charge, the Financial Advisor’s Charge, the Lien Charge, as among them, shall be as follows:

- First - the Administration Charge, to a maximum amount of \$1 million;
- Second - the DIP Lender’s Charge, to a maximum amount of \$15 million;
- Third - the KERP Charge, to a maximum amount of \$2.26 million;
- Fourth - the Financial Advisor’s Charge, to a maximum amount of \$1.1 million; and

Fifth - the Lien Charge, to the extent necessary to secure such Lien Claims as may arise (provided that the Lien Charge shall rank subordinate to the security interests granted in favour of Wells Fargo Capital Finance Corporation Canada, as agent and lender thereto, securing the performance of the obligations under the credit agreement dated November 25, 2014 (as amended) ("**Wells Pre-filing Security**") and the security interests granted in favour of BDC securing the performance of the obligations under the credit agreement dated November 25, 2014 ("**BDC Pre-filing Security**").

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

51. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, notwithstanding the order of perfection or attachment, except any claims of any person against FirstOnSite for amounts owing for services and/or materials supplied that have priority over Encumbrances by statute (other than the Lien Charge, which shall rank subordinate to the Wells Pre-filing Security and the BDC Pre-filing Security, but otherwise enjoys the same priority as the other Charges, subject to paragraph 49, above.)

52. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, nothing in this Order shall affect or otherwise alter the priority of any claims of any Person in respect of amounts owing to any such Person by FirstOnSite in respect of

supplied services or materials that are given priority over other Encumbrances by statute.

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

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

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by FirstOnSite of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from FirstOnSite entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by FirstOnSite pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

56. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against FirstOnSite of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner (provided that the list shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual), all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

57. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil

Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <http://cfcanada.fticonsulting.com/firstonsite>.

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

GENERAL

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

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

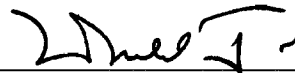
61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist FirstOnSite, the Monitor and their respective agents in carrying out the terms of this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

this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist FirstOnSite and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of FirstOnSite and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 02 2016

PER / PAR: RW

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

Court File No: CV-16-11358-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRSTONSITE G.P. INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED
INITIAL ORDER**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
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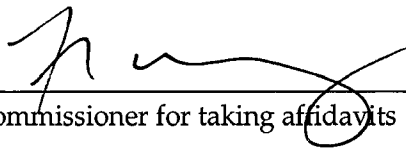
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Lawyers for the Applicant

EXHIBIT “B”

Exhibit "B" to the Affidavit
Of Kevin McElcheran sworn
October 21, 2016



Commissioner for taking affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
2123125 ONTARIO INC.

Applicant

AFFIDAVIT OF KEVIN MCELCHERAN
(Sworn June 22, 2016)
(Re Appointment of CRO and Stay Extension)

I, Kevin McElcheran, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am a director of the Applicant, 2123125 Ontario Inc., formerly known as "FirstOnSite G.P. Inc." ("**212**"), the general partner of Former Restoration L.P., formerly known as "FirstOnSite Restoration L.P." ("**Former LP**" and together with 212, "**FirstOnSite**"), a limited partnership formed under the laws of Ontario. Hereinafter, where reference is made to the FirstOnSite enterprise as a whole, the term FirstOnSite will be used.

2. As a director of 212, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records of FirstOnSite and have spoken with certain of the other directors, officers and/or employees of FirstOnSite, as necessary, and where I have relied upon such information do verily believe such information to be true.

3. This affidavit is sworn in support of the motion brought by FirstOnSite seeking orders, among other things, (a) appointing Oriole Advisors Ltd. ("**Oriole**") as chief restructuring officer ("**CRO**") of FirstOnSite, (b) extending the Stay Period (as defined

below) to October 31, 2016, (c) approving reports of the Monitor (as defined below) and the activities set out therein, and (d) approving the Monitor and its counsel's fees and disbursements.

A. Status of the CCAA Proceedings

4. FirstOnSite carried on business in Canada and, through its subsidiary FirstOnSite Restoration, Inc., the United States, offering remediation, restoration and reconstruction services in the commercial, industrial and residential sectors. FirstOnSite serviced, *inter alia*, properties damaged by flood, fire, wind, mold and catastrophic events.

5. As described in greater detail in the affidavit sworn by Dave Demos in support of the Initial Order (the "**Initial Order Affidavit**"), FirstOnSite faced financial and liquidity difficulties due to, among other issues, an overleveraged balance sheet, marked and substantial net losses, and an escalating debt burden.

6. On April 20, 2016, Former LP, by its general partner, 212 (in such capacity, the "**Vendor**"), and 3297167 Nova Scotia Limited (the "**Purchaser**") entered into an Agreement of Purchase and Sale (the "**APA**") for the sale of substantially all of its assets (the "**Purchased Assets**" as defined more particularly in the APA).

7. On April 21, 2016, pursuant to the order of Justice Newbould (the "**Initial Order**"), FirstOnSite obtained protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The Initial Order imposed a stay of proceedings up to and including May 20, 2016 (the "**Stay Period**"). FTI Consulting Canada Inc. ("**FTI**") was appointed as the monitor of FirstOnSite (the "**Monitor**") in these CCAA proceedings (the "**CCAA Proceedings**"). The commencement of the CCAA Proceedings and the transaction contemplated under the APA (the "**Sale Transaction**") were publicly announced by FirstOnSite by way of a press release dated April 21, 2016.

8. Further details regarding the background to the CCAA Proceedings are set out in the Initial Order Affidavit and, unless relevant to this motion, are not repeated herein.

9. On May 2, 2016, FirstOnSite sought an order (the “**Amended and Restated Initial Order**”) granting super-priority ranking to the Court-ordered charges provided for in the Initial Order. A copy of the Amended and Restated Initial Order is attached hereto as **Exhibit “A”**. This Order, together with all other filings in the CCAA Proceedings, is available on the Monitor's website at:

<http://cfcanada.fticonsulting.com/firstonsite>.

10. On May 9, 2016, FirstOnSite sought an order (the “**Original AVO**”), among other things, approving the Sale Transaction and vesting the Purchased Assets in the Purchaser upon the delivery of a Monitor’s certificate certifying that the Sale Transaction had closed to the Monitor’s satisfaction.

11. On May 18, 2016, FirstOnSite sought orders, among other things, (a) extending the Stay Period in this matter to June 27, 2016 (the “**Stay Extension Order**”), (b) assigning certain contracts to the Purchaser, as contemplated by the APA and (c) authorizing a directing the distribution of the assets of FirstOnSite (the “**Distribution Order**”)

i. Cure Costs Motion

12. On May 26, 2016, the Purchaser brought a motion (the “**Cure Costs Motion**”) for a determination of whether it was liable under the APA to pay monetary defaults under certain Assumed Contracts (as defined below). Since that time, FirstOnSite and the Purchaser have come to a resolution with respect to the Cure Costs Motion.

13. I am advised by Virginie Gauthier of Norton Rose Fulbright LLP, counsel to the Purchaser, that the Purchaser is taking steps to have the Cure Costs Motion dismissed.

ii. Transition Agreement

14. As noted above, pursuant to the Original AVO, all of FirstOnSite's right, title and interest in the Purchased Assets would vest in the Purchaser free and clear of any claims and encumbrances upon the delivery of the Monitor's Certificate.

15. The Purchased Assets include certain contracts (the "**Quebec Contracts**") between the Vendor and certain customers which relate to work for which a licence from the Regie du batiment du Quebec is required. The Vendor holds an existing licence issued pursuant to the *Builder's Act* (Quebec) and bearing number 8353-0295-53. The Purchaser requires an equivalent replacement licence to continue working under the Quebec Contracts.

16. I am advised by Virginie Gauthier that the Purchaser was unable to acquire an equivalent license by the time the Sale Transaction was scheduled to close. Consequently, the Purchaser requested that the Vendor temporarily hold, and continue to perform the work under, the Quebec Contracts (the "**Transition Services**"). The Vendor has agreed to the Purchaser's request and entered into a Transition Agreement with the Purchaser dated June 1, 2016 (the "**Transition Agreement**"). Provided that there are no material breaches of the Transition Agreement by the Purchaser, the Vendor will perform the Transition Services until the earlier of (a) delivery of the Transition Date Notice and the Subsequent Monitor's Certificate (each as defined in the Transition Agreement) or (b) August 31, 2016. Attached as **Exhibit "B"** to this affidavit is the Transition Agreement, without schedules.

17. I am further advised by Virginie Gauthier that the Purchaser is in the process of obtaining an equivalent replacement license, but at present, continues to require the Vendor to perform the Transition Services.

18. It was also necessary to amend the Original AVO to accommodate a delayed vesting for the Quebec Contracts upon delivery of the Subsequent Monitor's Certificate.

Attached as **Exhibit "C"** to this affidavit is the Amended and Restated Approval and Vesting Order of Justice Swinton dated June 1, 2016 (the "**Amended and Restated AVO**").

iii. Closing

19. After entering into the Transition Agreement and obtaining the Amended and Restated AVO, the Sale Transaction closed on June 1, 2016 (the "**Closing**"). Attached as **Exhibit "D"** to this affidavit is a true copy of the Monitor's Certificate.

20. I am advised by Haddon Murray of Stikeman Elliott LLP, counsel to FirstOnSite that, as a result of the sale of its trademarks to the Purchaser, on June 20, 2016, the company formerly known as FirstOnSite G.P. Inc. changed its name to 2123125 Ontario Inc. and the limited partnership formerly known as FirstOnSite Restoration L.P., changed its name to Former Restoration L.P.

iv. Disclaimer of Contracts

21. Pursuant to the APA, on Closing, the Purchaser assumed all of the contracts to which FirstOnSite is a party in connection with of the Purchased Assets (the "**Assumed Contracts**") except for the Quebec Contracts and any Excluded Contracts (as defined in the APA).

22. On June 7, 2016, or shortly thereafter, FirstOnSite, with the approval of the Monitor, disclaimed all of the contracts on Appendix 4 to Schedule "A" to the APA - the "**Excluded Assets List**" provided by the Purchaser (the "**Disclaimed Contracts**"), (except for contract #40 on the Excluded Assets List, which is required for the implementation of the Transition Agreement). Attached as **Exhibit "E"** is the Excluded Assets List.

23. I am advised by Haddon Murray that, since that time, it has come to FirstOnSite's and the Monitor's attention that (a) certain of the assets which are the subject of the Disclaimed Contracts may still be in use and/or needed going forward by

the Purchaser, and (b) one of the real estate properties that is the subject of a Disclaimed Contract was sublet by FirstOnSite to a subtenant.

24. I am further advised by Haddon Murray that, FirstOnSite is working with the Purchaser and the Monitor to address these matters either by returning possession of the assets to the counterparties of the Disclaimed Contracts or entering into new temporary occupancy and use agreements with the interested parties.

v. Working Capital Cost Adjustment

25. The APA contemplates an adjustment to the Purchase Price based on the difference between the Final Working Capital and the Estimated Closing Working Capital (each as defined in the APA) (the "**Purchase Price Adjustment**").

26. Article 3.5(c) of the APA contemplates a post-closing purchase price adjustment based on Final Working Capital which is to be delivered by the Purchaser to FirstOnSite no later than August 30, 2016. FirstOnSite has the ability under the APA to object to the Purchaser's determination of the Final Working Capital within 20 days.

27. If FirstOnSite disputes the Purchaser's determination of the Final Working Capital, then 30 days after the Purchaser's receipt of the Vendor's objections, the Final Working Capital shall be adjusted to reflect any changes agreed to by the Purchaser and the Vendor. Any unresolved disputes regarding the Final Working Capital may be submitted for determination to the Accounting Referee (as defined in the APA), in consultation with the Monitor, subject to any order of the Court.

vi. Distributions

28. On May 18, 2016, the Justice Newbould granted an the Distribution Order, which, among other things, provided for the distribution of certain of the assets of FirstOnSite by the Monitor, in consultation with FirstOnSite. Attached as **Exhibit "F"** is the Distribution Order.

29. Specifically, FirstOnSite is to consult with the Monitor with respect to:
- (a) The retention of a reserve of funds pursuant to paragraph 2(ii) of the Distribution Order;
 - (b) The disbursement of funds from the proceeds of the Sale Transaction pursuant to paragraphs 4-10 of the Distribution Order; and
 - (c) The creation of a trust claim reserve pursuant to paragraph 12 of the Distribution Order.
30. I am advised by Michael Basso of FTI that distributions have been made from the FirstOnSite estate in full satisfaction of the claims of the followings parties:
- (a) Wells Fargo Capital Finance Corporation Canada in its capacity as the debtor-in-possession lender to FirstOnSite in connection with the CCAA Proceedings;
 - (b) Wells Fargo Capital Finance Corporation Canada in its capacity as a pre-filing secured creditor of FirstOnSite;
 - (c) Business Development Bank of Canada;
 - (d) the KERP Participants (as defined in the Initial Order); and
 - (e) Alvarez & Marsal Canada Securities ULC.
31. I am further advised by Michael Basso that the Monitor has also paid certain post-filing professional fees and post-filing expenses.

vii. Motion of BDC Capital Inc.

32. On June 2, 2016, the day after Closing, counsel for BDC Capital Inc. ("**Capital**") advised counsel for FirstOnSite that Capital objects to the payments to three former senior members of FirstOnSite's management under a stub bonus program (the "**Stub**

Payments”). On June 15, 2016, Capital served a motion (the “**Capital Motion**”), returnable on a day to be set by the Court, seeking an order declaring that Capital is entitled to payment of its secured loan in priority to any Stub Payments.

33. FirstOnSite opposes the relief sought in the Capital Motion and is in discussions with Capital regarding setting a schedule for the hearing of the motion.

viii. Reports from Purchaser

34. Pursuant to the APA, on June 15, 2016, and every 14 days thereafter, the Purchaser must deliver a report (the “**Trust Claimant Report**”) to FirstOnSite and the Monitor detailing which of the amounts owing to persons on the Potential Trust Claimant List have not been paid or satisfied.

35. As of the date of this affidavit FirstOnSite has not received the initial Trust Claimant Report.

36. I am advised by Virginie Gauthier that the Purchaser has encountered some challenges in preparing the report and is working closely with the Monitor resolve these issues. The Purchaser hopes to finalize the report in the next two days.

B. Appointment of CRO

37. The management and current board of directors of FirstOnSite (the “**Board**”), including Kevin McElcheran, intend to resign on or before June 28, 2016.

38. Since the closing of the Sale Transaction and the disclaimer of the Excluded Contracts, FirstOnSite has disposed of substantially all of its assets. However, as set out above, there are a number of matters which remain outstanding in the CCAA Proceedings, including:

- (a) the performance of the Transition Services pursuant to the Transition Agreement;

- (b) the outstanding transition matters relating to the disclaimer of certain of the excluded contracts;
- (c) the post-closing Purchase Price Adjustment, if any;
- (d) the distribution of remaining proceeds pursuant to the Distribution Order;
- (e) the Capital Motion; and
- (f) obtaining the Purchaser's Trust Claimant Report(s),

(collectively, the "**Outstanding Matters**").

39. Upon the resignation of the Board, FirstOnSite will be left without any means of instructing counsel and consulting with the Monitor with respect to the Outstanding Matters, address any other matters that may arise, including bringing any further motions and complete the orderly wind-up of FirstOnSite.

40. The Board, internally and in consultation with the Monitor, has considered this issue and determined that it is appropriate, in these circumstances, that Oriole be appointed as CRO to FirstOnSite. I am advised by Harvey Chaiton of Chaitons LLP, counsel for Capital, that Capital has no objection the appointment of Oriole as CRO.

41. Accordingly, FirstOnSite and Oriole, in consultation with the Monitor and Capital, are in the final stages of negotiating an engagement letter (the "**CRO Agreement**") setting forth the term and terms of the CRO's appointment, including the CRO's duties, responsibilities and compensation, all of which is subject to Court approval. If and when it is executed, the CRO Agreement and a description of its key terms will be set out in a supplemental affidavit to be filed with the Court prior to the return of this motion.

42. I am the principal of Oriole. I have been a director of 212 and a member of the Special Committee of its Board since January 27, 2016. As such I am well acquainted with the facts of this case and the business of FirstOnSite.

43. In addition to my specific knowledge of the circumstances in the CCAA Proceedings, I have 34 years of experience practicing in insolvency law. I am the 2015 recipient of the Murray Klein award for excellence in insolvency law. Attached to this affidavit as **Exhibit "G"** is a copy of the Professional History page from my website.

44. As a member of the Board and an experienced advisor to boards of directors generally, I believe that the appointment of Oriole as CRO will provide consistent and appropriate ongoing corporate governance to FirstOnSite and its stakeholders as it concludes the CCAA Proceedings.

45. I understand that the Monitor will be providing its views with respect to the proposed appointment of the CRO in its Third Report to the Court in connection with the within motion.

C. Stay Extension to October 31, 2016

46. FirstOnSite has been diligently working since the commencement of the CCAA Proceedings. Among other things, FirstOnSite has:

- (a) entered into the Transition Agreement;
- (b) resolved the Cure Costs Motion;
- (c) closed the Sale Transaction;
- (d) disclaimed the Disclaimed Contracts;
- (e) consulted with the Monitor with respect to certain distributions; and,
- (f) negotiated the CRO Agreement.

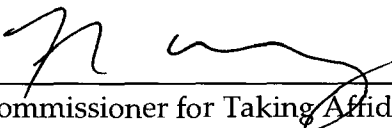
47. As noted above, the Stay Period granted under the Initial Order was extended by further orders of this Court to June 27, 2016. A further extension of the Stay Period to October 31, 2016 is necessary to provide FirstOnSite with sufficient time to complete the Outstanding Matters.

48. I am advised by Harvey Chaiton, that Capital supports the stay extension to October 31, 2016.

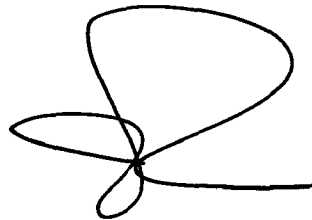
49. FirstOnSite has acted and continues to act in good faith and with due diligence. I do not believe that any creditor will suffer any material prejudice if the Stay Period is extended to October 31, 2016.

50. The stability provided by the stay of proceedings is critical to allow FirstOnSite to complete the Outstanding Matters in the CCAA Proceedings.

SWORN BEFORE ME at the
Toronto, Province of Ontario, June
22, 2016.



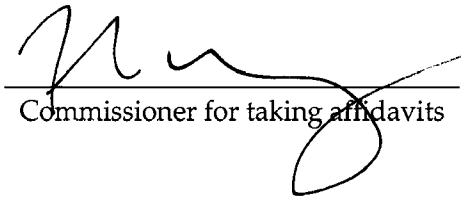
Commissioner for Taking Affidavits
C. Heddon Murray
LSUC#: 61640P



Kevin McElcheran

EXHIBIT "C"

Exhibit "C" to the Affidavit
Of Kevin McElcheran sworn
October 21, 2016


Commissioner for taking affidavits

**AMENDING AGREEMENT TO THE
TRANSITION AGREEMENT**

THIS AGREEMENT dated as of August 31, 2016.

BETWEEN:

FIRSTONSITE RESTORATION LIMITED, (formerly known as 3297167 Nova Scotia Limited) (the "Purchaser")

- and -

FORMER RESTORATION L.P. (formerly known as FirstOnSite Restoration L.P.) by its general partner **2123125 ONTARIO INC.** (formerly known as FirstOnSite G.P. Inc.) (collectively, the "Vendor")

WHEREAS the Vendor and the Purchaser entered into a transition agreement dated as of the 1st day of June, 2016 (the "Transition Agreement");

AND WHEREAS the Vendor and the Purchaser wish to amend certain provisions of the Transition Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained herein, the parties covenant and agree as follows:

**ARTICLE 1
DEFINED TERMS**

1.1 Capitalized Terms. All capitalized terms which are used herein without being specifically defined herein shall have the meanings ascribed thereto in the Transition Agreement.

**ARTICLE 2
AMENDMENTS TO TRANSITION AGREEMENT**

2.1 General Rule. Subject to the terms and conditions contained herein and in the Transition Agreement, the Transition Agreement is hereby amended, without novation, to the extent necessary to give effect to the provisions of this agreement and to incorporate the provisions of this agreement into the Transition Agreement. The Transition Agreement, as amended hereby, shall constitute one agreement, and the Transition Agreement, so amended is hereby ratified and confirmed by the parties hereto.

2.2 Amendment the Transition Agreement. Section 5.1(c) of the Transition Agreement is hereby amended by deleting the words "August 31, 2016" and replacing them with the words "September 30, 2016".

**ARTICLE 3
MISCELLANEOUS**

3.1 Future References to the Transition Agreement. On and after the date of this agreement, each reference in the Transition Agreement to "this agreement", "hereunder", "hereof", or words of like import referring to the Transition Agreement, and each reference in any related document to the "Transition Agreement", "thereunder", "thereof", or words of like import referring to the Transition Agreement, shall mean and be a reference to the Transition Agreement as amended hereby.

3.2 Amendment. This agreement may not be amended, modified or waived except in accordance with Section 7.7 of the Transition Agreement.

3.3 Entire Agreement. This agreement and the Transition Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and supersede all other prior negotiations and understandings with respect to the subject matter hereof.

3.4 Severability. If any provision of this agreement or any document delivered in connection with this agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provisions or validity or enforceability in any other jurisdiction.

3.5 Governing Law. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

3.6 Enurement. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned without the prior written consent of the other parties hereto, except that the parties acknowledge and agree that a trustee in bankruptcy of the Vendor will be entitled to assert the rights of the Vendor hereunder provided that it agrees to perform the obligations of the Vendor hereunder.


3.7 Further Assurances. The Purchaser and the Vendor shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and may be reasonably required for the purpose of giving effect to this agreement and to each and every provision hereof.

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

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed and delivered this agreement on the date first written above.

FIRSTONSITE RESTORATION LIMITED

By: 
Name: Kevin Watson
Title: CFO

FORMER RESTORATION L.P. by its general partner 2123125 ONTARIO INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed and delivered this agreement on the date first written above.

FIRSTONSITE RESTORATION LIMITED

By: _____
Name:
Title:

FORMER RESTORATION L.P. by its general partner 2123125 ONTARIO INC.

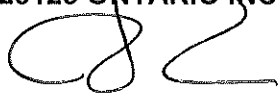
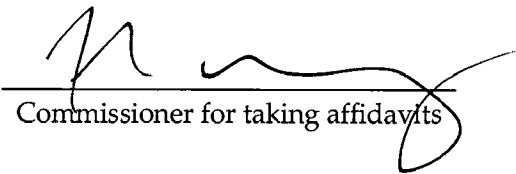
By:  _____
Name: *Kevin McEthernan*
Title: *CRO*

EXHIBIT “D”

Exhibit "D" to the Affidavit

Of Kevin McElcheran sworn

October 21, 2016



Commissioner for taking affidavits

**SECOND AMENDING AGREEMENT TO THE
TRANSITION AGREEMENT**

THIS AGREEMENT dated as of September 30, 2016.

BETWEEN:

FIRSTONSITE RESTORATION LIMITED, (formerly known as 3297167 Nova Scotia Limited) (the "**Purchaser**")

- and -

FORMER RESTORATION L.P. (formerly known as FirstOnSite Restoration L.P.) by its general partner **2123125 ONTARIO INC.** (formerly known as FirstOnSite G.P. Inc.) (collectively, the "**Vendor**")

WHEREAS the Vendor and the Purchaser entered into a transition agreement dated as of the 1st day of June, 2016, and an amending agreement to the transition agreement dated August 31, 2016 (collectively the "**Transition Agreement**");

AND WHEREAS the Vendor and the Purchaser wish to amend certain provisions of the Transition Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained herein, the parties covenant and agree as follows:

**ARTICLE 1
DEFINED TERMS**

1.1 Capitalized Terms. All capitalized terms which are used herein without being specifically defined herein shall have the meanings ascribed thereto in the Transition Agreement.

**ARTICLE 2
AMENDMENTS TO TRANSITION AGREEMENT**

2.1 General Rule. Subject to the terms and conditions contained herein and in the Transition Agreement, the Transition Agreement is hereby amended, without novation, to the extent necessary to give effect to the provisions of this agreement and to incorporate the provisions of this agreement into the Transition Agreement. The Transition Agreement, as amended hereby, shall constitute one agreement, and the Transition Agreement, so amended is hereby ratified and confirmed by the parties hereto.

2.2 Amendment the Transition Agreement. Section 5.1(c) of the Transition Agreement is hereby amended by deleting the words "September 30, 2016" and replacing them with the words "November 15, 2016".

2.3 Disclosure Obligations. The Purchaser will provide timely, accurate and fulsome disclosure to the Vendor and the Monitor of its progress in obtaining the New Quebec License.

2.4 Payment of Trust Claims. Prior to November 15, 2016, the Purchaser will pay or otherwise satisfy any remaining outstanding amounts on the Potential Trust Claimants List that are owing to Potential Trust Claimants (as such terms are defined in the APA).

ARTICLE 3 MISCELLANEOUS

3.1 Future References to the Transition Agreement. On and after the date of this agreement, each reference in the Transition Agreement to "this agreement", "hereunder", "hereof", or words of like import referring to the Transition Agreement, and each reference in any related document to the "Transition Agreement", "thereunder", "thereof", or words of like import referring to the Transition Agreement, shall mean and be a reference to the Transition Agreement as amended hereby.

3.2 Amendment. This agreement may not be amended, modified or waived except in accordance with Section 7.7 of the Transition Agreement.

3.3 Entire Agreement. This agreement and the Transition Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and supersede all other prior negotiations and understandings with respect to the subject matter hereof.

3.4 Severability. If any provision of this agreement or any document delivered in connection with this agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provisions or validity or enforceability in any other jurisdiction.

3.5 Governing Law. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

3.6 Enurement. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned without the prior written consent of the other parties hereto, except that the parties acknowledge and agree that a trustee in bankruptcy of the Vendor will be entitled to assert the rights of the Vendor hereunder provided that it agrees to perform the obligations of the Vendor hereunder.

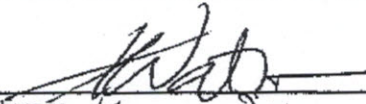
3.7 Further Assurances. The Purchaser and the Vendor shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and may be reasonably required for the purpose of giving effect to this agreement and to each and every provision hereof.

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

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed and delivered this agreement on the date first written above.

FIRSTONSITE RESTORATION LIMITED

By: 
Name: Kevin Watson
Title: CFO

FORMER RESTORATION L.P. by its general partner 2123125 ONTARIO INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed and delivered this agreement on the date first written above.

FIRSTONSITE RESTORATION LIMITED

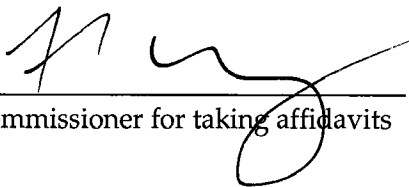
By: _____
Name:
Title:

FORMER RESTORATION L.P. by its general partner **2123125 ONTARIO INC.**

By: _____
Name: *Kevin McElderman*
Title: *CRO*

EXHIBIT “E”

Exhibit "E" to the Affidavit
Of Kevin McElcheran sworn
October 21, 2016

A handwritten signature in black ink, consisting of stylized initials and a long horizontal stroke that loops back under the text below.

Commissioner for taking affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)

WEDNESDAY, THE 18th

JUSTICE NEWBOULD)

DAY OF MAY, 2016

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

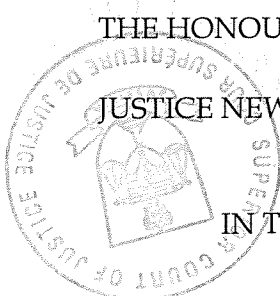
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF FIRSTONSITE G.P. INC.

Applicant

DISTRIBUTION ORDER

THIS MOTION, made by FirstOnSite G.P. Inc. ("**FirstOnSite GP**"), the general partner of FirstOnSite Restoration L.P., a limited partnership formed under the laws of Ontario ("**FirstOnSite LP**" and, collectively with FirstOnSite GP, "**FirstOnSite**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-3 (the "**CCAA**") for an order, among other things, authorizing and directing FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of FirstOnSite (the "**Monitor**"), to make certain payments, distributions and disbursements as set out in this order, in each case subject to maintaining the Reserve (as defined below), on behalf of FirstOnSite from the proceeds of the transaction approved by the Court (the "**Transaction**") pursuant to the Approval and Vesting Order dated May 9, 2016 (the "**Approval and Vesting Order**") to be delivered to the Monitor pursuant to the Sale Agreement (as defined in the Approval and Vesting Order) and the Approval and Vesting Order on completion of the Transaction (the "**Sale Proceeds**") and any other funds that may be delivered to the Monitor by FirstOnSite pursuant to this Order, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kevin McElcheran sworn May 12, 2016 and the Exhibits attached thereto and the Supplement to the Second Report of the Monitor, dated



May 16, 2016, and on hearing the submissions of counsel for FirstOnSite, the Monitor, Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**"), the Business Development Bank of Canada ("**BDC**") and BDC Capital Inc. ("**BDC Capital**"), and 3297167 Nova Scotia Limited (the "**Purchaser**"), and no one appearing for any other person on the service list, although duly served as appears from the affidavits sworn, filed:

SERVICE

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

RESERVE

2. **THIS COURT ORDERS** that the distributions authorized and approved by this Order shall at all times be subject to (i) the completion of the Transaction and the receipt of the Sale Proceeds by the Monitor, and (ii) the Monitor retaining from the Sale Proceeds a reserve of funds (the "**Reserve**") in an amount satisfactory to the Monitor, in consultation with FirstOnSite, or in an amount determined by the Court, sufficient for the payment of the Professional Expenses and Post-Filing Expenses (each as defined below) and to secure the obligations under the Administration Charge, the KERP Charge, the Financial Advisor's Charge (each as defined in the Amended and Restated Initial Order dated April 21, 2016 (the "**Initial Order**")), any other obligations of FirstOnSite that rank in priority to the Charges (as defined in the Initial Order), the ABL Secured Obligations, the BDC Secured Obligations and the BDC Capital Secured Obligations (each as defined below), including any statutory deemed trust claims that may arise under provincial legislation and including, with respect to the BDC Capital Secured Obligations, any outstanding claims secured by the Lien Charge (as defined in the Initial Order), and any other contingent amounts appropriate under the circumstances (the "**Priority Claims**").

DEEMED SALE PROCEEDS

3. **THIS COURT ORDERS** that FirstOnSite is hereby authorized and directed to provide any additional funds it receives, from any party whatsoever, from the Closing Date

(as defined in the Sale Agreement) of the Transaction to the Monitor to be held and distributed as Sale Proceeds in accordance with the terms of this Order unless such funds are proceeds of Purchased Assets in which case FirstOnSite is hereby authorized and directed to remit such funds to the Purchaser.

APPROVAL OF INTERIM AND FUTURE DISTRIBUTIONS

4. **THIS COURT ORDERS** that, subject to the Reserve, the Monitor is hereby authorized and directed to, in consultation with FirstOnSite, disburse from the Sale Proceeds on the day of filing the Monitor's Certificate (as defined in the Approval and Vesting Order), or as soon thereafter as practicable, on behalf of FirstOnSite:

- (a) to Wells Fargo as agent and lender (in such capacity, the "**DIP Lender**") under the DIP Facility Agreement dated April 20, 2016 (the "**DIP Agreement**"), an amount not exceeding the maximum amount of FirstOnSite's obligations owing to the DIP Lender under the DIP Agreement (the "**DIP Obligations**");
- (b) to Wells Fargo as administrative agent (in such capacity, the "**ABL Agent**") for lenders under the credit agreement dated November 25, 2014 among, *inter alia*, FirstOnSite and the ABL Agent (the "**ABL Credit Agreement**"), an amount not exceeding the maximum amount of secured obligations owing by FirstOnSite to the ABL Agent under the ABL Credit Agreement dated November 25, 2014 (as amended from time to time) ("**ABL Secured Obligations**");
- (c) to BDC, an amount not exceeding the maximum amount of the secured obligations owing by FirstOnSite to BDC under the letter of offer dated November 25, 2014 among, *inter alia*, FirstOnSite and BDC (as may be amended from time to time) ("**BDC Secured Obligations**");
- (d) to BDC Capital, an amount not exceeding the maximum amount of the obligations owing by FirstOnSite under the letter of offer dated November 25, 2014 among, *inter alia*, FirstOnSite and BDC Capital (as may be amended from time to time) ("**BDC Capital Secured Obligations**");

subject in each case to the relative priority of the security granted by FirstOnSite (or pursuant to the Initial Order, as applicable) in favour of the DIP Lender, the ABL Agent, BDC and BDC Capital, respectively.

5. **THIS COURT ORDERS** that, subject to the Reserve, the Monitor is hereby authorized, without further Order of the Court, to, in consultation with FirstOnSite, make further distributions on behalf of FirstOnSite to the DIP Lender, the ABL Agent, BDC and BDC Capital, if needed, from time to time, from the Sale Proceeds up to a maximum amount of the DIP Obligations, the ABL Secured Obligations, BDC Secured Obligations and BDC Capital Secured Obligations, respectively, subject in each case to the relative priority of the security granted by FirstOnSite (or pursuant to the Initial Order, as applicable) in favour of the DIP Lender, the ABL Agent, BDC and BDC Capital, respectively.

6. **THIS COURT ORDERS** that, subject to the Reserve, the Monitor is hereby authorized to, in consultation with FirstOnSite, disburse from the Sale Proceeds on behalf of FirstOnSite to the KERP Participants (as the term is defined in the Initial Order) the amounts, as confirmed by FirstOnSite, owing to the KERP Participants pursuant to the KERP (as the term is defined in the Initial Order) and secured by the KERP Charge.

7. **THIS COURT ORDERS** that, subject to the Reserve, the Monitor is hereby authorized to, in consultation with FirstOnSite, disburse on behalf of FirstOnSite, from time to time, from the Sale Proceeds amounts owing by FirstOnSite to Alvarez & Marsal Canada Securities ULC (the "**Financial Advisor**") under the engagement letter dated October 30, 2015 (the "**Engagement Letter**") up to the maximum amount owing to the Financial Advisor under the Engagement Letter.

8. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, to, in consultation with FirstOnSite, disburse on behalf of FirstOnSite, from time to time, from the Sale Proceeds amounts owing by FirstOnSite in respect of fees and expenses of the Monitor and the Monitor's legal counsel and of legal counsel to FirstOnSite (collectively, the "**Professional Expenses**").

9. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, to, in consultation with FirstOnSite, disburse on behalf of FirstOnSite, from time to time, from the Sale Proceeds amounts owing by FirstOnSite in respect obligations incurred by FirstOnSite since the commencement of these CCAA proceedings (collectively, the “**Post-Filing Expenses**”).

10. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, to, in consultation with FirstOnSite, disburse on behalf of FirstOnSite, from time to time, from the Sale Proceeds amounts owing by FirstOnSite in respect of Priority Claims (and any other amounts owing by FirstOnSite with the consent of the Monitor), if any.

11. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) and any order issued pursuant to any such petition;
- (c) any application for a receivership order; or
- (d) any provisions of any federal or provincial legislation;

the Reserve, payments, distributions and disbursements contemplated in this Order shall be made free and clear of any Encumbrances (as defined in the Approval and Vesting Order), shall be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against FirstOnSite, the Monitor, the Financial Advisor, the ABL Agent, BDC, BDC Capital, or any other party receiving distributions pursuant to this Order, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

PURCHASER'S CHARGE

12. **THIS COURT ORDERS** that a portion of the Reserve in an amount satisfactory to the Monitor, in consultation with FirstOnSite, or in an amount determined by the Court, but in any event in an amount not less than \$3 million, shall be deemed to be the Trust Claim Reserve (as defined in the Sale Agreement) pursuant to the Sale Agreement and the Purchaser shall be entitled to the benefit of and is hereby granted a charge on the Trust Claim Reserve (the "**Purchaser's Charge**"), which Purchaser's Charge shall not exceed an aggregate amount of \$2 million. Notwithstanding anything else contained in this Order, or any other Order in these proceedings, the Purchaser's Charge shall have a first priority ranking as against the Trusts Claim Reserve, subject only to (i) the repayment of all ABL Secured Obligations owing by FirstOnSite to the ABL Agent; and (ii) the Monitor's ability to pay or settle trust claims made against FirstOnSite pursuant to Applicable Lien Legislation (as defined in the Sale Agreement) as set out in the Sale Agreement and the Escrow Agreement (as defined in the Sale Agreement), including the Monitor's recourse to the Potential Trust Claimant Reserve (as defined in the Sale Agreement) (to the extent available for such trust claim). The Purchaser's Charge shall be automatically released upon the Purchaser's receipt of any amount it may be entitled to receive pursuant to Section 3.5(d)(ii) of the Sale Agreement, without any further Order of the Court or any other further action.

MONITOR PROTECTIONS

13. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the Initial Order, the Monitor shall not be liable for any act or omission on the part of the Monitor pertaining to the discharge of its duties under this Order, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Monitor. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA, any other federal or provincial applicable law or the Initial Order.

14. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order and without in any way limiting the protections for the Monitor set forth in this Order, the Initial Order and the CCAA, the Monitor shall have no obligation to make any payment unless the

Monitor is in receipt of funds adequate to effect any such payment, subject at all times to paragraph 2 of this Order.

15. **THIS COURT ORDERS AND DECLARES** that any payments, distributions and disbursements under this Order shall not constitute a "distribution" for the purposes of section 159 of the Income Tax Act (Canada), section 270 of the Excise Tax Act (Canada), section 107 of the Corporations Tax Act (Ontario), section 22 of the Retail Sales Tax (Ontario), section 117 of the Taxation Act, 2007 (Ontario) or any other similar federal, provincial or territorial tax legislation (collectively, the "**Tax Statutes**"), and that the Monitor in making any such payments, distributions or disbursements is not "distributing", nor shall be considered to "distribute" nor to have "distributed", such funds for the purpose of the Tax Statutes, and the Monitor shall not incur any liability under the Tax Statutes in respect of its making any payments ordered or permitted under this Order, and is hereby forever released and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of payments made under this Order and any claims of this nature are hereby forever barred.

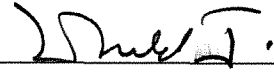
GENERAL

16. **THIS COURT ORDERS** that the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to the payments, distributions and disbursements proposed herein.

17. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

18. **THIS COURT DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All courts and jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

19. **THIS COURT REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

A handwritten signature in black ink, appearing to be "J. M. T.", written above a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 18 2016

PER / PAR:

A handwritten signature in black ink, appearing to be "J. M. T.", written next to the text "PER / PAR:".

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRSTONSITE G.P. INC.

Court File No: CV-16-11358-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

DISTRIBUTION ORDER

STIKEMAN ELLIOTT LLP

Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V

Tel: (416) 869-5230

Email: mkonyukhova@stikeman.com

C. Haddon Murray LSUC#: 61640P

Tel: (416) 869-5239

Email: hmurray@stikeman.com

Vlad Calina LSUC#: 69072W

Tel: (416) 869-5202

Email: vcalina@stikeman.com

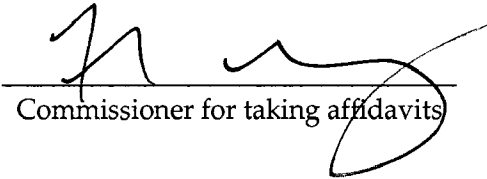
Fax: (416) 947-0866

Lawyers for the Applicant

EXHIBIT “F”

Exhibit "F" to the Affidavit
Of Kevin McElcheran sworn

October 21, 2016



Commissioner for taking affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2123125 ONTARIO INC.

Applicant

NOTICE OF CLAIMS PROCEDURE AND CLAIMS BAR DATE

On April 21, 2016, the partnership formerly known as FirstOnSite Restoration L.P., (now, "**Former Restoration LP**") and its general partner, 2123125 Ontario Inc., formerly FirstOnSite G.P. Inc. (together with Former Restoration LP, "**Former FirstOnSite**") sought and obtained an order (as amended, the "**Initial Order**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**") from the Ontario Superior Court of Justice - Commercial List (the "**Ontario Court**"). Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as Monitor of Former FirstOnSite (in such capacity, the "**Monitor**"). The Initial Order also provided for a stay of all proceedings against Former FirstOnSite and its assets, which has been extended by the Ontario Court until January 27, 2016.

On June 1, 2016, Former FirstOnSite completed a sale (the "**Transaction**") of substantially all of their assets and business (the "**FirstOnSite Business**") to 3297167 Nova Scotia Limited, now operating as "FirstOnSite" ("**New FirstOnSite**") pursuant to an Asset Purchase Agreement (the "**APA**") that was approved by the Ontario Court in an order dated May 9, 2016 (as amended, the "**Approval and Vesting Order**").

Pursuant to a further order of the Ontario Court granted on May 18, 2016 (the "**Distribution Order**"), the Monitor was authorized and directed to distribute the proceeds from the Transaction pursuant to the terms of the Distribution Order. The Monitor, in consultation with Former FirstOnSite, intends to complete distributions of remaining proceeds to certain secured creditors of Former FirstOnSite pursuant to the Distribution Order in the near term.

On October 28, 2016, the Ontario Court granted an order (the "**Claims Bar Order**") in respect of the deadline for submitting claims for the payment of:

- a) approved goods and services provided to Former FirstOnSite from the CCAA filing date of April 21, 2016 to May 31, 2016 ("**Post-Filing/Pre-Closing Expenses**");

- b) trust claims ("**Construction Trust Claims**") under the *Construction Lien Act* (Ontario), or any applicable provincial equivalent ("**Construction Legislation**"); or
- c) other trust claims pursuant to applicable law ("**Other Trust Claims**")

(collectively, "**Eligible Claims**").

Copies of the Initial Order, Approval and Vesting Order, Distribution Order and Claims Bar Order can be found on the Monitor's website at the following address:

<http://cfcanada.fticonsulting.com/firstonsite/courtOrders.htm>

Pursuant to the provisions of the Initial Order and the APA, FirstOnSite continued to be responsible for the payment of Post-Filing/Pre-Closing Expenses.

For clarity, New FirstOnSite is responsible for the payment of approved goods and services provided to the FirstOnSite Business (which continues to operate under the FirstOnSite name) on or after June 1, 2016 ("**Post-Closing Expenses**"). For invoices for goods and services provided to the FirstOnSite Business on or after June 1, 2016, you should continue to submit your invoices as per your normal business practices and with your New FirstOnSite business contacts.

SUBMITTING ELIGIBLE CLAIMS AND CLAIMS BAR DATE

If you believe you have an Eligible Claim, you must assert your Eligible Claim by providing a response to this notice, outlining the nature and amount of your claim and, if applicable, your basis for alleging a trust claim, together with all applicable supporting documentation (a "**Response**"), to the Monitor at the address, fax or e-mail noted below such that it is received by the Monitor **BY NO LATER THAN 5:00 P.M. (EASTERN STANDARD TIME) ON NOVEMBER 15, 2016 (THE "CLAIMS BAR DATE")**.

FTI Consulting Canada Inc.
In its capacity as Monitor of FirstOnSite
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Fax: 416 649 8101
Email: firstonsite@fticonsulting.com

The subject line of your email should read "Vendor Invoice – [legal name of vendor]."

To expedite approval and payment of invoice(s), **please ensure that such invoices include only amounts owing in respect of Eligible Claims.**

Any documentation evidencing Eligible Claims must be received by the Monitor by the Claims Bar Date. **IF THE MONITOR HAS NOT RECEIVED YOUR INVOICES FOR ELIGIBLE CLAIMS BY THE CLAIMS BAR DATE, YOUR CLAIM WILL BE FOREVER EXTINGUISHED AND BARRED WITHOUT FURTHER ACT OR NOTIFICATION IN ACCORDANCE WITH THE CLAIMS BAR ORDER.**

If you have any questions or concerns regarding this notice, please contact the Monitor by phone at 416-649-8108/toll free: 1-844-709-6730 or by sending an e-mail to the Monitor at firstonsite@fticonsulting.com.

DATED at Toronto, this ● day of ●, 2016.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF KEVIN MCELCHERAN
(SWORN OCTOBER 21, 2016)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
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C. Haddon Murray LSUC#: 61640P
Tel: (416) 869-5239
Email: hmurray@stikeman.com

Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicant

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR) FRIDAY, THE 28th
)
JUSTICE NEWBOULD) DAY OF OCTOBER, 2016

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 2123125 ONTARIO INC.

Applicant

CLAIMS BAR AND STAY EXTENSION ORDER

THIS MOTION, made by 2123125 Ontario Inc., previously named FirstOnSite G.P. Inc. ("**212**"), the general partner of Former Restoration L.P., previously named FirstOnSite Restoration L.P. ("**Former LP**", collectively with 212, "**FirstOnSite**"), a limited partnership formed under the laws of Ontario, for an order approving a claims process and claims bar date in respect of certain claims against FirstOnSite, granting an extension of the stay of proceedings referred to in the Initial Order of the Honourable Justice Newbould dated April 21, 2016, to January 27, 2016 and approving a report and activities of the Monitor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kevin McElcheran, sworn October [DATE], 2016 (the “**McElcheran Affidavit**”) and the Fourth Report of FTI Consulting Canada Inc., dated October [DATE], 2016 (the “**Fourth Report**”), in its capacity as Monitor of the Applicant (the “**Monitor**”), and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for BDC Capital Inc. and those other parties present, no one appearing for any other person, although duly served as appears from the affidavit of service of C. Haddon Murray, sworn October [DATE], 2016, filed:

SERVICE

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

APPROVAL OF THE MONITOR’S REPORT AND ACTIVITIES

2. **THIS COURT ORDERS** that the Fourth Report and the activities of the Monitor set out therein are hereby approved.

APPROVAL OF THE CLAIMS PROCESS

3. **THIS COURT ORDERS** that the claims process, as set out in paragraphs 35 to 39 of the McElcheran Affidavit and paragraphs ■ to ■ of the Fourth Report (the

“**Claims Process**”), and the form of Claims Notice (as defined in the McElcharan Affidavit) are hereby approved.

4. **THIS COURT ORDERS** that the Monitor is authorized to deliver the Claims Notice to the applicable parties specified the Claims Process.

5. **THIS COURT ORDERS** that the Monitor, in consultation with FirstOnSite, is authorized to resolve any claims submitted pursuant to the Claims Process with the applicable claimant, or, if the claim cannot be resolved, return to this Court for further directions or a determination of such claim.

6. **THIS COURT ORDERS** that, in connection with the Claims Process, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in the CCAA Proceedings, (ii) shall incur no liability or obligation as a result of carrying out matters in connection with the Claims Process or paragraphs 3 to 5 of this Order, (iii) shall be entitled to rely on the books and records of FirstOnSite and any information provided by FirstOnSite, all without independent investigation, (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be required to carry out matters in connection with the Claims Process and paragraphs 3 to 5 of this Order from FirstOnSite or any of its subsidiaries.

7. **THIS COURT ORDERS** that the any Eligible Claim (as defined in the McElcheran Affidavit) not received by the Monitor in accordance with the Claims Process by 5:00 p.m. (Eastern Standard Time) on November 15, 2016, or such later date as may be ordered by the Court, is forever barred from being enforced against FirstOnSite, shall be extinguished without any further act or notification, and neither FirstOnSite nor the Monitor shall have any liability whatsoever in respect of such Eligible Claim.

8. **THIS COURT ORDERS** that, notwithstanding anything provided in the Distribution Order, the Monitor shall have no obligation to hold back any Sale Proceeds, as defined in the Distribution Order of Justice Newbould dated May 18, 2016, in respect of claims that are barred and extinguished pursuant to paragraph 4, above.

EXTENSION OF THE STAY PERIOD

9. **THIS COURT ORDERS** that the Stay Period referred to in the Stay Extension Order of the Honourable Justice Newbould dated June 27, 2016 is extended until January 27, 2017.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 2123125 ONTARIO INC.

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

Proceeding commenced at Toronto

**CLAIMS BAR AND STAY
EXTENSION ORDER**

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE OCTOBER 28, 2016)**

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