

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

MOTION RECORD OF BDO CANADA LIMITED
(Returnable April 19, 2023 at 11:30am via Judicial Videoconference)

April 10, 2023

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**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

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TAB 1

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDED

NOTICE OF MOTION

BDO Canada Limited, in its capacity as Court-appointed receiver (the “**Receiver**”) of all of the assets, undertakings and properties of Kivuto Solutions Inc. (the “**Debtor**”) will make a motion to a Judge presiding over the Commercial List on April 19, 2023 at 11:30am or as soon after that time as the motion can be heard, which motion shall be heard virtually by judicial videoconference to be set by the Court Office and may be attended online by accessing the videoconference link to be posted on the Court’s *Caselines* portal for this matter. A direct link will be circulated by email to those members of the Service List with known email addresses prior to the hearing.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. an order, substantially in the form attached hereto as Schedule “A”, including, *inter alia*:

- (a) approving the second report of the Receiver dated April 10, 2023 (the “**Second Report**”), the activities of the Receiver detailed therein and the Receiver’s interim statement of receipts and disbursements appended thereto;
- (b) authorizing and directing the Receiver to (i) establish and maintain a reserve sufficient to satisfy the remaining administrative and operational costs required to complete these receivership proceedings (the “**Outstanding Disbursements**”, as defined in the Second Report); and, (ii) to apply the same to satisfy the Outstanding Disbursements going forward without further order of the Court;
- (c) authorizing and directing the Receiver to make a payment of \$623,245.14 to Origin Merchant Partners (“**Origin**”) on account of a transaction fee payable in connection with the closing of a previously Court-approved transaction;
- (d) authorizing and directing the Receiver to, after satisfaction of or making provision for all Outstanding Disbursements and the payment to Origin above, make an interim distribution to The Toronto-Dominion Bank (“**TD Bank**”) in the amount of \$2,600,000 on account of its senior secured debt position;
- (e) and thereafter, authorizing and directing the Receiver to, after satisfaction of or making provision for all Outstanding Disbursements, distribute all funds remaining in its hands to TD Bank, provided that the aggregate of all distributions to TD shall not exceed the amount of TD’s secured claim against the Debtor;
- (f) authorizing but not obligating the Receiver to change the legal name of the Debtor;
- (g) authorizing but not obligating the Receiver to assign the Debtor into bankruptcy;
- (h) approving the fees and disbursements of the Receiver and its legal counsel, Loopstra Nixon LLP (“**Loopstra Nixon**”), as described in the Second Report and the fee affidavits appended thereto;
- (i) discharging BDO as Receiver of the undertaking, property and assets of the Debtor upon completion of the Remaining Matters (as defined in the Second Report), releasing the Receiver upon discharge, and terminating the Receiver’s Charge and

the Receiver's Borrowing Charge (each as defined in the Receivership Order referenced below); and

2. such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. on February 7, 2023, this Honourable Court granted an order (the "**Receivership Order**") appointing the Receiver as receiver of all the assets, properties and undertakings of the Debtor;
2. on February 7, 2023, this Honourable Court also issued an order approving the asset purchase agreement dated January 17, 2023 entered into by the Debtor, as vendor, and Valsoft Corporation Inc. and Aspire Ontario Inc. (collectively, the "**Purchasers**"), as purchasers, for the sale of all of the assets, properties and undertakings of the Debtor, except for certain excluded assets to the Purchasers (the "**Transaction**");
3. the Transaction closed on February 9, 2023;
4. the Receiver is in possession of in excess of \$3.8 million (CAD) representing proceeds from the Transaction and other realizations in the Receivership;
5. subject to completing the payments and distributions recommended herein, and completing certain remaining administrative duties, the Receiver's administration is substantially complete;

APPROVAL OF SECOND REPORT AND RECEIVER'S ACTIVITIES

6. the Receiver has undertaken such activities as are further detailed in the Second Report, including the interim statement of receipts and disbursements therein (the "**SRD**"), in accordance with the terms of the Receivership Order;
7. the Second Report and SRD fairly and accurately reflects the circumstances of the receivership, the activities performed by the Receiver since appointment;

APPLICATION OF FUNDS

8. as detailed in the Second Report, and based on Loopstra Nixon's review, TD Bank holds a valid senior security interest in the assets, undertaking and property of the Debtor;
9. also as detailed in the Second Report:
 - (a) the Receiver is currently awaiting the results of a CRA trust examination in respect of payroll deductions at source, but has estimated a reserve of \$250,000 to satisfy any amount constituting a deemed trust for source deductions;
 - (b) the Receiver is of the view that there are no priority amounts claimable for unpaid wages under s. 81.4 of the BIA and is awaiting confirmation of the same from Service Canada, but has calculated an appropriate reserve of \$26,000 to satisfy any amount constituting a priority claim under s. 81.4 of the BIA;
 - (c) the Receiver is currently completing outstanding HST and sales tax returns for the Debtor which it believes total \$13,766.32, which amounts – provided the relief sought herein is granted and the Debtor bankrupted – will be rendered an unsecured claim (provided that the Receiver shall pay the same if a bankruptcy does not occur);
(collectively, the “**Potential Priority Claims**”)
10. other than the Potential Priority Claims, all or which are accounted for, the Receiver is not aware of any other interest that ranks in priority to the security held by TD Bank;
11. the Receiver recommends and requests approval of an immediate interim distribution to TD Bank in the amount of \$2,600,000;
12. as detailed in the Receiver's first report, previously filed with the Court, Origin was the Debtor's sales agent and undertook the marketing sales process which resulted in the Transaction, and is owed a transaction fee in respect of the same;
13. the Receiver recommends and requests approval of an immediate distribution to Origin in the amount of \$623,245.14, which payment is supported by TD Bank;
14. as detailed in the Second Report, the Receiver seeks authority to the apply the funds on hand to pay the approved fees and disbursements, and to hold a reserve for anticipated professional fees through to the completion of the administration;

15. upon completion of the foregoing, the Receiver will have realized on all assets and distributed all monies pursuant to its mandate under the Receivership Order;

DEBTOR CHANGES

16. as set out in the Second Report, the name “Kivuto” was acquired in the Transaction and, in anticipation of the potential bankruptcy, the Receiver intends to change the legal name of the Debtor;
17. as set out in the Second Report, TD Bank has requested that the Receiver seek authority to assign the Debtor into bankruptcy to address any claim for HST should such claim exist, which relief TD would be entitled to pursue but for the Receivership stay of proceedings;

APPROVAL OF PROFESSIONAL FEES

18. the Receiver and its counsel have accrued fees and expenses, which fees and expenses are secured by a first-ranking administration charge and require the approval of this Honourable Court pursuant to the Receivership Order;
19. the Receiver’s fees, including the fees of its legal counsel, as set out in the fee affidavit appended to the Second Report, are fair and reasonable;
20. the Receivership Order authorizes the Receiver to pass its accounts from time to time, and to include its legal counsel’s fees and disbursements in the passing of the accounts;

DISCHARGE

21. the Receiver has substantially completed its administration and recommends and requests that it be discharged as Receiver, subject only to making such payments and completing such tasks as set out herein, and completing the Remaining Matters as set out in the Second Report;

OTHER GROUNDS

22. the other grounds set out in the Second Report
23. the Consolidated Practice Direction Concerning the Commercial List and the inherent equitable jurisdiction of the Court;

24. rules 1.04, 2.03, 3.02, 16.08 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
25. sections 243, 249 and 250 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
26. the *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368;
27. 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 Second Report and the appendices thereto; and
2. such further and other documentary evidence as counsel may advise and this Court permits.

DATE: April 10, 2022

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TAB 1A

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]**

THE HONOURABLE

)

WEDNESDAY, THE 19th

)

DAY OF APRIL, 2023

)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDED

DISCHARGE ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as the Court-appointed receiver (the "**Receiver**"), of all of the undertakings, properties and assets of Kivuto Solutions Inc. (the "**Debtor**"), for an order, *inter alia*:

1. approving the activities of the Receiver as set out in the second of the Receiver dated April 10, 2023 (the "**Second Report**"), including the Receiver's interim statements of receipts and disbursements appended thereto;

2. approving the fees and disbursements of the Receiver and its counsel, including the estimated accrual to satisfy the Remaining Fees and Disbursements (as defined in the Second Report);
3. authorizing and directing the Receiver to (a) establish and maintain a reserve sufficient to satisfy the Outstanding Disbursements (as defined in the Second Report) and (b) to apply the same as set out herein;
4. authorizing and directing the Receiver to pay the amount of \$623,245.14 to Origin Merchant Partners on account of a transaction fee payable in connection with the closing of a previously Court-approved transaction;
5. authorizing and directing the Receiver to distribute the net proceeds available in the receivership estate of the Debtor, subject to the provisions of this Order, to The Toronto-Dominion Bank (“**TD Bank**”);
6. authorizing, but not obligating the Receiver to change the legal name of the Debtor;
7. authorizing, but not obligating the Receiver to assign the Debtor into bankruptcy;
8. approving the fees and disbursements of the Receiver and its legal counsel, Loopstra Nixon LLP (“**Loopstra Nixon**”), including an accrual for the Remaining Fees and Disbursements, as described in the Second Report; and
9. discharging BDO as Receiver of the undertaking, property and assets of the Debtor upon completion of the Remaining Matters (as defined in the Second Report) and releasing BDO Canada Limited. from any and all liability, as set out in paragraph 10 of this Order,

was heard this day by judicial videoconference at the Courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, the affidavits of the Receiver and its counsel as to fees appended to the Second Report (collectively, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, the Debtor, and such other counsel and parties as listed on the Attendance Slip, no one else appearing although served as appears from the Affidavit of Amanda Adamo sworn April 10, 2023;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Second Report and the motion record in respect of this motion is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

APPROVAL OF ACTIVITIES AND FEES

2. **THIS COURT ORDERS** that the activities of the Receiver as set out in the Second Report, including the interim statement of receipts and disbursements appended to the Second Report, are hereby approved.

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, including the Remaining Fees and Disbursements (as defined in the Second Report) and as set out in the Second Report and the Fee Affidavits (collectively the “**Approved Administrative Fees**”), are hereby approved.

RESERVE FOR OUTSTANDING DISBURSEMENTS

4. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to (a) establish and maintain a reserve in an amount sufficient to satisfy the Outstanding Disbursements (as defined in the Second Report) (the “**Reserve**”) and (b) to apply such Reserve, and any further receipts, to satisfy the Outstanding Disbursements without further approval of this Court.

PAYMENT OF TRANSACTION FEE

5. **THIS COURT ORDERS** that, after payment of or provision for the amounts set out in paragraph 3 hereof and the Reserve, the Receiver be and is hereby authorized and directed to pay, out of funds remaining in its hands, the transaction fee amount of \$623,245.14 to Origin Merchant Partners.

DISTRIBUTIONS TO TD BANK

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make distributions out of funds remaining in its hands to TD Bank as follows:

- (a) after payment of or provision for the amounts set out in paragraphs 3, 4 and 5 hereof and the Reserve, the Receiver be and is hereby authorized to make an immediate interim distribution in the amount of \$2,600,000 to TD Bank, on account of its secured claim against the Debtor; and
- (b) after the foregoing and after satisfaction of or making provision for all Outstanding Disbursements and paying the amount set out in paragraph 8 hereof (as applicable), the Receiver be and is hereby authorized and directed to distribute all funds remaining in its hands to TD Bank,

provided that the aggregate of all distributions to TD shall not exceed the amount of TD's secured claim against the Debtor.

DEBTOR CHANGES

7. **THIS COURT ORDERS** that the Receiver is authorized but not obligated to take such steps as are necessary to change the legal name of the Debtor

8. **THIS COURT ORDERS** that the Receiver is authorized but no obligated to cause the Debtor to make an assignment in bankruptcy naming BDO Canada Limited as trustee of the bankruptcy estate and paying the amount of \$11,300 of out funds in Receiver's hands to cover the costs of the bankruptcy administration (inclusive of all taxes and disbursements).

DISCHARGE AND RELEASE

9. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraphs 3, 5 and 6 hereof, and upon the Receiver filing a certificate substantially in the form appended hereto as Schedule "A" certifying that it has completed the other remaining activities described in the Second Report (the "**Discharge Certificate**"), the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its

discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO Canada Limited, in its capacity as Receiver

10. **THIS COURT ORDERS AND DECLARES** that BDO Canada Limited is hereby released and discharged from any and all liability that BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO Canada Limited while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO Canada Limited is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

11. **THIS COURT ORDERS** that this order is effective from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDED

DISCHARGE CERTIFICATE**RECITALS**

A. Pursuant to a Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated February 7, 2023, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of all of the undertakings, properties and assets of Kivuto Solutions Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated April 19, 2023 (the "**Discharge Order**"), the Court approved the discharge of the Receiver effective upon the filing by the Receiver of a certificate confirming: (i) the completion of the payments and distributions contemplated by the Discharge Order (the "**Payments & Distributions**"); (ii) the payment of approved professional fees and disbursements; and, (iii) the completion of the remaining activities to complete its administration, as set out in the Second Report to Court of the Receiver dated April 10, 2023 (the "**Remaining Activities**").

THE RECEIVER CERTIFIES the following:

1. the Payments & Distributions has been completed;
2. the Receiver has paid all approved professional fees and disbursements; and
4. the Receiver has completed the Remaining Activities.

THIS CERTIFICATE was executed by the Receiver on _____, 2023

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of all of the undertakings, properties and assets of Kivuto Solutions Inc. and not in any personal, corporate or other capacity

Per: _____
Name:
Title:

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]**

Proceedings commenced at **TORONTO**

DISCHARGE ORDER

LOOPSTRA NIXON LLP
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APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-23-00693569-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]

Proceedings commenced at **TORONTO**

MOTION RECORD OF
BDO CANADA LIMITED
(returnable April 19, 2023 at 11:30am via
Judicial Videoconference)

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix (LSO No.: 52650N)
&
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TAB 2

KIVUTO SOLUTIONS INC.
SECOND REPORT OF THE RECEIVER

April 10, 2023

Court File No. CV-23-00693569-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondents

APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43, as amended

SECOND REPORT OF BDO CANADA LIMITED
IN ITS CAPACITY AS RECEIVER OF
KIVUTO SOLUTIONS INC.

APRIL 10, 2023

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APPENDIX “B” – Approval and Vesting Order dated February 7, 2023

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APPENDIX “D” – Report of the Proposed Receiver dated January 27, 2023

APPENDIX “E” – Transition Services Agreement, dated February 9, 2023

APPENDIX “F” – TD Security Opinion from the Receiver’s counsel, dated January 24, 2023

APPENDIX “G” – Affidavit of Matthew Marchand, dated April 6, 2023

APPENDIX “H” - Affidavit of Shahrzad Hamraz, dated April 10, 2023

I. INTRODUCTION

1. Pursuant to the order (the "Receivership Order") of the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated February 7, 2023 (the "Date of Appointment"), BDO Canada Limited ("BDO") was appointed as receiver and manager (the "Receiver") of all of the assets, properties and undertakings (collectively, the "Property") of Kivuto Solutions Inc. ("Kivuto" or the "Company") under section 243(1) of the *Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended* (the "BIA") and section 101 of the *Courts of Justice Act R.S.O 1990, c. C.43 as amended* (the "CJA"). A copy of the Receivership Order is attached hereto as Appendix "A". The application for the Receivership Order was made by The Toronto-Dominion Bank ("TD" or the "Bank").
2. Pursuant to the order of the Court dated February 7, 2023 (the "Approval and Vesting Order"), the transaction (the "Sale Transaction") contemplated in the agreement of purchase and sale dated January 17, 2023 (the "Sale Agreement") between the Company (as "Vendor") and Valsoft Corporation Inc. ("Valsoft") and Aspire Ontario Inc. ("Aspire", and collectively with Valsoft, the "Purchasers") was approved and was also assigned to and adopted by the Receiver. Pursuant to the Sale Agreement, the Purchasers agreed to purchase all of the right, title, and interest of the Company, if any, in and to all of the assets of the Company, except for certain excluded assets as identified in the Sale Agreement. A copy of the Approval and Vesting Order and the endorsement of Justice McEwen dated February 7, 2023, regarding the same is attached hereto as Appendix "B" and Appendix "C", respectively.
3. In support of the Approval and Vesting Order, the Receiver submitted to the Court a report of the proposed Receiver dated January 27, 2023 (the "First Report") and a confidential supplementary report dated January 27, 2023, regarding the same (the "Confidential Supplementary Report"). A copy of the First Report, without appendices, is attached hereto as Appendix "D". The Confidential Supplementary Report was previously filed with the Court under seal.

II. PURPOSE OF REPORT

4. The purpose of this second report of the Receiver dated April 10, 2023 (the "Second Report") is to:
 - a) Provide this Court with certain information pertaining to the receivership, including:
 - (i) The activities of the Receiver since the First Report;
 - (ii) An update on the Sale Transaction;
 - (iii) Employee-related matters;
 - (iv) The Receiver's fees and disbursements and those of the Receiver's legal counsel;

- (v) The Receiver's interim statement of receipts and disbursements from the Date of Appointment to March 31, 2023; and
 - (vi) The Receiver's estimate of accrued and unpaid obligations as of the date of this Second Report (together, the "Accrued Obligations") and the Receiver's estimate of professional fees and disbursements, including those of its counsel, and remaining administrative and operational costs required to complete these receivership proceedings (the "Remaining Costs" and collectively with the Accrued Obligations, the "Outstanding Disbursements").
- b) Recommend that this Court make an order(s):
- (i) Approving this Second Report including the activities of the Receiver set out herein;
 - (ii) Authorizing and directing the Receiver to make a payment of \$623,245.14 to Origin Merchant Partners ("Origin") as a transaction fee regarding the Sale Transaction;
 - (iii) Authorizing, but not obligating, the Receiver to assign the Company into bankruptcy;
 - (iv) Authorizing, but not obligating, the Receiver to change the legal name of Kivuto;
 - (v) Approving the Receiver's interim statements of receipts and disbursements from the Date of Appointment to March 31, 2023;
 - (vi) Authorizing and directing the Receiver to make an interim distribution to TD in respect of its secured claim against the Property in the amount of \$2,600,000;
 - (vii) Authorizing the Receiver to make such subsequent distributions to TD as the Receiver determines appropriate, without further order of this Court, provided the aggregate distributions to TD do not exceed the amount of its secured claim against the Company, including all interest and costs, with the Receiver maintaining sufficient reserves to satisfy the Outstanding Disbursements;
 - (viii) Authorizing the Receiver to pay the Outstanding Disbursements from the available cash on hand, and any subsequent cash receipts, without further approval of this Court;
 - (ix) Approving the accounts of the Receiver and its counsel, and the fees accruals to complete this administration, as set out in this Second Report; and
 - (x) Discharging the Receiver upon completion of the Remaining Matters (as hereinafter defined), and terminating the Receiver's Charge and the Receiver's Borrowing Charge, as provided for in the Receivership Order, and subject to the Receiver filing a discharge certificate (the "Certificate of Discharge") confirming the same with the Court.

5. This Second Report and all other court materials and orders issued and filed in these receivership proceedings are available on the Receiver's case website <https://www.bdo.ca/en-ca/extranets/kivuto/> (the "Receiver's Website") and will remain available for a period of six (6) months following the Receiver's discharge.

III. QUALIFICATIONS

6. In preparing this Second Report, the Receiver has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and discussions with management (collectively, the "Information"). The Receiver has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided, and in consideration of the nature of the evidence provided to this Court, in relation to the relief sought therein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("GAAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information. An examination of the Company's financial forecasts in accordance with the Chartered Professional Accountants of Canada Handbook has not been performed. Future-oriented financial information reported on or relied upon in this Second Report is based on assumptions regarding future events; actual results achieved may vary from forecast and such variations may be material.
7. Unless otherwise noted, all monetary amounts contained in this Second Report are expressed in Canadian dollars ("CAD").

IV. ACTIVITIES OF THE RECEIVER

8. Since the date of the First Report, the Receiver has performed the following activities:
 - a) On February 7, 2023, immediately following the granting of the Receivership Order, the Receiver attended Kivuto's premises and took possession of the Property;
 - b) Completed all necessary steps to close of the Sale Transaction;
 - c) Provided services to the Purchasers as outlined in the transition services agreement dated February 9, 2023 (the "Transition Service Agreement" or "TSA"), which include:
 - (i) Facilitated the ongoing securing of the assets purchased by the Purchaser by continuing the existing lease of Kivuto's premises;
 - (ii) Facilitated the continuance of Kivuto's general commercial liability insurance;
 - (iii) Maintained Kivuto's bank accounts and payment processing services in order to allow for the orderly receipt of customer sales collections to the Purchasers;

- (iv) Facilitated the processing and payment of Post-Closing (as hereinafter defined) payroll and benefits to former Kivuto employees that were retained by the Purchasers; and
 - (v) Miscellaneous ad hoc support for finance and accounting related requests.
- d) Engaged two (2) former employees of Kivuto as independent contractors to assist with the various statutory requirements of the receivership proceedings as well as the above-noted transition services;
 - e) Coordinated the payment of pre-receivership payroll to the Company's former employees;
 - f) Administered the claims of certain former employees pursuant to the *Wage Earner Protection Program Act* ("WEPPA");
 - g) Coordinated the completion of year-end payroll reporting (including T4 tax slips) and records of employment for all former employees;
 - h) Prepared and filed pre-receivership HST and other jurisdictional sales tax returns;
 - i) Corresponded with the Canada Revenue Agency ("CRA") and facilitated the trust examination of the Company's payroll accounts;
 - j) Reviewed the Company's book and records;
 - k) Responded to calls and enquiries from the Company's creditors, suppliers, former employees, and other stakeholders regarding the receivership proceedings;
 - l) Correspondence with TD and its counsel in connection with various aspects of the receivership proceedings; and
 - m) Prepared this Second Report.

V. THE SALE TRANSACTION

- 9. A copy of the unredacted Sale Agreement is attached to the Confidential Supplementary Report. Capitalized terms in this section not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.
- 10. Pursuant to the Sale Agreement, the Purchasers agreed to purchase for a cash purchase price of \$3.9 million minus the amount of any shortfall, if any, of a Closing Cash threshold of \$1.5 million (the "Purchase Price"), all of the right, title and interest of the Company, if any, in and to all of the assets of the Company, except for Excluded Assets.
- 11. The Sale Transaction closed on February 9, 2023 (the "Closing Date") for a net purchase price, adjusted for the Closing Cash balance, of \$3,863,435.64, and the Receiver filed the Receiver's Certificate on the same day. Net funds, after adjustments as outlined in the Sale Agreement, of \$3,423,465.64 were transferred to the Receiver on

February 9, 2023. In addition, deposits of \$440,000 previously paid by the Purchasers and held in trust by the Company's counsel were transferred to the Receiver on February 10, 2023.

Sale Transaction Fee Owing to Origin Merchant Partners

12. As outlined in the First Report, Origin was the Company's sales agent and undertook the marketing sales process which resulted in the Sale Agreement. Pursuant to an engagement letter between Origin and the Company executed in June 2022, Origin is owed a transaction fee in the amount of \$550,000, plus disbursements of \$1,544.37 and HST of \$71,700.77, for a total of \$623,245.14. TD is in support of the Receiver making the payment to Origin.
13. The Receiver respectfully requests that the Court authorize the Receiver to make a payment of \$623,245.14 to Origin for the transaction fee as the Sale Transaction has closed.

The Transition Services Agreement

14. The Sale Agreement contemplated that a transition services agreement be entered into between the Purchasers and the Receiver prior to the Closing Date to provide for an orderly transitioning of the Purchased Assets to the Purchasers following Closing.
15. The TSA was executed between the Receiver and the Purchasers on February 9, 2023. A copy of the TSA is attached hereto as Appendix "E".
16. For the purpose of securing its fees under the TSA, the Receiver was entitled to holdback \$25,000 from the Closing Cash otherwise payable to the Purchasers on Closing.
17. The services to be provided under the TSA commenced effective as of the Closing Date and were to continue for a maximum duration of forty-five (45) days, which duration was subsequently extended to March 31, 2023.
18. The Receiver and Purchasers have since agreed to extend the duration of the TSA to April 30, 2023, solely in relation to maintaining the Company's internet services in order to facilitate the continuation of business operations until the relocation of the Company's IT equipment is completed.

VI. EMPLOYEE-RELATED MATTERS

19. As outlined in the First Report, the Sale Agreement contemplated that the Assumed Liabilities of the Purchasers included offering continuing employment to at least 65% of Kivuto's approximately 50 employees on substantially the same terms and conditions as they were currently employed. Any wages, vacation pay entitlement, commissions, bonuses, and tenure accrued and unpaid in the course of their employment with Kivuto were recognized and assumed by the Purchasers.

20. As at the Closing Date, Kivuto employed a total of 49 employees, of which 36 employees (approximately 73% of the total employees) were retained by the Purchasers (the "Retained Employees"). The Retained Employees were terminated by the Receiver on February 9, 2023, and subsequently continued employment with the Purchasers.
21. The 13 remaining employees who were not retained by the Purchasers (the "Non-retained Employees") were terminated by the Receiver on the morning of February 8, 2023.
22. Based on the Company's books and records, the Non-retained Employees had claims relating to wages, vacation pay, commissions and termination pay totaling \$209,564.20 as at the receivership date, with \$26,000 being secured claims pursuant to section 81.4 of the BIA. For the 2-week period ending February 3, 2023 (the "2-Week Payroll Period") and the 2-day period ending February 7, 2023 (the "2-Day Payroll Period") the unpaid wages for the Non-Retained Employees totaled \$52,921.19. Non-Retained Employee outstanding vacation pay totaling \$25,844.84 related to amounts accrued up to February 7, 2023 (the "Accrued Vacation") while outstanding commissions amounted to \$50,000.
23. To ensure continued operations prior to the close of the Sale Transaction, both the Retained Employees and Non-retained Employees were paid their unpaid wages for the 2-Week Payroll Period. The payroll, including employer burden cost, totaled \$195,546.92 for Kivuto's employees and \$11,494.92 USD for Kivuto's Chief Executive Officer (who was employed by Kivuto LLC, a related company located in the United States). In consultation with TD, the Receiver funded payroll (including benefits and RRSP), on February 8, 2023, and the payments were received by the employees on February 10, 2023. In addition, the employee health benefits and employee RRSP plan liabilities for the period were also funded by the Receiver.
24. TD had also subsequently agreed to fund the Non-retained Employee's unpaid wages for the 2-Day Payroll Period and Accrued Vacation. The Receiver facilitated the payments to the Non-retained Employees, which totaled \$38,195.90 for Kivuto's Non-retained Employees, and a payment of \$10,174.72 USD for Kivuto's Chief Executive Officer. The payments were made to the Non-retained Employees and Chief Executive Officer on March 24, 2023.
25. After the payment of the wages for the 2-Week Payroll Period, wages for the 2-Day Payroll Period, and the Accrued Vacation, the Receiver is of the view that the Non-retained Employees no longer have a secured claim pursuant to section 81.4 of the BIA.
26. As any liabilities owing to the Retained Employees were being assumed by the Purchasers, it is the Receiver's view that the Retained Employees do not have any claims in the receivership estate.
27. The Receiver has notified the Non-retained Employees regarding the wage earner protection program ("WEPP") and is currently administering the WEPP claims process.

VII. CREDITORS

Secured Claims

28. As noted in the First Report, the Receiver understands the Company's secured debt facilities consist of loans made available by TD and BDC. As at December 31, 2022, the Company reported indebtedness, inclusive of accrued interest, owing to TD and BDC of \$19.75 million and \$16.81 million, respectively, for a total of \$36.56 million.
29. The Receiver has obtained an independent legal opinion on TD's security (the "TD Security Opinion") from the Receiver's counsel, Loopstra Nixon LLP ("Loopstra Nixon"). Loopstra Nixon has provided an opinion to the Receiver that the security interests of TD, on the assets of Kivuto, are valid and enforceable and have been properly perfected in Ontario, subject to standard assumptions, qualifications, and limitations. A copy of the TD Security Opinion is attached hereto as Appendix "F".
30. It is the Receiver's understanding that BDC holds the subordinate security position, behind TD. In the circumstances TD will suffer a significant shortfall and no funds will be available for distribution to BDC. Accordingly, the Receiver has not requested Loopstra Nixon to review the BDC security at this time.

Priority Claims

31. The Bank's security is subject to prior charges and security interests or claims in respect of the Property, which include:
 - a) The Receiver's Charge;
 - b) The Receiver's Borrowing Charge;
 - c) Deemed trust claims; and
 - d) Statutory claims pursuant to the BIA (the "BIA Claims").

Receiver's Charge

32. As at the date of this Second Report, pursuant to paragraph 18 of the Receivership Order, the Receiver and its counsel have incurred fees and disbursements as part of the receivership proceedings. As further discussed below, the accrued and outstanding fees and disbursements of the Receiver for the period January 12, 2023 to March 31, 2023 total \$201,383.01, inclusive of fees incurred with respect to the TSA, plus applicable taxes and the fees and disbursements of its legal counsel for the period January 16, 2023 to March 29, 2023 total \$17,346.87, inclusive of fees with respect to the TSA, plus applicable taxes, which amounts the Receiver is seeking authority to pay. In addition, the Receiver and its counsel have estimated remaining fees and disbursements up to the amount of \$37,500 plus applicable taxes (the "Remaining Fees and Disbursements"). The Receiver proposes to hold a

reserve for the Remaining Fees and Disbursements and pay as part of the Outstanding Disbursements, subject to the Court granting the order requested by the Receiver as described herein.

Receiver's Borrowing Charge

33. Pursuant to paragraph 21 of the Receivership Order, the Receiver is authorized to borrow up to \$100,000, as it considered necessary or desirable. As of the date of this Second Report, the Receiver has not made any borrowings and does not intend to make any borrowings prior to the completion of the receivership.

Trust Claims

34. HST and other sales tax: The Company's books and records indicate that the Company owes a total of \$13,766.32 in pre-receivership HST and sales taxes, consisting of: \$4,681.08 in HST, \$3,641.11 in QST, and \$5,444.13 in PST to non-harmonized provinces (British Columbia, Manitoba, Saskatchewan). The Receiver is currently in the process of filing the Company's outstanding pre-receivership HST and sales tax returns. The value of the sales tax liabilities may be adjusted subject to audits, if any, by CRA or provincial finance authorities.
35. As noted in the First Report, a significant portion of the Company's revenue pertains to international sales. As such, in addition to sales taxes collected from Canadian jurisdictions, the Company may have also been required to collect sales taxes from revenues in certain foreign jurisdictions. The Receiver is of the view that any amounts which may be owing for foreign sales taxes are unsecured claims in the receivership estate.
36. Payroll deductions at source: CRA has appointed a trust examiner to review the payroll accounts of Kivuto. The results of the examination have not been finalized.
37. In order to provide for a potential deemed trust claim pending the CRA's review, the Receiver proposes to hold a reserve of \$250,000 as part of the Outstanding Disbursements subject to the Court granting the order requested by the Receiver as described herein.

BIA Claims

38. Unpaid Wages, Vacation Pay, and Commissions: As previously noted, after the post-receivership payment of the unpaid wages for the 2-Week Payroll Period, unpaid wages for the 2-Day Payroll Period, and Accrued Vacation, the Receiver is of the view that the Non-retained Employees no longer have a secured claim pursuant to section 81.4 of the BIA. However, as the Receiver is in the process of administering the WEPP claims process, confirmation has not yet been received from Service Canada that there are no remaining secured WEPPA claims.
39. In order to provide for a potential secured claim pursuant to section 81.4 of the BIA pending confirmation from Service Canada, the Receiver proposes to hold a reserve of \$26,000 as part of the Outstanding Disbursements subject to the Court granting the order requested by the Receiver as described herein.

40. Pensions: The Company supported a group registered retirement savings plan ("RRSP") for the benefit of eligible employees. All outstanding employee RRSP plan liabilities were paid. Accordingly, the Receiver is of the view that there are no secured claims pursuant to section 81.6 of the BIA.

Unsecured Claims

41. The Receiver understands that the Company had unsecured trade payables and accrued liabilities owing of approximately \$2.2 million as at the receivership date of February 7, 2023.
42. The Sale Transaction contemplated the assumption of substantially all of these liabilities which remain outstanding on the date of Closing (as defined in the Sale Agreement) by the Purchasers.
43. Any of these liabilities which were not assumed by the Purchasers may form unsecured liabilities in the receivership estate. It is anticipated that the TD will incur a significant shortfall and as a result there will be no amounts available for subordinated secured or unsecured creditors.

VIII. BANKRUPTCY ASSIGNMENT

44. As a result of the pre-receivership HST and sales tax exposure to the estate, TD has requested that the Receiver seek the authority to assign the Company into bankruptcy. In considering the request, the Receiver notes that (a) the Company is no longer operating and has no employees; (b) the Company is clearly insolvent; (c) the Courts have held that employing a bankruptcy to address a HST claim is a valid basis for a bankruptcy; and (d) but for the receivership stay, TD would be entitled to apply for a bankruptcy order. In view of the same, the Receiver believes the request and the relief sought is appropriate. In consultation with TD, if assignment into bankruptcy is made, it is proposed that BDO Canada Limited be named as trustee ("Trustee") and the Receiver fund the Trustee with \$11,300 to cover the Trustee's fees and disbursements associated with administering the bankruptcy.
45. As the Purchasers acquired substantially all of Kivuto's assets, including its intellectual property, prior to assigning the Company into bankruptcy, the Receiver may change the legal name of Kivuto. In order to change the Company's legal name, the Ministry may require the Receiver's powers be expanded to complete such as activity. Accordingly, the Receiver is seeking authorization and approval, but not the obligation, to change the legal name of Kivuto.

IX. PROFESSIONAL FEES

46. Paragraph 18 of the Receivership Order provided a first priority charge on the Property for the Receiver's fees and costs and those of the Receiver's counsel in priority to all other security interests, trusts, liens, charges and encumbrances.
47. The Receiver and the Receiver's counsel have maintained detailed records of their professional time and disbursements since the Date of Appointment.

48. The Receiver's professional fees incurred for services rendered from January 12, 2023 to March 31, 2023, inclusive of fees fully reimbursable under the TSA, amount to \$198,589.00, plus disbursements in the amount of \$2,794.01 and sales taxes of \$26,179.97 for a total of \$227,562.80. These amounts represent professional fees and disbursements not yet approved by the Court. Additionally, the Receiver estimates an accrual of not more than \$28,250 inclusive of applicable taxes to complete its administration to the filing of its Discharge Certificate. Certain TSA related disbursements which have been or will be reimbursed by the Purchasers appear on the Receiver's invoices for the purposes of recovering these amounts for the estate, however, these are not the Receiver's disbursements and are therefore not contained in the Receiver's fee and disbursement amounts for which approval is being sought herein. The time spent by the Receiver's professionals, as well as the above accrual, is detailed in the affidavit of Matthew Marchand dated April 6, 2023, and is attached hereto as Appendix "G". The Receiver is requesting that the Court approve its total fees and disbursements, inclusive of the fee accrual and applicable taxes, in the amount of \$255,812.80.
49. The fees of the Receiver's counsel, Loopstra Nixon, for services rendered from January 16, 2023 to March 31, 2023, inclusive of fees fully reimbursable under the TSA, amount to \$16,875.50 plus disbursements in the amount of \$471.37 plus sales taxes of \$2,255.10 for a total of \$19,601.97. These amounts represent professional fees and disbursements not yet approved by the Court. Additionally, Loopstra Nixon estimates an accrual of not more than \$12,500 plus applicable taxes to assist the Receiver through to the filing of its Discharge Certificate. The time spent by Loopstra Nixon's professionals, as well as the above accrual, is detailed in the affidavit of Shahrzad Hamraz dated April 6, 2023, and is hereto attached as Appendix "H". The Receiver is requesting that the Court approve the Receiver's counsel's total fees and disbursements, inclusive of the fee accrual and applicable taxes, in the amount of \$33,726.97.
50. The Receiver has reviewed Loopstra Nixon's accounts and has determined that the services have been duly authorized and duly rendered and that the charges are reasonable given the circumstances.

X. RECEIVER'S STATEMENTS OF RECEIPTS AND DISBURSEMENTS

51. The Receiver's interim statement of receipts and disbursements for the period from the Date of Appointment to March 31, 2023 (the "Interim R&D") is summarized in the chart below.

Note: The receipts and disbursements for TSA-related activities have been included and are to be fully reimbursed by the Purchasers pursuant to the terms of TSA.

Kivuto Solutions Inc., in receivership			
Interim Statement of Receipts and Disbursements			
For the Period of February 7, 2023 to March 31, 2023			
	TSA	Receivership	Total
Receipts			
Net proceeds on sale of assets	-	3,863,465.64	3,863,465.64
Interest earned	-	8,827.98	8,827.98
Reimbursement from Purchasers re: TSA	22,131.52	-	22,131.52
Total receipts	22,131.52	3,872,293.62	3,894,425.14
Disbursements			
2-Week Payroll Period arrears	-	15,568.72	15,568.72
2-Day Payroll Period arrears and Accrued Vacation	-	52,484.13	52,484.13
Independent contractors	7,105.00	7,817.50	14,922.50
HST paid	886.60	874.90	1,761.50
Insurance	1,214.48	-	1,214.48
Filing fees	-	72.82	72.82
Bank charges	-	51.00	51.00
Total disbursements	9,206.08	76,869.07	86,075.15
Excess receipts over disbursements	12,925.44	3,795,424.55	3,808,349.99

- a) Total receipts of \$3,894,425.14, the majority of which relate to the net proceeds received in relation to the Sale Transaction and interest earned on those proceeds.
- b) Total disbursements over the same period were \$86,075.15 the majority of which relate to pre-receivership payroll arrears and costs associated with the independent contractors required to assist in the administration of the receivership proceedings.

Kivuto Solutions Inc., in receivership			
Outstanding Disbursements and Proposed Interim Distribution			
As at March 31, 2023			
	TSA	Receivership	Total
Excess receipts over disbursements	12,925.44	3,795,424.55	3,808,349.99
Less: Accrued Obligations			
Transaction fee payable to Origin Merchant Partners	-	623,245.14	623,245.14
Receiver's fees and disbursements - to March 31, 2023	23,175.17	204,387.63	227,562.80
Receiver's counsel fees and disbursements - to March 31, 2023	5,183.31	14,418.66	19,601.97
TSA-related costs (net of reimbursements from Purchasers)	7,064.13	-	7,064.13
Total Accrued Obligations	35,422.61	842,051.43	877,474.04
Less: Remaining costs			
Receiver's fees and disbursements / (recovery)	(11,629.96)	28,250.00	16,620.04
Receiver's counsel fees and disbursements / (recovery)	(5,183.31)	14,125.00	8,941.69
Reserve for independent contractors and other admin. costs	(5,683.90)	23,698.12	18,014.22
Reserve for payroll trust examination obligations	-	250,000.00	250,000.00
Reserve for potential secured claim pursuant to BIA s. 81.4	-	26,000.00	26,000.00
Funding of bankruptcy	-	11,300.00	11,300.00
Total Remaining Costs	(22,497.17)	353,373.12	330,875.95
Proposed Interim Distribution	-	2,600,000.00	2,600,000.00

- c) As detailed in the chart above, the Receiver estimates there is approximately \$877,474 in Accrued Obligations incurred up to the date of this Second Report as part of these receivership proceedings relating primarily to:
- (i) Transaction fee payable to Origin of \$623,245.14;
 - (ii) Professional fees and disbursements, relating to the receivership, of approximately \$218,806; and
 - (iii) Costs (net of reimbursements) relating to the Receiver's activities under the TSA, which are reimbursed in full by the Purchasers, of \$35,423.
- d) In addition to the Accrued Obligations, the Receiver estimates there will be Remaining Costs in the amount of approximately \$330,876, related primarily to:
- (i) Receiver's fees and disbursements of \$28,250 inclusive of applicable taxes;
 - (ii) Fees and disbursements of the Receiver's Counsel, Loopstra Nixon, of \$14,125 plus applicable taxes;
 - (iii) Reserve for independent contractors and other administration costs of \$23,698;
 - (iv) Reserve for payroll trust examination obligations of \$250,000;
 - (v) Reserve for potential secured claims pursuant to section 81.4 of the BIA of \$26,000; and
 - (vi) Funding of a bankruptcy of the Company of \$11,300.

- e) The Outstanding Disbursements noted also include amounts remaining to be recovered under the TSA totaling \$22,497, however, does not include future fees or disbursements relating to TSA activities, if any, as these will be reimbursed in full to the Receiver by the Purchasers.
- f) The Receiver seeks authority to pay the Outstanding Disbursements from cash on hand without further order of this Court.
- g) Upon completion of the Remaining Matters (as hereinafter defined), and the payment of the Outstanding Disbursements, the Receiver proposes to distribute any residual amounts remaining in its possession, or subsequently collected by the Receiver, to TD on account of its outstanding secured indebtedness owing by the Company without further order of this Court. As at the date of this Second Report, the Receiver anticipates no further material proceeds other than the refund of the Receiver's post-filing HST amounts and potential insurance premium refunds, if any.

XI. PROPOSED DISTRIBUTION TO TD

- 52. Subject to this Court's approval, the Receiver recommends that it make interim distribution to TD in the sum of \$2,600,000 (the "Interim Distribution") as outlined in the previous chart. Following the Interim Distribution, the Receiver will hold sufficient funds as a reserve to satisfy the payment of the Outstanding Disbursements.
- 53. Other than the claims described above (Deemed Trust Claims, and charges under the Receivership Order), the Receiver is not aware of any security interests, liens, charges, encumbrances, or other rights of third parties that would have priority over TD's security, with respect to the Property or the proceeds therefrom.
- 54. The Receiver is of the view that, in order to maximize efficiency, it is appropriate, in addition to seeking approval of the Interim Distribution, to seek the Court's approval to make such subsequent distributions to TD as the Receiver determines are appropriate, subject to the Receiver maintaining sufficient reserves to complete the administration of the receivership proceedings, including payment of any Outstanding Disbursements.
- 55. The Receiver respectfully requests that the Court authorize the Interim Distribution and such subsequent distributions to TD as the Receiver determines are appropriate.

XII. REMAINING MATTERS TO BE COMPLETED IN THESE PROCEEDINGS

- 56. If the Court grants the order requested herein, the Receiver will have completed its duties, statutory or otherwise, except for the following (the "Remaining Matters"):
 - a) Completing remaining transition services for the Purchasers, including the transfer of post-receivership customer deposits to the Purchasers;

- b) Completion of the coordination of CRA's trust examination of the Company's payroll accounts, and any other accounts requested to be audited by CRA or any other provincial authorities;
 - c) Completion of year-end payroll reporting (including T4 tax slips);
 - d) Completing the administration of WEPPA claims;
 - e) Processing and paying the Outstanding Disbursements;
 - f) Paying the Interim Distribution to TD, including any subsequent distributions as required;
 - g) Pursuing the potential recovery of any unclaimed HST paid during these proceedings;
 - h) Completing and filing the Company's outstanding corporate tax returns and/or waivers regarding the same with CRA, as they becomes due;
 - i) Attending to other administrative matters incidental to these proceedings such as filing the Receiver's report pursuant to sections 246(2) and 246(3) of the BIA as applicable; and
 - j) Filing the Certificate of Discharge, as defined below.
57. Upon the completion of the Remaining Matters, the Receiver will have realized on the Property and completed its statutory duties as well as those duties set out in the Receivership Order or subsequent orders of this Court. Accordingly, the Receiver is of the view that it is appropriate to seek an order of the Court discharging and releasing the Receiver upon the filing of a certificate (the "Certificate of Discharge") with this Court certifying that all of the Remaining Matters have been completed.

XIII. RECOMMENDATIONS

58. To the best of the Receiver's knowledge and belief, all duties of the Receiver, as set out in the Receivership Order and subsequent orders of this Court, will be completed upon payment of the Interim Distribution and the Outstanding Disbursements, and completion of the Remaining Matters.
59. Based on the foregoing, the Receiver respectfully recommends that the Court issue an order:
- (i) Approving this Second Report including the activities of the Receiver set out herein;
 - (ii) Authorizing the Receiver to make a payment of \$623,245.14 to Origin for the transaction fee as the Sale Transaction has closed;
 - (iii) Authorizing, but not obligating, the Receiver to assign the Company into bankruptcy;
 - (iv) Authorizing, but not obligating, the Receiver to change the legal name of Kivuto;
 - (v) Approving the Receiver's interim statements of receipts and disbursements from the Date of Appointment to March 31, 2023;

- (vi) Authorizing and directing the Receiver to make an interim distribution to TD in respect of its secured claim against the Property in the amount of \$2,600,000;
- (vii) Authorizing the Receiver to make such subsequent distributions to TD as the Receiver determines appropriate, without further order of this Court, provided the aggregate distributions to TD do not exceed the amount of its secured claim against the Company, including all interest and costs, with the Receiver maintaining sufficient reserves to satisfy the Outstanding Obligations;
- (viii) Authorizing the Receiver to pay the Outstanding Disbursements from the available cash on hand, and any subsequent cash receipts, without further approval of this Court;
- (ix) Approving the accounts of the Receiver and its counsel, as set out in this Second Report; and
- (x) Discharging the Receiver upon completion of the Remaining Matters (as hereinafter defined), and terminating the Receiver's Charge and the Receiver's Borrowing Charge, as provided for in the Receivership Order, and subject to the Receiver filing a Certificate of Discharge confirming the same with the Court.

All of which is respectfully submitted on the 10th day of April, 2023.

BDO Canada Limited
in its capacity as Court-Appointed Receiver of
Kivuto Solutions Inc.
and not in its personal or corporate capacity



Matthew Marchand, CPA, CMA, CIRP, LIT
Senior Vice-President

TAB 2A

Court File No. CV-23-00693569-00CL

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

THE HONOURABLE

)

TUESDAY, THE 7TH

JUSTICE MCEWEN

)

DAY OF FEBRUARY, 2023

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing BDO Canada Limited ("BDO") as receiver and manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of Kivuto Solutions Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario by videoconference.

ON READING the Affidavit of Andrea Jamnisek, sworn January 27, 2023 and the Exhibits thereto, the Report of BDO in its capacity as the Proposed Receiver, dated January 27, 2023 (the "Report") and the Confidential Supplementary Report of BDO, dated January 27, 2023 (the "Confidential Report") and on hearing the submissions of counsel for the Applicant, the Debtor, the proposed purchasers and the Receiver, no one else appearing although duly served as appears from the Affidavit of Service of Rosanna Cavaliere sworn January 30, 2023, and on reading the Consent of BDO to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, repudiate or disclaim any contracts or agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform, modify and/or terminate any contracts or agreements to which the Debtor is a party;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;

- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.

- (l) in particular, to complete, with such reasonable and appropriate changes as may be necessary, an agreement of purchase and sale for the assets and undertaking of the Debtor, as Vendor, and Valsoft Corporation Inc. and Aspire Ontario Inc., as purchasers, dated January 17, 2023 and as described in the Pre-Receivership Report, filed;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records,

and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver'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 the Receiver'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 the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing

in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor 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 services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective Purchaser or bidder to whom such

personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The Purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver 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 Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a Judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and

charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.bdo.ca/en-ca/extranets/Kivuto/>.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
30. THIS COURT ORDERS that the Receiver 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 Receiver 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.
31. THIS COURT ORDERS that the applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the applicant's security or, if not so provided by the applicant's security, then on a substantial indemnity basis to be paid

by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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



SCHEDULE “A”
RECEIVER CERTIFICATE

CERTIFICATE NO. **Press F11 to insert (number)**

AMOUNT \$ **Press F11 to insert (amount)**

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver and manager (the “Receiver”) of the assets, undertakings and properties Kivuto Solutions Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “Property”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated the 7th day of February 2023 (the “Order”) made in an application having Court file number CV-23-00693569-00CL, has received as such Receiver from the holder of this certificate (the “Lender”) the principal sum of \$**Press F11 to insert (amount)** , being part of the total principal sum of \$**Press F11 to insert (amount)** which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the **Press F11 to insert (day)** day of each month] after the date hereof at a notional rate per annum equal to the rate of **Press F11 to insert (rate)** per cent above the prime commercial lending rate of Bank of **Press F11 to insert (bank)** from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the

Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

1. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
2. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
3. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
4. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____, day of February, 2023.

BDO Canada Limited, solely in its capacity as Receiver of the Property, and not in its personal or corporate capacity

Per:

Name: **Press F11 to insert (name)**
Title: **Press F11 to insert (title)**

THE TORONTO-DOMINION BANK
Applicant

-and-

KIVUTO SOLUTIONS INC.
Respondent

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER

FOGLER, RUBINOFF LLP

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Lawyers for the Applicant,
The Toronto-Dominion Bank

TAB 2B

Court File No. CV-23-00693569-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

)

TUESDAY, THE 7TH

JUSTICE MCEWEN

)

DAY OF FEBRUARY, 2023

)

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicant and supported by BDO Canada Limited ("**BDO**") in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Kivuto Solutions Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Debtor, as vendor, and Valsoft Corporation Inc. and Aspire Ontario Inc., as purchasers (collectively, the "**Purchasers**") dated January 17, 2023 and appended to the Report of BDO in its capacity as Proposed Receiver of the Debtor, dated January 27, 2023 (the "**Report**") and appended without redaction to the Confidential Supplementary Report of BDO

dated January 27, 2023 (the “**Confidential Report**”), and vesting in the Purchasers the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario by videoconference.

ON READING the Notice of Application, the Affidavit of Andrea Jamnisek, the Report and the Confidential Report and on hearing the submissions of counsel for the Applicant, the Purchasers, the Debtor and the Receiver, and such other counsel who were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Rosanna Cavaliere, sworn January 30, 2023, filed:

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 motion is properly returnable today and hereby dispenses with further service thereof.

CAPITALIZED TERMS

2. THIS COURT ORDERS that capitalized terms not defined herein shall have the meanings set out in the Sale Agreement.

SALE APPROVAL

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Debtor, which was assigned to and adopted by the Receiver, is hereby authorized and approved, with such minor amendments as the Debtor or Receiver may deem necessary. The Debtor and Receiver are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchasers.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchasers substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchasers, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Appointment Order of the Honourable Justice McEwen dated February 7, 2023; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule B) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of those employees contemplated as the "Offered Employees" at section 8.1 the Sale Agreement. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

8. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or

provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

SEALING ORDER

9. THIS COURT ORDERS that the Confidential Report and its confidential appendices therein and the exhibits therein, including the unredacted Sale Agreement referred to in the Report of the Receiver, 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 and a statement that the contents are subject to a sealing order and the sealed envelope shall not be opened until no earlier one day after successful closing as evidenced by the filing of the Receiver's Certificate as referred to above or further order of this Honourable Court.

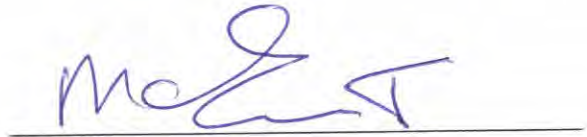
10. THIS COURT ORDERS that the Confidential Schedule to the Confidential Report shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and the sealed envelope shall not be opened until further order of this Honourable Court.

AID AND RECOGNITION

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

Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "M. J. T." or similar.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the “**Court**”) dated February 7, 2023, BDO Canada Limited was appointed as the receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Kivuto Solutions Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated February 7, 2023, the Court approved the agreement of purchase and sale made as of January 17, 2023 (the “**Sale Agreement**”) between the Debtor, as vendor, and Valsoft Corporation Inc. and Aspire Ontario Inc., as purchasers (collectively, the “**Purchasers**”) and provided for the vesting in the Purchasers of the Debtor’s

right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchasers have paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

BDO Canada Limited, in its capacity as Receiver of the undertaking, property and assets of Kivuto Solutions Inc., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Permitted Encumbrances, Easements and Restrictive Covenants**(unaffected by the Vesting Order)**

NIL

THE TORONTO-DOMINION BANK
Applicant

-and-

KIVUTO SOLUTIONS INC.
Respondent

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

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Lawyers for the Applicant,
The Toronto-Dominion Bank

TAB 2C

[1]
[2]

The Order appointing the Receiver, and the Approval + vesting Order, shall go as per the drafts filed + signed.

Neither order is opposed.

The appointment Order is just and convenient in the circumstances. Kivota is in default; TD is finding the Receivership; and there is no prejudice to any other stakeholder.

The AVO shall also go. The Soundair criteria have been met. A "quick Rip" is also fair and reasonable in this case. BDO has been involved in the sales process; there is no prejudice to any other stakeholder; there is no more time or money to conduct a further process; most employees will be retained; the extensively run SISA has not attracted a better offer; and the Transaction, overall, is the best option. The parties are also unopposed.

Last, a sealing order is appropriate. It involves limited redaction of the identities of bidders and amounts. These redactions are limited in time to the closing of the Transaction and necessary to protect the integrity of the sales process.

Finally, as I indicated at the hearing, Loopstra Nixon will act as counsel to the Receiver for the reasons discussed.



TAB 2D

KIVUTO SOLUTIONS INC.
REPORT OF THE PROPOSED RECEIVER

January 27, 2023

Court File No. CV-23-00693569-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43, as amended

REPORT OF BDO CANADA LIMITED
IN ITS CAPACITY AS PROPOSED RECEIVER OF
KIVUTO SOLUTIONS INC.

JANUARY 27, 2023

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APPENDICES

APPENDIX "A" – Corporate Organization Chart

APPENDIX "B" – Process Letter

APPENDIX "C" – Redacted Sale Agreement dated January 17, 2023

APPENDIX "D" – TD Security Opinion

I. INTRODUCTION

1. BDO Canada Limited (“BDO”) understands that an application will be made before the Ontario Superior Court of Justice (Commercial List) (the “Court”) by The Toronto-Dominion Bank (“TD” or the “Bank”) for an order (the “Receivership Order”) appointing BDO as receiver and manager (the “Receiver”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended* (the “BIA”) and section 101 of the *Courts of Justice Act R.S.O 1990, c. C.43 as amended* (the “CJA”), without security, of all of the assets, properties and undertakings (collectively, the “Property”) of Kivuto Solutions Inc. (“Kivuto” or the “Company”).
2. BDO was previously retained by the Company to act as financial advisor to Kivuto to assist in addressing liquidity concerns, provide strategic advice and communicate with the Company’s stakeholders, including its lender, TD.
3. BDO is a licensed trustee within the meaning of section 2 of the BIA and has consented to act as Receiver in these proceedings in the event that the Court grants the relief sought by the Bank. We are writing this report (the “Report”) as proposed Receiver of Kivuto (the “Proposed Receiver”) in the same manner as if we had already been appointed as Receiver by the Court.
4. Certain information has been omitted from this Report and redacted from certain appendices to this Report, as should the proposed transaction not close, it would be prejudicial to the interests of the creditors of the Company if such information became available to future prospective purchasers of Kivuto’s assets. The Proposed Receiver has also prepared and filed with the Court, subject to a request for a sealing order, a confidential supplementary report dated January 27, 2023 (the “Confidential Supplementary Report”), which should be read by the Court in conjunction with this Report and will assist the Court in considering the relief being sought by the Proposed Receiver herein.
5. The Proposed Receiver’s legal counsel is Fogler Rubinoff LLP (“Fogler”). To the extent a conflict arises with respect to Fogler’s ability to counsel the Receiver, Loopstra Nixon LLP (“Loopstra”) will act as independent counsel to the Receiver.

II. QUALIFICATIONS

6. In preparing this Report, the Receiver has relied upon unaudited financial information, the Company’s books and records, and other financial information provided to it by the Company’s lenders (collectively, the “Information”). The Receiver has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided, and in consideration of the nature of the evidence provided to this Court, in relation to the relief sought therein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing

Standards (“GAAS”) pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information. An examination of the Company’s financial forecasts in accordance with the Chartered Professional Accountants of Canada Handbook has not been performed. Future-oriented financial information reported on or relied upon in this Report is based on management’s assumptions regarding future events and actual results achieved may vary from forecast and such variations may be material.

7. Unless otherwise noted, all monetary amounts contained in this Report are expressed in Canadian dollars.

III. PURPOSE OF REPORT

8. The purpose of this Report is to:
- a) Provide the Court with background information on:
 - (i) An overview of the Company, including its corporate structure and operations;
 - (ii) The Company’s debt structure and a summary of the Company’s sources of fundings from its lenders; and
 - (iii) The Company’s current financial position and liquidity.
 - b) Outline the proposed sale transaction which has been negotiated, including:
 - (i) The marketing and sales process undertaken by the Company’s sales agent, Origin Merchant Partners (“Origin” or the “Sales Agent”), to solicit offers for and pursue a sale or divestiture of the Company’s assets;
 - (ii) Providing information regarding the proposed asset transaction (“Transaction”), including the agreement of purchase and sale dated January 17, 2023 (the “Sale Agreement”) entered into between the Company as vendor and Valsoft Corporation Inc. (“Valsoft”) and Aspire Ontario Inc. (“Aspire” and collectively with Valsoft, the “Purchasers”), which are unrelated parties acting at arm’s length; and
 - (iii) The Receiver’s recommendation with respect to the Transaction.
 - c) Provide the Court with a summary of the security opinion prepared by Loopstra, independent counsel to the Receiver in this matter;
 - d) Recommend that, in the event the Court appoints BDO as Receiver, the Court issue an order:
 - (i) Approving the Sale Agreement and authorizing the Receiver to complete the Transaction contemplated therein, including the execution of any additional necessary documents to complete same (including a transition services agreement, if applicable);
 - (ii) Upon completion of the proposed Transaction (as evidenced by the Receiver filing a certificate certifying same), vesting the Purchased Assets (as defined herein) in the Purchasers; and

(iii) Sealing the Confidential Supplementary Report, including the confidential appendices attached thereto.

IV. BACKGROUND

9. Reference is made to the Affidavit of Andrea Jamnisek, sworn January 27, 2023 in support of TD's application to appoint BDO as receiver over all of the property, assets and undertakings of the Company (the "Jamnisek Affidavit").

Company Overview & Corporate Structure

10. Kivuto is a privately-owned Canadian corporation which operates as a leading independent provider of digital content management and distribution solutions for academia, partnering with a broad ecosystem of vendors to provide solutions to thousands of renowned academic institutions that allow customers and users to manage their digital education resources.
11. Kivuto was formed on March 1, 2018, following the acquisition of Kivuto Solutions Inc. ("Legacy Kivuto") by 10600598 Canada Inc. ("106 Canada"). On February 23, 2018, 106 Canada entered into an agreement to purchase all of the issued and outstanding shares of Legacy Kivuto. On March 1, 2018, the transaction was finalized and immediately on closing, 106 Canada amalgamated with Legacy Kivuto and one its subsidiaries, 10633011 Canada Inc., with the surviving company to continue under the legal name Kivuto Solutions Inc.
12. Kivuto is a wholly owned subsidiary of Legado Capital Partners LP ("Legado LP"). The general partner of Legado LP is Legado Capital Partners GP Inc. ("Legado GP"). Further, Kivuto wholly owns a subsidiary, Kivuto Solutions LLC ("Kivuto LLC"), which is registered in the State of Delaware. All day-to-day operations are carried out by Kivuto, with no active operations occurring in Legado GP or Legado LP. Kivuto LLC contains the employee contract of Kivuto's chief executive officer, Mr. Mark McKenzie and a USD denominated bank account used by many of Kivuto's customers. The Company's corporate organization chart is attached hereto as Appendix "A".
13. Kivuto operates from a leased premises municipally known as 495 Richmond Road, Suite 103, Ottawa, Ontario (the "Premises") pursuant to an assignment agreement dated November 16, 2021, made between IMI Material Handling Logistics Inc. (the "Assignor"), Dov (495 Richmond) Limited (the "Landlord") and the Company, as assignee.
14. Kivuto's key management ("Management") includes Mr. Mark McKenzie, chief executive officer, Mrs. Sarah Footitt, chief financial officer, Mr. Costa Constantakis, vice president sales and marketing, and Mr. Shane Aulenback, vice president engineering and product management.
15. In addition to Management, Kivuto employs approximately 50 full-time employees as at January 18, 2023. The Receiver understands that none of Kivuto's employees are represented by a union. The Company supports a registered retirement pension plan, including matching pension contributions and a health benefit plan for its employees.

Causes of Financial Difficulties

16. The Company has undergone significant changes in operations in the past several years which have left the Company unprofitable and with limited liquidity. Primary factors contributing to the Company's financial difficulties are summarized below:
- a) In 2018, one of the Company's most significant customers terminated a material contract related to one of its legacy product programs offered through Kivuto's technology platform which the Receiver understands represented approximately 23% of the Company's revenues and 40% of its earnings before interest, taxes depreciation and amortization in 2017. The loss of this legacy program, along with the loss of other customer contracts, resulted in significantly lower revenues in 2019 onwards which were not offset by growth in revenue from new products, leading to significant losses and asset impairments;
 - b) Efforts to recapitalize the Company were made, including the engagement of an investment banker to explore recapitalization strategies as well as completing internal rounds of financing from shareholders for \$7.6 million in late 2020. However, these efforts were unsuccessful in deleveraging the Company's over leveraged balance sheet and unsustainable capital structure; and
 - c) Due to continuing losses and liquidity constraints, including the projected continuation of cash flow shortfalls, the Company is unable to service its debt obligations with TD and BDC Capital Inc. ("BDC").

V. FINANCIAL POSITION

Historical Operating Results

17. Set out below is a summary of the Company's income statement for: (i) the fiscal year ending December 31, 2019 (audited) ("FY19"); (ii) the fiscal period ending December 31, 2020 (audited) ("FY20"); (iii) the fiscal period ending December 31, 2021 (audited) ("FY21"); and (iv) the fiscal period ending December 31, 2022 (internal, unaudited) ("FY22").

Kivuto Solutions Inc. Consolidated statement of income (\$000)				
	Audited FY19	Audited FY20	Audited FY21	Internal FY22
Revenue	\$ 16,302	\$ 14,913	\$ 11,166	\$ 8,410
Cost of revenue	3,333	3,025	2,526	2,525
Gross profit	12,969	11,888	8,640	5,886
<i>Gross margin</i>	79.6%	79.7%	77.4%	70.0%
Expenses	35,831	45,884	13,736	9,667
Loss before other income	(22,862)	(33,996)	(5,096)	(3,781)
Other income	1,044	1,497	735	(4,754)
Income before taxes	(21,819)	(32,499)	(4,360)	(8,535)
Tax expense (recovery)	(387)	-	-	16
Net income (loss)	\$ (21,432)	\$ (32,499)	\$ (4,360)	\$ (8,551)

18. The income statement summary indicates that the Company had negative earnings before taxes in each of the past four fiscal years, ranging from (\$4.4) million in FY21 to (\$32.5) million in FY20. Between FY19 and FY22, combined losses before taxes have totaled (\$67.2) million. Included in these losses are significant impairment amounts related to the Company's intangible assets and goodwill, recorded in FY19 and FY20, totaling \$42.3 million.
19. Set out below is a summary of the Company's internal and unaudited balance sheet as at December 31, 2022:

Kivuto Solutions Inc. Consolidated balance sheet (\$000)			
ASSETS		LIABILITIES AND SHAREHOLDER'S EQUITY	
Current Assets		Current Liabilities	
Cash and cash equivalents	\$ 1,515	Accounts payable and accrued liabilities	\$ 1,891
Accounts receivable	367	Current portion of long-term debt	1,564
Inventory	117	Deferred revenue	1,484
Prepaid expenses	362	Total Current Liabilities	\$ 4,940
Total Current Assets	\$ 2,361		
		Government assistance loan	337
Property and equipment	\$ 153	Long-term debt	34,998
Intangible assets	2,205	Total Liabilities	\$ 40,275
Goodwill	2,257		
Total Assets	\$ 6,977	Shareholder's Equity	
		Share capital	40,485
		Contributed surplus	161
		Retained earnings	(73,945)
		Total Shareholder's Equity	(33,298)
		Total Liabilities and Shareholder's Equity	\$ 6,977

20. According to the Company's December 31, 2022 balance sheet, the largest assets consists of intangibles and goodwill. The Company's next largest asset consists of cash, which balance has been supported by the deferral of

certain debt servicing obligations by both TD and BDC in the latter part of 2022, to afford the Company the runway to carry out a sales process and close a sale or investment transaction.

- a) TD deferred the payment of a quarterly principal payment in December 2022 in the approximate amount of \$125,000, plus deferred interest payments for December 2022 and January 2023, with each interest payment being approximately \$150,000; and
 - b) BDC deferred interest payments made by the Company in calendar 2022, in the amount of approximately \$393,000 in early December 2022. Further, BDC continues to defer monthly interest payments in the approximate amount of \$155,000. The Company's loan agreement with BDC provides for principal to be repaid as a balloon payment on maturity of the loan and as such principal payments are deferred until such time.
21. The December 31, 2022 balance sheet reports that the book value of the Company's liabilities, being \$40.3 million, are \$33.3 million greater than the book value of its assets, being \$7.0 million. Retained earnings total negative \$73.9 million.

VI. CREDITORS

Credit Facilities and Security

22. The Receiver understands the Company's secured debt facilities consist of loans made available by TD and BDC which as at December 31, 2022 the Company reports indebtedness, inclusive of accrued interest, owing to TD and BDC of \$19.75 million and \$16.81 million, respectively, for a total of \$36.56 million.
23. Pursuant to a credit agreement dated as of March 1, 2018 between TD, as lender, and the Company, as borrower, as amended by a first amending agreement dated as of June 30, 2018, a second amending agreement dated as of January 31, 2019, a third amending agreement dated as of November 5, 2019, a fourth amendment dated as of August 18, 2020, a fifth amending agreement dated as of December 24, 2021, a sixth amending agreement dated as of January 31, 2022, and a seventh amending agreement dated as of November 23, 2022 (collectively, the "TD Loan Agreement"), TD extended credit facilities in the aggregate amount of approximately USD \$14,758,491 as of January 25, 2023 including accrued interest and penalties (the "TD Facilities"). As at December 31, 2022, the Company reports owing approximately \$19.75 million to TD.
24. TD holds the following security in respect of the TD Credit Facilities (individually or collectively referred to as "Security"):
- a) A general security agreement from 106 Canada dated March 1, 2018;
 - b) A general security agreement from Kivuto dated March 1, 2018;

- c) An unlimited guarantee from Kivuto dated March 1, 2018;
 - d) A collateral assignment of acquisition agreement with 106 Canada dated March 1, 2018; and
 - e) An assignment of insurance agreement with Kivuto dated March 1, 2018.
25. Pursuant to the Security, the Company granted a security interest in all of its assets, properties and undertakings (the "Property") to TD.
26. Pursuant to a credit agreement dated as of February 9, 2018 between BDC, as lender, and the Company, as borrower, as amended by a first amending agreement dated as of August 17, 2020, a second amending agreement dated as of December 22, 2021, a third amending agreement dated as of March 3, 2022, and a fourth amending agreement dated as of November 29, 2022 (collectively, the "BDC Loan Agreement"), BDC extended credit facilities (the "BDC Facilities") to the Company. As at December 31, 2022, the Company reports owing approximately \$16.81 million on the BDC Credit Facilities.
27. The TD Loan Agreement and the BDC Loan Agreement provided for, among other things, loan repayment deferral accommodations, a cash flow variance covenant and a schedule of milestones to complete the SISF (as defined herein), including closing a transaction by January 31, 2023.
28. Pursuant to the TD Loan Agreement and defaults of the Company contained therein, on or around December 12, 2022, TD issued a notice of default and a notice of intention to enforce security pursuant to section 244 of the BIA, putting TD in a position to act should a transaction not materialize or be acceptable to TD.

Other Secured & Priority Creditors

29. The Receiver understands that the Company has certain liabilities as at December 31, 2022, which rank, or may rank, in whole or in part, in priority to the secured claims of TD (the "Priority Claims"), being:
- a) Employee compensation: Subject to Kivuto's employees entering into employment agreements with the Purchasers, with liabilities remaining owing to those employees entering into employment contracts with the Purchasers being Assumed Liabilities (as defined herein) pursuant to the Sale Agreement, the Company reports that employees were owed, as at December 31, 2022, approximately \$97,000 for wages, \$87,000 for vacation, \$90,000 for commissions and \$171,000 for discretionary bonuses. Notwithstanding the amounts reported as outstanding as at December 31, 2022, the Company has kept payroll current.
- Further, a contingent liability for employee and management retention plans were established during the SISF in the amounts of \$135,000 and \$250,000, respectively. As at December 31, 2022 the amounts potentially owing for employee and management retention plans was \$135,000 and \$151,250, respectively;

- b) Payroll deductions at source: Payroll source deduction filings are current and remitted with each bi-weekly payroll through a third-party payroll provider. As such no payroll deductions amounts are reported as outstanding;
 - c) Pensions: The Company supports a group registered retirement plan for the benefit of eligible employees, including pension contribution matching. The Company reports an outstanding employee pension plan liability of approximately \$1,800. The outstanding pension obligations of employees, if any, are not liabilities which will be assumed by the Purchasers.
 - d) Sales taxes: A significant portion of the Company's revenue pertains to international sales. As such, in addition to sales taxes collected from Canadian jurisdictions, the Company also collects sales taxes from sales in certain foreign jurisdictions. The Company reports GST payable of approximately \$2,200 plus combined sales taxes payable of approximately \$39,800 owing to the State of New York, the European Union, Australia and Singapore. Additionally, the Company, although not registered for sales taxes in certain United States jurisdictions, may be liable for sales taxes owing in such jurisdictions pursuant to legislation in the United States. The Company estimates the potential sales tax liability owing to these United States jurisdictions may total \$1.7 million. The Receiver is of the view that any amounts which may be owing for foreign sales taxes are unsecured claims in the Kivuto estate.
30. If appointed, the Receiver will comply with the provisions of the *Bankruptcy and Insolvency Act* and the *Wage Earner Protection Program Act* for any employees which do not enter into employment contracts with the Purchaser and for which employment liabilities are not assumed by the Purchasers.

Unsecured Creditors

31. The Receiver understands that the Company has unsecured trade payables and accrued liabilities owing of approximately \$1.28 million as well as deferred revenues of \$1.48 million as at December 31, 2022. The proposed Transaction contemplates the assumption of substantially all of these liabilities which remain outstanding on the date of Closing (as defined in the Sale Agreement) by the Purchasers.
32. Additionally, the Receiver understands that the Company has entered into a regional relief and recovery fund contribution agreement ("RRRF") dated November 13, 2020 with the Federal Economic Development Agency for Southern Ontario. As at December 31, 2022 the Company reports a fair value balance owing on the RRRF of \$0.34 million, however, the Company received \$0.5 million from the RRRF and no repayments have been made. The proposed Transaction does not contemplate the assumption of RRRF liability by the Purchasers.

VII. SALES PROCESS

SISP Overview & Results

33. In late May 2022, after consultation with TD, BDC and Kivuto's board of directors (the "Board" and collectively with TD and BDC, the "Stakeholders"), the Company sought proposals to conduct a sale and investment solicitation process ("SISP") to facilitate a sale and/or investment in Kivuto. The Company, with the assistance of BDO approached ten (10) parties to submit proposals to lead the sales process, of which six (6) parties submitted proposals, including: Origin, Tyton Partners, BDO Transaction Advisory Services, KPMG Corporate Finance, Welch Capital Partners and Gerbsman Partners. Three (3) United States based investment banking firms specializing in technology and already familiar with Kivuto, and one (1) Canadian based investment banking firm did not submit a proposal due to the level of financial distress faced by the Company and the expedited sales process requirement. Management and BDO conducted interviews with each of the six (6) parties which submitted proposals.
34. On June 20, 2022, after consultation with and approval from the Stakeholders, the Company engaged Origin to conduct the SISP to facilitate a sale and/or investment in Kivuto. BDO, as financial advisor to the Company was consulted by Origin and the Company with respect to the SISP. Further, BDO attended and participated in both weekly and ad hoc meetings with Origin and the Company since the commencement of the SISP, which meetings dealt with strategy, updates and next steps related to the SISP.
35. The SISP represents a fair and transparent process under which potential purchasers were marketed to and given an opportunity to acquire the Company. Origin's services included:
 - a) Reviewing possible strategic options with respect to a transaction and providing advice regarding the appropriate form and structure of a transaction to meet the Company's objectives;
 - b) Developing a marketing strategy and preparing marketing materials such as a teaser, confidential information memorandum ("CIM"), non-disclosure agreement ("NDA"), and electronic data room;
 - c) Identifying and approaching potential investors or acquirers;
 - d) Coordinating management presentations;
 - e) Coordinating due diligence;
 - f) Analyzing and negotiating offers; and
 - g) Advising and participating in communications and regular updates to key stakeholders.

36. The key dates pursuant to the SISP were originally set out as follows:

<u>Event</u>	<u>Date</u>
Sales Agent to create list of potential purchasers and distribute teaser letter and NDA	June 27, 2022
Sales Agent to prepare CIM and have available for potential purchasers	June 27, 2022
Sales Agent to prepare process letter and have available for potential purchasers	July 12, 2022
Phase I non-binding expression of interest bid deadline ("Phase I Bid Deadline")	On or about July 27, 2022
Phase II bid deadline ("Phase II Bid Deadline")	On or about August 25, 2022
Selection of winning bid and final agreement	On or about August 29, 2022
Application to the Court for approval order	As soon as reasonably practicable after the final agreement
Closing of the transaction	On or before October 14, 2022

37. Origin, with the assistance of Management, identified 140 potential buyers, of which 97 were strategic buyers and 43 were financial buyers (the "Prospective Purchasers"). The 140 Prospective Purchasers were contacted by Origin beginning June 27, 2022, and were solicited to sign a NDA. A total of 30 executed NDA's were received, 15 from strategic buyers and 15 from financial buyers ("Potential Bidders"), and each Potential Bidder was:

- a) Sent a CIM that provided an overview of the acquisition opportunity; and
- b) Provided access to a virtual data room, which went live on or around July 8, 2022, containing detailed financial and non-financial information relevant to the acquisition opportunity.

38. On or around July 12, 2022, Origin issued a SISP process letter (the "Process Letter") to Potential Bidders detailing the preferred structure of a transaction, being a sale of 100% of the Company on a net debt free basis for cash consideration, but alternative structures would be considered. The purpose of the Process Letter was to, among other things, assist with the solicitation of non-binding offers as well as inform prospective purchasers of the Phase I Bid Deadline and the Phase II Bid Deadline. A copy of the Process Letter is attached hereto as Appendix "B".

39. To be considered for inclusion of Phase II of the SISP, Potential Bidders were asked to submit a proposal reflecting the basis upon which they would enter into a transaction by the Phase I Bid Deadline (each a "Phase I Bid"). Upon receipt of a Phase I Bid, qualifying parties would be provided with detailed procedures for the submission of a definitive proposal by the Phase II Bid Deadline (each a "Phase II Bid").

40. The Receiver was advised by Origin that only two (2) Phase I Bids (the "Bidders") were received by the Phase I Bid Deadline (the "Phase I Bid Submissions"), each being for 100% of the Company's shares. Origin also advised, however, that several other parties were contemplating submitting a Phase I Bid and requested an extension from the Phase I Bid Deadline. Given the purchase price of the Phase I Bid Submissions were below expectations, parties were permitted to make late submissions, however, the process would not be delayed waiting for late submissions.
41. Two additional Phase I Bids (the "Late Bidders") were ultimately received after the Phase I Bid Deadline, one on September 27, 2022 and a second on October 11, 2022, which was subsequently revised on October 18, 2022 (the "Late Phase I Bid Submissions"). The Late Phase I Bid Submissions, however, were for only a portion of the Company's assets and offered significantly less value than the Phase I Bids Submissions.
42. After the receipt of the Phase I Bid Submissions, the Company, through Origin, continued to negotiate certain deal points with the respective Bidders, and as such receipt of Phase II Bids by the Phase II Bid Deadline, became increasingly challenging to meet. After consultation and approval from the Stakeholders the Phase II Bid Deadline was extended to allow additional time to receive Phase II Bids.
43. On or around October 5, 2022, one of the Bidders submitted a Phase II Bid. On or around October 12, 2022, the second of the two Bidders (the "Phase II Bidders") also submitted a Phase II Bid (the "Phase II Bid Submissions").
44. Shortly thereafter, on or around October 20, 2022, one of the Phase II Bidders elected to withdraw their Phase II Bid Submission and candidacy for the acquisition opportunity.
45. On or around October 24, 2022, the Company entered into a non-binding letter of intent with the sole remaining Phase II Bidder (the "Target Purchaser") to purchase 100% of the shares of the Company by way of a 'plan of arrangement' pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"), or any similarly appropriate statute, subject to, among other things, due diligence and set a target transaction closing date of December 23, 2022. Notwithstanding the non-binding letter of intent expressly discussed a share deal, it was also confirmed that the Target Purchaser would entertain an asset deal for reduced consideration. The Target Purchaser commenced financial and other due diligence on or around October 24, 2022.
46. On November 29, 2022, the Target Purchaser advised Origin that they were withdrawing from the SISF, for various reasons identified through their site visit and due diligence, and they no longer wished to pursue the acquisition opportunity. Additionally, Origin re-engaged in conversations with the Late Bidders, one of which expressed interest in revisiting their bid, however, the structure and value remained unsatisfactory.
47. There remained interest from the Late Bidders. Each of the Late Bid Submissions were, however, for either: (i) only certain of Kivuto's assets and not the entirety of the Company; and (ii) at a very low valuation relative to the Phase I Bid Submissions and the Phase II Bid Submissions.

48. The Company, with the assistance of its advisors BDO and Origin, and in consultation with TD and its advisors, began to examine alternative realization strategies, including a last effort to canvas the market anew for a buyer.
49. On or around December 5, 2022, the Purchasers expressed an interest in acquiring the Company after Origin and the Company expanded their outreach efforts. The Purchasers were not part of Origin's initial outreach which included 140 Prospective Purchasers. On or around December 19, 2022, the Company and the Purchasers entered into a non-binding letter of intent (the "LOI") contemplating the acquisition of all or substantially all of Kivuto's assets, which resulted in the negotiation of the Sale Agreement that is discussed further below. The LOI included a non-refundable deposit in order to provide the Purchasers with time for an expedited due diligence process.
50. The identities of Bidder A, Bidder B, Late Bidder 1 and Late Bidder 2 are set out in a confidential schedule (the "Confidential Schedule") to the Confidential Supplementary Report, separately filed, which is requested to be sealed until further order of the Court and not unsealed at the time of unsealing the Confidential Supplementary Report, as these bidders are not parties to this application and may have an expectation of confidentiality with respect to their offers.

Additional Potential Acquirers

51. In addition to the formal SISP, the Company has advised the Receiver that, prior to the engagement of Origin and commencement of the SISP, for years the Company was exploring opportunities to recapitalize the business. On or around December 6, 2019 the Company engaged a United States based investment banker (one of the three (3) specialized firms previously referenced), AQ Technology Partners ("AQ") for the purposes of completing a similar sale and investment solicitation process (the "AQ Process"). The Company terminated the agreement with AQ on or around June 10, 2022 as there were no material advancements or prospects of advancing the AQ Process, AQ was no longer interested in leading the AQ Process (or leading the SISP) given the degree of the Company's financial distress, and the Company had retained Origin to complete the SISP. Notwithstanding the termination, the agreement with AQ contained a provision that in the event of termination AQ shall continue to be entitled to the full amount of any success fee (as defined in the AQ agreement) if at any time prior to the expiry of twelve months after such termination, the Company consummates a transaction with a party who AQ or the Company contacted or had discussions about the Company during the term of the AQ agreement ("Covered Persons"). The Purchasers meet the definition of a Covered Person.
52. The Receiver is of the view that any amounts which may be owing to AQ is an unsecured claim in the Kivuto estate.

VIII. TRANSACTION

Proposed Offer

53. A copy of the redacted Sale Agreement is attached hereto as Appendix "C". A copy of the unredacted Sale Agreement is attached to the Confidential Supplementary Report. Capitalized terms in this section not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.
54. Pursuant to the Sale Agreement, the Purchasers has agreed to purchase for a cash purchase price minus the amount of any shortfall, if any, of a Closing Cash threshold (the "Purchase Price"), which Purchase Price is detailed in the Confidential Supplementary Report, all of the right, title and interest of the Company, if any, in and to all of the assets of the Company, except for Excluded Assets (defined below), which shall include but is not limited to:
- a) All cash and cash equivalents;
 - b) Accounts Receivable;
 - c) Intellectual Property;
 - d) Software;
 - e) Inventory;
 - f) Books and Records;
 - g) Tangible assets, including furniture, fixtures, or equipment, which are situated in Canada;
 - h) Goodwill and other intangible assets; and
 - i) Assumed Contracts as defined in the Purchase Agreement (collectively, the Purchased Assets").
55. The Purchased Assets, however, do not include the following:
- a) The minute books and corporate records of the Company, along with any books, files, documents, information, data and other records and embodiments thereof that are required by applicable law to be retained by the Company;
 - b) Contracts that are not Assumed Contracts;
 - c) Commercial leases, real property leases, or other similar agreements for the rental or lease of real property, including the Premises;
 - d) Tangible assets which are situated in the United States;
 - e) Bank accounts of the Company;
 - f) Shares of Kivuto;

- g) Shares of Kivuto's United States subsidiaries, if any, including Kivuto LLC; and
 - h) Income tax refunds and other tax refunds receivable by the Company and all tax returns of the Company (collectively, the "Excluded Assets").
56. The Purchase Price will be paid on Closing. On Closing, the Purchased Assets are to be conveyed to the Purchasers pursuant to an approval and vesting order ("AVO"), on an "as is, where is" basis, and subject to usual terms and conditions contained in such a transaction, and subject to the Court's approval. The Purchase Price is to be satisfied as follows:
- a) The Purchasers paid a non-refundable deposit (the "Non-Refundable Deposit") on or around December 20, 2022, which is being held in trust by Kivuto's legal counsel;
 - b) The Purchasers paid a refundable deposit (the "Refundable Deposit") equal to 10% of the Purchase Price, before any adjustment to the Closing Cash balance, on or around January 19, 2023, which is being held in trust by Kivuto's legal counsel; and
 - c) At the Time of Closing, the Purchasers shall pay the balance of the Purchase Price, being the amount of the Purchase Price less the Non-Refundable Deposit and less the Refundable Deposit.
57. The Purchasers will also be assuming certain liabilities (the "Assumed Liabilities"). The Assumed Liabilities include the following:
- a) Continuing employment will be offered to at least 65% of Kivuto's approximately 50 employees on substantially the same terms and conditions as they are currently employed, with any wages, vacation pay entitlement, commissions, bonuses, and tenure accrued and unpaid in the course of their employment with Kivuto recognized and assumed by the Purchasers; and
 - b) Obligations of Kivuto owing for amounts relating to the Assumed Contracts, which amounts comprise substantially all of the trade payables, accrued liabilities and deferred revenue of the Company as at the Closing Date.
58. The Sale Agreement contemplates a target closing date of 1-business day after the date the AVO is issued by the Court (the "Target Closing Date"). Parties shall use commercially reasonable efforts to affect the Closing on the Target Closing Date, however, if the Closing does not occur on the Target Closing Date, commercially reasonable efforts shall be made to close the Transaction by no later than 10-days after the Target Closing Date (the "Outside Date"). The Closing of the Transaction will take place virtually by exchange of documents electronically.
59. The Sale Agreement contemplates that a transition services agreement (the "TSA") will be entered into between the Purchasers and the Vendor (the Receiver) prior to the Closing Date to provide for an orderly transitioning of the Purchased Assets to the Purchasers following Closing, if requested by the Purchasers. Pursuant to the Sale

Agreement the TSA shall have a term of no more than 45-days from the Closing Date and shall contemplate the provision by the Receiver to the Purchasers of the transition services detailed below at the Receiver's current rates for such services to be paid by the Purchasers:

- a) Transition of accounts receivable and accounts payable of the Company to the Purchasers' bank accounts;
 - b) Transition of the Company's Worldline and PayPal accounts to the Purchasers;
 - c) Accounting services to facilitate the foregoing transition of accounts;
 - d) Relocation of Purchased Assets located at the Premises; and
 - e) Communication with internal and external Kivuto stakeholders.
60. The Sale Agreement provides for certain conditions precedent to Closing in favour of the Purchasers, including, among other things:
- a) The Appointment Order shall have been issued by the Court;
 - b) The AVO shall have been issued by the Court;
 - c) No Material Adverse Change has occurred; and
 - d) The Parties will have entered into a TSA, if requested by the Purchasers.
61. In light of the above, the Receiver's view is that the Sale Agreement and Transaction contemplated therein represent the highest and best possible outcome for the Company's stakeholders. The Receiver respectfully recommends the Court approve the Transaction and authorize and direct the Receiver to complete all matters needed to close the Transaction for the following reasons:
- a) Efforts to get the best price: The market was widely canvassed as a going concern sale over a period of approximately six (6) months, resulting in five total expressions of interest, of which only the LOI: (i) contemplated substantially all of the Company's assets; and (ii) represented the only offer to acquire the assets after the completion of due diligence;
 - b) Interest of the parties: TD is the first ranking secured creditor and supports the Transaction notwithstanding it will suffer a significant shortfall in the proposed Transaction. Further, the Sale Agreement contemplates: (i) at least 65% of Kivuto's employees being offered employment agreements with the Purchaser; and (ii) the Purchasers assuming the vast majority of the Company's contracts (including deferred revenue obligations) and associated trade vendor liabilities;
 - c) Efficacy and integrity of the process: The SISP, with the assistance of the Sales Agent, was commercially reasonable and conducted with integrity. All interested parties were given an opportunity to participate in the sales process. No objections or concerns regarding the sales process have been brought to the

Receiver's attention. Furthermore, the Sale Agreement was negotiated in good faith, and is the best and highest price under the circumstances;

- d) There was no unfairness: In the view of the Receiver, there has been no unfairness in the conduct of the SISP. No party has been prejudiced or excluded and the lack of any other binding offers received confirms the Receiver's conclusion that the proposed Transaction is the highest and best offer available for the Company and stakeholders of the Company;
- e) Viability as a going concern: The Company's liquidity position substantially eliminates an opportunity to further market the business for sale without putting the Transaction at risk and the Receiver understands that there is no additional funding available to support an extension of the SISP or completion of another sales process. Absent an immediate sale of Kivuto's assets, the Company's operations would be discontinued; and
- f) Liquidated recoveries: The Receiver has not completed a liquidation analysis of the Company given: (i) the book value of the Company's assets (\$7.0 million as at December 31, 2022, the majority of which is made of intangibles and goodwill); (ii) the limited valuations of the offers received during the SISP, which were for the Company's assets, including intangible assets and goodwill; (iii) the continued erosion of the Company's cash, notwithstanding the deferral of certain debt servicing obligations of the Company; and (iv) the nature of the Company's technology business requires ongoing operations to maximize value. As such the Receiver is of the view that TD would suffer a significantly larger shortfall on its advances to the Company should the Company's business and assets be liquidated and not sold as a going concern as proposed in the Transaction. TD is supportive of the Transaction.

IX. SECURITY OPINION

- 62. The Receiver has obtained an independent legal opinion on TD's Security from Loopstra (the "TD Security Opinion"). Loopstra has provided an opinion to the Receiver that the security interests of TD, on the assets of Kivuto, are valid and enforceable and have been properly perfected in Ontario, subject to standard assumptions, qualifications and limitations. A copy of the TD Security Opinion is attached hereto as Appendix "D".
- 63. It is the Receiver's understanding that BDC holds the subordinate security position, behind TD. In the circumstances and assuming the Transaction is approved by the Court, TD will suffer a significant shortfall and no funds will be available for distribution to BDC. Accordingly, the Receiver has not requested Loopstra to review the BDC security at this time.

X. RECOMMENDATIONS

- 64. Based on the foregoing, the Receiver respectfully recommends that the Court issue an order:

- (a) Approving the Sale Agreement and authorizing the Receiver to complete the Transaction contemplated therein, including the execution of necessary documents to complete same;
- (b) Upon completion of the proposed Transaction (as evidenced by the Receiver filing a certificate certifying same), vesting the Purchased Assets in the Purchasers; and
- (c) Sealing the Confidential Supplementary Report, including the confidential appendices attached thereto.

All of which is respectfully submitted on the 27th day of January, 2023.

BDO Canada Limited
as the Proposed Receiver of
Kivuto Solutions Inc.
and not in its personal or corporate capacity



Matthew Marchand, CPA, CMA, CIRP, LIT
Senior Vice President

TAB 2E

TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (together with the Schedules attached hereto, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof, the “**Agreement**”), is dated as of February 9, 2023, by and between BDO Canada Limited, solely in its capacity as court appointed receiver of all of the assets, undertakings and property of Kivuto Solutions Inc. (the “**Service Provider**”), and Valsoft Corporation Inc. and Aspire Ontario Inc. (together the “**Service Recipient**”). Service Provider and Service Recipient may each be referred to herein individually as a “**Party**” and together as the “**Parties**.” Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

WHEREAS, Service Recipient and Kivuto Solutions Inc. (the “**Debtor**”) have entered into an Asset Purchase Agreement, dated as of January 17, 2023 (the “**Purchase Agreement**”), pursuant to which the Service Recipient agreed to purchase the Purchased Assets and assume the Assumed Liabilities, subject to the Purchase Agreement being approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to an Approval and Vesting Order (the “**AVO**”);

WHEREAS, the transaction is to be implemented in connection with a receivership proceeding commenced by the Debtor’s senior secured lender, the Toronto-Dominion Bank (“**TD**”);

WHEREAS, on the 7th day of February, 2023, pursuant to an order of the Court under Court File No. CV-23-00693569-00CL, the Service Provider was appointed receiver and manager of the Debtor;

WHEREAS, pursuant to the AVO obtained on the 7th day of February, 2023 under Court File No. CV-23-00693569-00CL, the Court approved the Purchase Agreement;

WHEREAS, the Purchase Agreement contemplates that the Parties will co-operate fully and in good faith with each other and their respective legal advisors, accountants and other representatives in connection with any steps required to be taken as part of their respective obligations under the Purchase Agreement in the event the Purchase Agreement is approved by the Court;

WHEREAS, the Purchase Agreement further contemplates that that Parties shall enter into a Transition Services Agreement to provide for the orderly transition of the Purchased Assets to the Service Recipient at the request of the Service Recipient;

WHEREAS, Service Recipient desires to engage Service Provider to provide such transition services during the transition period on the terms and conditions hereinafter set forth;

WHEREAS, Service Recipient desire to receive certain services from Service Provider in support of the transition of the operation of the Business to the Service Recipient, in each case for the time periods and on the terms and conditions set forth herein; and

WHEREAS, the Service Provider agrees to provide such transition services during the transition period on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants, agreements, representations and warranties hereinafter set forth, and intending to be legally bound hereby, the Parties hereto hereby agree as follows.

1. **Services and Associated Fees.**

- a) Services. Following the Closing Date, Service Provider agrees to provide to Service Recipient the services set forth on Schedule I (the “**Services**,” and such Schedule, as amended, modified or supplemented from time to time in accordance with this Agreement, the “**Services Schedule**”).

- b) Services Standards. Service Provider shall perform the Services in all cases in a professional and workmanlike manner. Without limiting the foregoing, Service Provider will provide the Services (i) in accordance with Schedule I, and (ii) in accordance with applicable law. Unless it would result in an inconsequential change to the nature or quality of any Service, Service Provider shall not alter the nature or quality of any of the Services without Service Recipient's prior written consent, which consent shall not be unreasonably withheld. The foregoing standards shall be referred to herein and in the Schedules hereto as the "**Services Standards**."
- c) No warranty. Except as expressly set forth in Section 1b) and Section 6 herein, the Service Provider makes no representation, warranty or condition of any kind, implied or expressed, with respect to the Services, including without limitation, no conditions or warranties of merchantability or fitness for a particular purpose, which are specifically disclaimed.
- d) Additional Services. The Parties have each exercised their reasonable efforts to identify and describe the Services set forth on Schedule I. The Parties acknowledge that Service Recipient may require services and functions that are not identified on the Services Schedule but are ancillary or related to such services and functions and are necessary for the transition of the Business (the "**Additional Services**"). At any time prior to the expiration of this Agreement, Service Recipient may provide written notice to Service Provider requesting Additional Services, setting forth in reasonable detail a description of the requested Additional Service(s), its/their proposed start date(s) and proposed termination date(s). The Parties agree to cooperate and negotiate in good faith using commercially reasonable efforts in an attempt to come to an agreement regarding the provision of Additional Service(s) and the payment therefor on terms and conditions that are mutually acceptable to the Parties, which such amounts shall be charged to Service Recipient as outlined in Schedule II for such Additional Services, and such agreement shall be memorialized in amendments to the Service Schedule and Schedule II; provided that Service Provider shall not be required to provide any Additional Services which would cause, in the Services Provider's reasonable opinion, material disruption or inconvenience to the Service Provider's business in the ordinary course. Where such an agreement is reached, the Additional Service(s) shall in all respects be Services subject to the terms of this Agreement.
- e) Transitional Nature of Services. Service Recipient acknowledges the transitional nature of the Services. Accordingly, as promptly as practicable, the Service Recipient shall use commercially reasonable efforts to make a transition of each Service to its own internal organization or to obtain alternate third-party sources to provide the Services. Service Recipient shall also cooperate with Service Provider to allow Service Provider to effectively provide the Services, including providing copies of, or access to, all employee, financial, accounting and tax related documents and information requested by Service Provider to support filing requirements and statutory obligations of Service Provider (including, without limitation, WEPPA, HST filings/audit support, payroll audit, etc.).
- f) Service Fees. Service Recipient shall pay to Service Provider amounts owing in connection with the Services under the Agreement, which shall be calculated in accordance with the rates set forth on Schedule II ("**Service Fees**"). In addition to the Service Fees, Service Recipient shall pay to Service Provider all documented costs and expenses incurred in connection with the provision of the Services, including, without limitation, any costs and expenses described in the Services Schedule or Schedule II and any payments for Allowed Subcontracting (as hereinafter defined). Within ten (10) days following the end of the term or the termination of this Agreement in accordance with Section 5 below, Service Provider shall provide to Service Recipient an invoice setting forth the amounts due with respect to the Services. All undisputed amounts invoiced shall be paid by Service Recipient within thirty (30) days of receipt. Notwithstanding any other provision in this Agreement, Service Recipient shall have the right to deduct and withhold any taxes as required by applicable law from any payments to be made hereunder. For the purpose of securing its fees under this Agreement, the Service Provider shall be entitled to holdback \$25,000 from the Closing Cash otherwise payable to the Purchaser on Closing.
- g) Sales Taxes. All Service Fees are exclusive of any applicable sales, use, transfer, value-added, goods or services or harmonized sales taxes, multi-staged, provincial sales or retail sales tax or similar gross-

receipts based taxes (“**Sales Taxes**”). The Service Provider shall include any Sales Taxes that are applicable on the Service Fees as a separate line item on the invoices, and each such invoice shall include all other prescribed information required by the Service Recipient to support its claims for input tax credits. The Parties will cooperate with each other in determining the extent to which any Sales Taxes are due and owing under the circumstances.

- h) Replacement Services. Unless otherwise provided in Schedule I, in the event that Service Provider is not able to provide the Services to the applicable Services Standards, the Parties shall collaborate for the Service Recipient to obtain replacement services in a timely manner from a third party, the costs of which shall be borne by the Service Recipient.
- i) Service Failure. In the event that Service Provider becomes aware of any actual or reasonably anticipated failure in the provision of the Services which impacts the provision of any Service (an “**Incident**”), it shall notify Service Recipient as soon as reasonably practicable but in any event within three (3) calendar days of the Incident. Service Provider shall, as soon as reasonably practicable: (i) investigate the underlying cause(s) of the Incident and preserve any data indicating the cause of failure; (ii) take whatever action is commercially reasonable to minimize the impact of the failure and to prevent it from recurring; (iii) correct the failure and resume performance of the Services in accordance with this Agreement; and (iv) advise Service Recipient of the status of the Incident and the remedial efforts being undertaken with respect thereto. Without limiting any other term or condition of this Agreement, Service Provider shall cooperate in good faith to resolve such Incident and use commercially reasonable efforts to minimize the impact of such Incident on the Service Recipient.
- j) Subcontracting. Except for the Allowed Subcontracting (as defined herein), the Service Provider shall not enter into any agreement or contract with any third party to provide any Services hereunder pursuant to which the Service Recipient would remain obligated to such third party upon the termination of this Agreement without the Service Recipient’s prior written consent. “**Allowed Subcontracting**” means the engagement by the Service Provider of certain employees of Kivuto Solutions Inc. who are not Retained Employees (as defined in the Purchase Agreement) to provide some of the Services contemplated herein, whose cost will be reimbursed by the Service Recipient.

2. Confidential Information.

(a) Confidential Information. As it is used in this Agreement, the term “**Confidential Information**” shall mean, with respect to any Party, all information of such Party and its Affiliates (including information that might reasonably be considered confidential (including information that is subject to confidentiality obligations to third parties), secret, sensitive, proprietary or private (including information regarding any of the products of such Party or any of its Affiliates, information regarding such Party’s advertising, distribution, marketing or strategic plans or information regarding such Party’s costs, productivity or technological advances and the terms and conditions of this Agreement)), in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, books and records, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, memos, and other technical, financial, employee or business information or data. Notwithstanding the foregoing, the term “**Confidential Information**” shall not include, with respect to the information of any Party or its Affiliates, any information that: (i) is or becomes available to the general public, other than as a result of a disclosure by a member of the other Party or any of its Affiliates or any of its or their directors, officers, employees, agents, accountants, counsel or other advisors or representatives (collectively, “**Representatives**”) in violation of this Agreement; (ii) becomes available to the other Party or any of its Affiliates on a non-confidential basis from a third party; provided, that the source of such information was not bound by a confidentiality obligation with respect to such information or otherwise prohibited from transmitting such information by a contractual, fiduciary or other legal obligation or (iii) is independently developed by any Party, its Affiliates or its Representatives

without reference to any otherwise Confidential Information, as evidenced by such Party's written records.

(b) Nondisclosure Obligations. Except as otherwise permitted by this Article 2, each Party shall, and shall cause its Affiliates and its and their respective Representatives to, (i) hold in strict confidence, with at least the same degree of care it applies to its own most sensitive confidential information, all Confidential Information of the other Party and its Affiliates that was furnished to, or otherwise is or became known by, such Party or any of its Affiliates in connection with the provision or receipt of any of the Services, and (ii) take all such actions as shall be reasonably necessary or desirable in order to ensure that each such person maintains the confidentiality of any such Confidential Information. Where, in connection with this Agreement, Service Provider processes or stores information about a living individual that is held in automatically processable form (for example in a computerized database) or in a structured manual filing system ("**Personal Data**"), on behalf of Service Recipient, then Service Provider shall implement reasonable measures to protect such Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and shall use such data solely for purposes of carrying out its obligations under this Agreement. Each Party agrees, except in compliance with Section 2(c), to restrict the dissemination of Confidential Information of the other Party to those of its Affiliates and its and their respective Representatives who have an actual need to know such Confidential Information to provide or receive any of the Services or otherwise perform such Party's obligations, or exercise such Party's rights and remedies, under this Agreement, who are under obligations of confidentiality to such Party which are no less stringent than those contained herein and who are bound to comply with the use restrictions in accordance with this Agreement; provided, that each Party shall be responsible for any breach of this Article 2 by any of its Affiliates or any of its or its Affiliates' Representatives. Each Party further agrees that, except in compliance with Section 2(c) or in the context of the execution or the reception of the Services, it shall not, and shall cause its Affiliates and its and their respective Representatives not to, use or disclose to any Person, other than Service Provider or Service Recipient or their Affiliates and/or Representatives (to the extent disclosure is permitted hereunder), any Confidential Information of the other Party.

(c) Permitted Disclosure. In the event that a Party (i) is required to disclose any Confidential Information of the other Party or any of its Affiliates pursuant to applicable law, or (ii) receives any demand under lawful process or from any Governmental Authority to disclose or provide Confidential Information of the other Party or any of its Affiliates, such Party shall (A) give, to the extent reasonably possible, prompt written notice to the other Party prior to disclosing or providing such Confidential Information, (B) attempt, to the extent reasonably possible, to clear such disclosure with the other Party, and (C) cooperate, at the sole expense of the other Party, in seeking any reasonable protective arrangements requested by such other Party. Subject to the foregoing, the Party that is required to so disclose or receive such demand, as applicable, may thereafter only disclose or provide Confidential Information which is legally required to be disclosed or provided and shall exercise its commercially reasonable efforts to obtain protective treatment of such Confidential Information.

(d) Destruction of Confidential Information. Each Party shall, at the request of the other Party or upon termination or expiration of this Agreement, as soon as practicable and (with respect to destruction) except as required to be maintained to comply with provisions of the Purchase Agreement or applicable law, at such other Party's option (i) return to the other Party originals and all copies of all Confidential Information of such other Party or any of its Affiliates in a tangible form (and electronically), or (ii) destroy all originals and copies thereof and all notes, extracts or summaries based thereon. Each Party shall, at the other Party's request, confirm compliance with this Section 1 2(d)1(c) in a writing signed by one of such Party's authorized officers.

(e) Survival of Confidentiality and Nondisclosure Obligations. The confidentiality and nondisclosure obligations of this Article 2 shall survive the expiration or termination of this Agreement.

3. Ownership of Intellectual Property Rights.

Service Provider acknowledges and agrees that, except in relation to the Excluded Assets or as provided in the Purchase Agreement, Service Recipient shall own all right, title, and interest in and to all (i) Intellectual Property authored, conceived, developed, or reduced to practice by or on behalf of Service Provider (whether solely or jointly with others) in connection with this Agreement (including in connection with the provision or receipt of the Services) (“**Work Product**”), and (ii) data or information, including all Intellectual Property therein, that is collected, processed, generated, calculated, derived, stored by, or transmitted to, Service Provider, any of its Affiliates or any third parties providing Services pursuant to or in connection with this Agreement relating to the Business or the Service Recipient (“**Recipient Data**”). Service Provider (on behalf of itself and its Affiliates) hereby assigns to Service Recipient all right, title, and interest in and to all Work Product and Recipient Data, and hereby waives any and all moral rights that it may have in any Work Product or Recipient Data. Service Provider shall cooperate with and assist Service Recipient in applying for and executing any applications or assignments reasonably necessary to obtain, maintain, enforce, or protect any Work Product or Recipient Data, and shall execute such other documents as necessary or desirable to evidence Service Recipient’s ownership thereof.

4. Data Transmission.

On or prior to the last day of the term or the date on which this Agreement is terminated in accordance with Section 5 below, Service Provider shall cooperate, and shall cause any other Person working on its behalf, to cooperate, to support the transfer to Service Recipient (or its designee) of any Recipient Data within such time periods and in the format as the Parties may reasonably agree.

5. Term; Termination.

(f) Commencement of the Agreement. This Agreement is conditional upon the Court issuing an AVO approving the Purchase Agreement in substantially the same form as was included in Schedule “A” to the Purchase Agreement.

(g) Term of Services. The Services to be provided under this Agreement shall commence effective as of the Closing Date and shall continue for a duration of up to forty-five (45) days; provided, however, that any Service provided hereunder may be terminated in accordance with Section 5(i).

(h) Term of the Agreement. This Agreement shall remain in full force and effect until the earlier of (a) the expiration or termination of all of the Services provided hereunder, and (b) the termination of this Agreement in accordance with Section 5(i).

(i) Termination.

Service Recipient may terminate this Agreement or one or more of the Services, in whole or in part (A) upon at least ten (10) days’ advance written notice to the Service Provider, or (B) if Service Provider materially breaches any of its obligations under this Agreement and such material breach is not cured within ten (10) days after Service Provider’s receipt of written notice of such breach.

Service Provider may terminate this Agreement if Service Recipient materially breaches any of its obligations under this Agreement and such material breach is not cured within ten (10) days after Service Recipient’s receipt of written notice of such breach.

This Agreement or any Service may be terminated by the mutual written agreement of the Parties.

(j) A Party’s obligations to another Party under Section 1f), Article 2, Article 3, Article 6 and Article 8, and this Section 5(j) shall survive termination or expiration of this Agreement.

6. Indemnity; Limited Liability.

(k) Indemnity.

(i) Service Recipient hereby agrees to release, discharge, defend, indemnify and hold Service Provider and each of its officers, directors, employees, and agents (each a “**Service Provider Indemnified Party**”) harmless from and against any and all Losses incurred or suffered by any Service Provider Indemnified Parties which result (A) from the Services rendered by Service Provider to the Service Recipient in compliance with this Agreement, and (B) from Actions relating to the supply of the Business to customers after the date hereof pursuant to the Assigned Contracts.

(ii) The obligations of the Parties with respect to any Action shall be subject to the procedures set forth in the Purchase Agreement, *mutatis mutandis*.

(l) Action.

Notwithstanding anything to the contrary in this Agreement, Service Provider and Service Recipient hereby acknowledge and agree that any Action from any Party against another Party under this Agreement shall be subject and made in accordance with the terms and conditions of the Purchase Agreement. Without limiting the generality of the foregoing, no Action may be brought under this Agreement if an Action in respect of the subject matter thereof has been or may be made under the Purchase Agreement.

(m) Limitation on Liability.

IN NO EVENT SHALL SERVICE PROVIDER OR ITS AFFILIATES, OR SERVICE RECIPIENT OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, OR AGENTS BE LIABLE TO THE SERVICE RECIPIENT OR SERVICE PROVIDER, RESPECTIVELY, WITH RESPECT TO ANY ACTION RELATING TO THE SERVICES FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR ANY DAMAGES FOR BUSINESS INTERRUPTION, LOSS OF USE, DATA, REVENUE OR PROFIT, LOSS OF BUSINESS OPPORTUNITY, OR LOSS OF GOODWILL, REGARDLESS OF THE LEGAL BASIS OF LIABILITY OR LEGAL OR EQUITABLE PRINCIPLE INVOLVED (INCLUDING VIOLATION OF LAW, BREACH OF CONTRACT, BREACH OF EXPRESS OR IMPLIED WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR STATUTORY LIABILITY). FURTHER, IN NO EVENT SHALL SERVICE PROVIDER OR ITS AFFILIATES OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, OR AGENTS BE LIABLE TO THE SERVICE RECIPIENT UNDER THIS AGREEMENT FOR AN AMOUNT IN EXCESS OF THE SERVICE FEE PAID BY THE SERVICE RECIPIENT TO THE SERVICE PROVIDER UNDER THIS AGREEMENT.

7. Certain Representations.

Each Party represents and warrants that it is duly qualified or licensed to do business and is in good standing in each jurisdiction in which such qualification or licensing is necessary for the conduct of its business, except where the failure to be so qualified or licensed would not reasonably be expected to have a Material Adverse Effect on its ability to fulfill its obligations under this Agreement. Service Provider represents and warrants that it will perform the Services in compliance with all applicable laws. The Service Provider further represents that it is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).

8. Force Majeure.

No Party hereunder shall be liable to another for its failure to perform hereunder caused by contingencies beyond its reasonable control, including but not limited to, acts of god, fire, flood, wars, acts of terrorism,

sabotage, strike, government actions, pandemics and any other similar occurrence beyond the non-performing Party's reasonable control. Any Party asserting its inability to perform any obligation hereunder for any such contingency shall promptly notify the other Party of the existence of any such contingency, and shall diligently attempt to resolve such contingency and to re-commence its performance of such obligation as soon as commercially reasonable.

9. Miscellaneous.

(n) Successors and Assigns; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party shall assign any of their respective rights and obligations as set forth in this Agreement without the prior written consent of the other Party and any assignment in violation hereof shall be void and of no effect.

(o) Entire Agreement. This Agreement contains the entire agreement between the Parties hereto concerning the transactions contemplated hereby and supersedes all prior agreements or understandings between the Parties hereto relating to the subject matter hereof. No amendment, modification or waiver of this Agreement shall be binding unless executed in writing by the parties hereto.

(p) Independent Contractor Status. Service Provider will provide the Services as an independent contractor and shall have no authority to make binding contracts or commitments on behalf of Service Recipient in any way without the prior written approval of a duly authorized representative of Service Recipient. Service Provider shall be solely responsible for the salary and benefits for all of its employees providing the Services and the payment of taxes associated with the Services. Nothing in this Agreement shall create any employer-employee, agency, partnership, joint venture, fiduciary or other relationship between the Parties or between a Party and the employees of the other.

(q) Severability. It is the desire and intent of the Parties that the provisions of this Agreement be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, if any particular provision of this Agreement shall be adjudicated by a court of competent jurisdiction to be invalid, prohibited or unenforceable for any reason, such provision, as to such jurisdiction, shall be ineffective, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. If such provision could be more narrowly drawn so as not to be invalid, prohibited or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

(r) Amendment. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing signed by both Parties and otherwise as expressly set forth herein.

(s) No Third Party Beneficiaries. This Agreement is intended to benefit the Parties hereto, and except as specifically set forth herein, there shall be no third party beneficiaries of this Agreement including, but not limited to, employees, creditors, customers and suppliers of the Parties.

(t) Notices. Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by email or by hand delivery as hereinafter provided. Any such notice or other communication, if sent by electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent

authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this section. Notices and other communications shall be addressed as follows:

If to Service Provider:

Kivuto Solutions Inc.
c/o Mark McKenzie, Chief Executive Officer
495 Richmond Road, Suite 100
Ottawa, ON, K2A 4B2, Canada

Email: MMcKenzie@kivuto.com

and

BDO Canada Limited,
in its capacity as the Court-appointed Receiver of Kivuto Solutions Inc.
c/o Matthew Marchand
20 Wellington Street East, Suite 500
Toronto ON, M5E 1C5

Email: mmarchand@bdo.ca

With a copy to:

Fasken Martineau DuMoulin LLP
333, Bay Street, Suite 2400
Toronto (Ontario) M5H 2T6
Email: dchochla@fasken.com
Attention: Dylan A Chochla

And with a copy to:

Loopstra Nixon LLP
135 Queens Plate Drive, Suite 600
Toronto, ON M9W 6V7
Email: gphoenix@loonix.com
Attention: Graham Phoenix

If to Service Recipient:

Valsoft Corporation Inc.
7405, Route Transcanadienne, Suite 100
Montreal (Quebec) H4T 1Z2

Attention: David Felicissimo
E-mail: david.f@valsoftcorp.com

With a copy to:

Blake, Cassels & Graydon LLP
1, Place Ville Marie #3000
Montreal (Quebec) H3B 4N8
Attention: John Leopardi, Linc Rogers, Christopher Keliher
Email: john.leopardi@blakes.com
Email: linc.rogers@blakes.com
Email: christopher.keliher@blakes.com

(u) Governing Law. This Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably attorns and submits to the exclusive jurisdiction of the Ontario Superior Court of Justice (Commercial List) situated in the City of Toronto. The Parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

BDO CANADA LIMITED, solely in its capacity as court appointed receiver of all of the assets, undertakings and property of Kivuto Solutions Inc.

Per: DocuSigned by:
Matthew Marchand
7ADF9003B6764DF...
Name: Matthew Marchand
Title: Partner & Senior Vice President

VALSOFT CORPORATION INC.

By: _____
Name: David Felicissimo
Title: Authorized Signatory

ASPIRE ONTARIO INC.

By: _____
Name: Michael Assi
Title: Authorized Signatory

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Title: Partner & Senior Vice President

VALSOFT CORPORATION INC.

DocuSigned by:
By: David Felicissimo
Name: David Felicissimo
Title: Authorized Signatory

ASPIRE ONTARIO INC.

By: _____
Name: Michael Assi
Title: Authorized Signatory

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Per: _____
Name: Matthew Marchand
Title: Partner & Senior Vice President

VALSOFT CORPORATION INC.

By: _____
Name: David Felicissimo
Title: Authorized Signatory

ASPIRE ONTARIO INC.

DocuSigned by:
Michael Assi
By: _____
60A26C4F9D6D473...
Name: Michael Assi
Title: Authorized Signatory

SCHEDULE I**SERVICES**

Service Item	Description / Specific Service Standard	Term	Fee	Operational Point of Contact
Financial Support Services: Open Balances	The Service Provider shall provide support to the transfer of accounting related to the Business to Service Recipient, including providing purchased open balance details and related schedules (projects, detailed accounts receivable, detailed accounts payable, balance sheet account schedules); both in electronic copy and hard copy.	Maximum of forty-five (45) days	As set out in Schedule II	<u>Representatives of Service Provider:</u> Aditya Phadke <u>Representatives of Service Recipient:</u> Gianni Farruggia
Financial Support Services: Cash Accounting and Treasury	The Service Provider shall provide support to the transfer of (i) accounting to Service Recipient, including tracking any inflow/outflow of funds in relation to the Business from the Debtor's bank account and (ii) Debtor's Worldline and Paypal accounts.			
Financial Support Services: Cash Transfer	The Service Provider shall transfer all Post-Closing Cash to an account designated by the Service Recipient at intervals to be agreed upon by the Parties in writing.			
Financial Support Service: General Support	Miscellaneous ad hoc support for requests for other Financial Support Services (<i>i.e.</i> , Accounting, Invoicing, Accounts Receivables and Accounts Payable, Cash Accounting and Treasury, Taxes and Payroll).			
HR Support Services: Employee Information & Access to Information	Service Provider to (a) transfer to Service Recipient (or its designees) information and documentation (namely all employee and payroll files, including but not limited to record of employment and T4 slips for terminated employees), programs (such as Wage Earner Protection Program), policies and procedures relevant or related to all employees of the Business; and (b) provide support for migration, access and reporting.			

Service Item	Description / Specific Service Standard	Term	Fee	Operational Point of Contact
Sales Operations: CRM	Service Provider shall assist the Service Recipient by providing access to any CRM system held within the existing Business. To the extent necessary, and as requested by the Service Recipient, the Service Provider shall also provide assistance with the transfer of any information contained within a CRM system to the Service Recipient.			
Insurance	Service Provider shall provide assistance, as applicable, with respect to the transfer of any insurance policies concerning the business, to the extent such policies are assignable.			
Relocation	<p>Service Provider shall provide assistance to the Service Recipient for the relocation of tangible assets to the Service Recipient's (for avoidance of doubt, the Purchaser's) premises ("Relocation").</p> <p>Relocation and vacation of the Debtor's leased premises located at 495 Richmond Rd Suite 100, Ottawa, ON K2A 4B1 (the "Leased Premises") is to be completed on or before February 28, 2023.</p>			
Communication with internal and external stakeholders	Service Provider shall assist the Service Recipient in the development of communication strategy for employees, customers and vendors.			

Service Item	Description / Specific Service Standard	Term	Fee	Operational Point of Contact
Post-Closing Payments – Employee Wages	<p>Service Provider shall make payment on the Service Recipient's behalf for all payroll costs (wages, CPP, EI, taxes, etc.) owed to Retained Employees for the Post-Closing period ending on February 17, 2023 (and which is payable on February 24, 2023) (collectively, the "Retained Employee Payroll Obligations").</p> <p>For the sole purpose of making payment of the Retained Employee Payroll Obligations, the Service Provider shall hold back and use Closing Cash which would otherwise be payable to the Purchaser on Closing. The quantum of the hold back shall be agreed to by the Service Recipient.</p> <p>For greater certainty, any Closing Cash held back to pay the Retained Employee Payroll Obligations shall be added back to Closing Cash for the purpose of calculating any shortfall under Section 3.1 of the APA.</p> <p>To the extent that the amount of Closing Cash held back to satisfy the Retained Employee Payroll Obligations is less than the final amount of all Retained Employee Payroll Obligations, the Service Recipient shall pay the amount of such shortfall to the Service Provider, or as the Service Provider may otherwise direct. To the extent that the amount of Closing Cash held back to satisfy the Retained Employee Payroll Obligations exceeds the final amount of all Retained Employee Payroll Obligations, the Service Provider shall pay the amount of such excess to Service Recipient.</p>			

Service Item	Description / Specific Service Standard	Term	Fee	Operational Point of Contact
Post-Closing Payment – Employee Benefits	<p>Service Provider shall make payment on the Service Recipient's behalf to maintain, for the month of February, 2023, the pre-closing employee benefits plans operated by the Business for the Retained Employees (the "Employee Benefits Obligations").</p> <p>For the sole purpose of making payment of the Employee Benefits Obligations, the Service Provider shall hold back and use Closing Cash which would otherwise be payable to the Purchaser on Closing. The quantum of the hold back shall be agreed to by the Service Recipient.</p> <p>For greater certainty, any Closing Cash held back to pay the Employee Benefits Obligations shall be added back to Closing Cash for the purpose of calculating any shortfall under Section 3.1 of the APA.</p> <p>To the extent that the amount of Closing Cash held back to satisfy the Employee Benefits Obligations is less than the final amount of all Employee Benefits Obligations, the Service Recipient shall pay the amount of such shortfall to the Service Provider, or as the Service Provider may otherwise direct. To the extent that the amount of Closing Cash held back to satisfy the Employee Benefits Obligations exceeds the final amount of all Employee Benefits Obligations, the Service Provider shall pay the amount of such excess to Service Recipient.</p>			

SCHEDULE II

FEES

The fees payable in connection with this Agreement shall be completed by the Receiver at the Receiver's (or contractors of the Receiver's) current rates as described below:

Professional Title	Rate/Hr (\$)
Partner	595-635
Senior Manager / VP	475-525
Manager / AVP	375-450
Senior Analyst	300-350
Analyst	225-275
Administrative	175

Fees for Allowed Subcontracting will be determined based on term and task letters to be entered into between the Receiver and certain of the non-Retained Employees but shall not exceed the rates otherwise charged by the Receiver for the same Services.

Service Recipient shall reimburse Service Provider for all reasonable and approved costs and expenses associated with the Relocation and vacation of the leased premises incurred by Service Provider.

Without limiting the foregoing, the Service Recipient shall reimburse the Service Provider for (a) all utilities costs for the Leased Premises for the period from and after the Closing Date until completion of the Relocation, (b) all insurance premiums or other insurance costs relating to the Relocation or the Leased Premises paid by the Service Provider from the period from and after the Closing Date until completion of the Relocation and (c) if the Relocation is not completed on or before February 28, 2023, any occupation rent for the Leased Premises incurred by the Service Provider thereafter.

TAB 2F



January 24, 2023

VIA EMAIL (clonergan@bdo.ca / mmarchand@bdo.ca)

BDO CANADA LIMITED

20 Wellington St. East – Suite 500

Toronto, ON M5E 1C5

Attn: Clark Lonergan, Partner & SVP / Matthew Marchand, Partner & VP

Dear Sirs:

Re: Review of security held by The Toronto-Dominion Bank (“TD” or the “Lender”) as against Kivuto Solutions Inc. (“Amalco”; or, the “Debtor”)

At your request, we have reviewed the security granted by the Debtor to TD. We undertake the analysis herein with a view to forming an opinion as to the enforceability of the security as against the personal property of the Debtor situated in Ontario.

This report is provided solely for the benefit of BDO Canada Limited, in its capacity as Court-appointed receiver of the Debtor (the “**Receiver**”) and may not be used or relied upon by any other person or for any other purpose without our prior express written consent.

Amalgamation & Terminology

We understand that the Debtor is the successor by amalgamation of (a) 10600598 Canada Inc. (“**106Co**”) and (b) Kivuto Solutions Inc. (“**KSI**”). We have assumed for the purposes of our review that the Debtor is, in fact, the legal successor by amalgamation of each of 106Co and KSI. We have not undertaken any steps to independently verify the same.

We have received and reviewed the closing book in respect of the Loan Document and Security Documents (each as defined herein). In context of such closing, and in anticipation of the aforementioned amalgamation, we understand that each of the amalgamating entities executed certain loan and security documents, which the Debtor subsequently acknowledged and confirmed as binding and valid as against it, post-amalgamation, pursuant to an acknowledgement and confirmation agreement dated March 1, 2018 (the “**Acknowledgement & Confirmation Agreement**”), executed by the Debtor in favour of the Lender.

We have reviewed a copy of the Acknowledgement & Confirmation Agreement and have assumed the same to be a true and complete copy of the same. The Acknowledgement & Confirmation



Agreement appears to be executed on behalf of the Debtor by Carlos Jose Meza-Rios, in his capacity as CEO. We have assumed that the Acknowledgement & Confirmation Agreement has been executed by the appropriate person, within the scope of the authority of such person; and, that the Acknowledgement & Confirmation Agreement represents a valid and subsisting obligation of the Debtor to the Lender.

Accordingly, any reference to the “Debtor” hereinafter shall, unless otherwise stated, include (1) Amalco, (2) 106Co, and/or (3) KSI, as context requires.

Loan Document

The Credit Agreement

We have reviewed a copy of a credit agreement between the Lender and the Debtor dated March 1, 2018, and of seven amending agreements made between then and November 23, 2022 (as amended, the “**Credit Agreement**”).¹ We have assumed the same to be a true and complete copy of the Credit Agreement (including all amending agreements).

Pursuant to the Credit Agreement, the Lender established various credit facilities in favour of the Debtor, including but not limited to a term loan facility in the maximum amount of \$24,000,000 (CAD) (the “**Term Facility**”); and, a VISA credit facility in the maximum amount of \$22,500 (CAD).

The Term Facility was made available by way of single advance, and (through various amendments) matures on January 31, 2023 or upon demand. The Term Facility bears interest at a rate of 2.75% + the greater of:

- (i) the base rate determined by the Lender for loans made in U.S. Dollars in Canada to Canadian commercial customers; and
- (ii) the rate of interest determined by the Lender to be equal to the weighted average of the rates on overnight federal funds transactions with members of the US Federal Reserve System arranged by federal funds brokers plus 100 basis points.

The Credit Agreement provides that the VISA credit facility comprises part of the Debtor’s loan obligations for all purposes under the Credit Agreement and is secured on a *pari passu* basis with all other obligations thereunder.

The Credit Agreement was executed on behalf of the 106Co by Carlos Jose Meza-Rios, identified as Vice President. We have assumed that the Credit Agreement has been executed by the appropriate person, within the scope of the authority of such person. The Credit Agreement is

¹ *NOTE: The copy of the third amendment we have received and reviewed is not signed. However, we understand that such amendment was executed; and, regardless, the changes contemplated by the third amendment are further altered by subsequent amendments, which would render the changes in the third amendment moot. Accordingly, we have assumed that either (a) the third amendment has been executed and/or (b) whether or not that is the case, the terms third amendment are no longer operable and do not affect our review of the security discussed herein.*



confirmed by Amalco, pursuant to the Acknowledgement & Confirmation Agreement. We have assumed that value was advanced by the Lender to the Debtor thereunder; and, that the Credit Agreement represents a valid and subsisting obligation of the Debtor to the Lender.

The Credit Agreement will hereinafter be referred to as the “**Loan Document**”.

The Security Documents

106Co General Security Agreement

As security for its obligations to the Lender under the Loan Document, 106Co executed a general security agreement dated March 1, 2018 (the “**106-GSA**”). We have reviewed a copy of the 106-GSA, and have assumed the same to be a true and complete copy.

Pursuant to the 106-GSA, 106Co granted a security interest in favour of the Lender in all of its existing and after-acquired personal property; all of the present and future assets, property (both real and personal) and undertakings of the 106Co; and in all right, title and interest which 106Co now has or may later have in all of its assets, property and undertaking.

The 106-GSA appears to be executed on behalf of 106Co by Carlos Jose Meza-Rios, in his capacity as Vice President. We have assumed that the 106-GSA has been executed by the appropriate person, within the scope of the authority of such person. The 106-GSA is confirmed by the Amalco, pursuant to the Acknowledgement & Confirmation Agreement. We have assumed that adequate consideration has been exchanged between the Lender and the Debtor thereunder; and, that the 106-GSA represents a valid and subsisting obligation of the Debtor to the Lender.

KSI Guarantee

In connection with the Loan Document, KSI executed an unlimited guarantee dated March 1, 2018 (the “**KSI Guarantee**”) in favour of the Lender, pursuant to which KSI guaranteed all of the present and future indebtedness, liabilities and obligations of 106Co to the Lender under the Loan Document and any agreements ancillary thereto. The KSI Guarantee appears to be executed on behalf of KSI by Carlos Jose Meza-Rios, in his capacity as CEO. We have assumed that the KSI Guarantee has been executed by the appropriate persons, within the scope of the authority of such persons; that adequate consideration has been exchanged between the Lender and KSI connected thereto; and, that the KSI Guarantee represents valid and subsisting obligations of KSI to Lender.

KSI General Security Agreement

As security for its obligations to the Lender under the Loan Document, KSI executed a general security agreement dated March 1, 2018 (the “**KSI-GSA**”). We have reviewed a copy of the KSI-GSA, and have assumed the same to be a true and complete copy.

Pursuant to the KSI-GSA, KSI granted a security interest in favour of the Lender in all of its existing and after-acquired personal property; all of the present and future assets, property (both real and personal) and undertakings of the KSI; and in all right, title and interest which KSI now has or may later have in all of its assets, property and undertaking.

The KSI-GSA appears to be executed on behalf of KSI by Carlos Jose Meza-Rios, in his capacity as Vice President. We have assumed that the KSI-GSA has been executed by the appropriate person, within the scope of the authority of such person. As “Security” under the Loan Document, the KSI-GSA is confirmed by Amalco pursuant to the Acknowledgement & Confirmation Agreement. We have assumed that adequate consideration has been exchanged between the Lender and the Debtor thereunder; and, that the KSI-GSA represents a valid and subsisting obligation of the Debtor to the Lender.

Collateral Assignment of Acquisition Agreement²

As further security for its obligations to the Lender under the Loan Document, the Debtor executed a Collateral Assignment of Acquisition Agreement dated March 1, 2018 (the “**Acquisition Agreement**”). We have reviewed a copy of the Acquisition Agreement, and we have assumed the same to be a true and complete copy.

Pursuant to the Acquisition Agreement, in order to ensure the payment and performance of all the present and future indebtedness, liabilities and obligations of the Debtor under the Loan Document and any documents ancillary thereto, the Debtor grants a security interest in in favour of the Lender in all right, title, estate and interest in, to, under and in respect of:

- a) the share purchase agreement dated February 26, 2018, among Kivuto Solutions Inc, 10600598 Canada Inc and the vendors party thereto, (the “**SPA**”),
- b) all deeds, documents, writings, papers, books, books of account and other records relating to the SPA;
- c) all revenues and other moneys now due and payable or hereafter to become due and payable to the Debtor or in connection therewith by the other parties to the SPA or receivable by the Debtor pursuant to or in connection with the SPA; and,
- d) the benefit of any guarantees or indemnities relating to any of the foregoing.

The Acquisition Agreement appears to be executed on behalf of the 106Co by Carlos Jose Meza-Rios, in his capacity as Vice President. We have assumed that the Acquisition Agreement has been executed by the appropriate person, within the scope of the authority of such person. As “Security” under the Loan Document, the Acquisition Agreement is confirmed by Amalco pursuant to the Acknowledgement & Confirmation Agreement. We have assumed that adequate

² We are unsure if this agreement is relevant at this this time, given the nature of the subject of the assignment. However, the recent demand made by the Lender included such agreement as part the security referenced in the Lender’s Section 244 notice, delivered pursuant to the *Bankruptcy and Insolvency Act*. Accordingly, we have included the same as part of this review.

consideration has been exchanged between the Lender and the Debtor thereunder; and, that the Acquisition Agreement represents a valid and subsisting obligation of the Debtor to the Lender.

Assignment of Insurance

As security for its obligations to TD, the Debtor entered into an Assignment of Insurance Agreement dated March 1, 2018 (the “**Assignment of Insurance**”). We have reviewed a copy of the Assignment of Insurance and have assumed the same to be a true and complete copy.

Pursuant to the Assignment of Insurance, the Debtor transferred and assigned as security to the Lender the following policies:

No.	Insurer	Insurance Policy No.	Description
1.	Chubb Insurance Company	35946852	Commercial General Liability
2.	Chubb Insurance Company	79873141	Umbrella Liability
3.	Chubb Insurance Company	35946852	Commercial Property
4.	Chubb Insurance Company	35946852	Non-Owned Automobile
5.	Chubb Insurance Company	35946852	Integrity+ by Chubb for Technology (Claims Made)

The Assignment of Insurance appears to be executed on behalf of the KSI by Carlos Jose Meza-Rios, in his capacity as CEO. We have assumed that the same has been executed by the appropriate person, within the scope of the authority of such person. As “Security” under the Loan Document, the Assignment of Insurance is confirmed by Amalco pursuant to the Acknowledgement & Confirmation Agreement. We have assumed that adequate consideration has been exchanged between the Lender and the Debtor thereunder; and, that the Assignment of Insurance represents a valid and subsisting obligation of the Debtor to the Lender

The 106-GSA, the KSI-GSA, the Acquisition Agreement and the Assignment of Insurance are hereinafter, collectively, referred to as the “**Security Documents**”.

Security Searches

A. Personal Property Security Search

We have obtained and reviewed a search under the *Personal Property Security Act* (Ontario) (“**PPSA**”) in respect of the Debtor and all amalgamating entities, current to January 23, 2023.



The searches disclose that the Lender is one of two parties with registrations against the Debtor. The Lender's registrations are detailed as follows:

- a registration in favour of the Lender against the Debtor in respect of "inventory", "equipment", "accounts", "other" and "motor vehicle included", registered on February 13, 2018, under file no. 736444683 and registration no. 20180213 1132 1590 3243, expiring on February 13, 2024; and
- a registration in favour of the Lender against the Debtor in respect of "inventory", "equipment", "accounts", "other" and "motor vehicle included", registered on February 13, 2018 under file no. 736444692 and registration no. 20180213 1132 1590 3244, expiring on February 13, 2024;

The other party with PPSA registrations against the Debtor is BDC Capital Inc. ("**BDC**"). Those registrations are each registered subsequent to those in favour of the Lender, and are detailed as follows:

- a registration in favour of BDC against the Debtor in respect of "inventory", "equipment", "accounts", and "other", registered on February 22, 2018, under file no. 736640415 and registration no. 20180222 1030 1590 3793, expiring on February 22, 2027; and
- a registration in favour of BDC against the Debtor in respect of "inventory", "equipment", "accounts", and "other", registered on February 22, 2018, under file no. 736640487 and registration no. 20180222 1039 1590 3796, expiring on February 22, 2027.

Although we offer no opinion as to the priority of the security interests considered herein, we note that (a) the registrations in favour of BDC are dated after the registrations in favour of the Lender; and, (b) pursuant to a priorities and standstill agreement dated March 1, 2018, by and between the Lender, BDC and 106Co, BDC appears to have subordinated and postponed its security interests against 106Co to those interests of the Lender.

We have assumed that the information contained in the PPSA searches is correct, accurate and complete, and that monies or other consideration were advanced by the Lender to the Debtor, as applicable, such that the respective member of the Debtor acquired value from TD, such that the security interest granted and now held by the Lender under each of the aforementioned registrations attached and is perfected under prevailing laws, and continues to be so registered, attached and perfected as of the date hereof.

A copy of the PPSA search is attached hereto as Appendix "A".

B. Real Property Searches

We have not been asked to review or assess any security interest in respect of any real property. Accordingly, we have not conducted searches of any real property in Ontario or elsewhere. Should you require any such inquiry, we can conduct the same upon request.

C. Bank Act Search

We have obtained a search certificate issued by the Authorized Section 427 Bank Act Registrar in respect of the Debtor and all amalgamating entities, dated January 24, 2023, which indicates that no “Notice of Intention to Give Security” under section 427 of the *Bank Act* (Canada) has been filed in respect of the Debtor. A copy of the Bank Act Search is attached hereto as Appendix “B”.

Assumptions and Qualifications

Specific Assumptions

- Such specific assumptions as set out in the body of this review.

Specific Qualifications

- Such specific qualifications as set out in the body of this review.

General Assumptions and Qualifications

- In addition to such other assumptions and qualifications set out herein, our review is subject to the general assumptions and qualifications set out in Appendix “C” attached hereto.

Conclusion

Subject to the assumptions and qualifications above and otherwise herein, and those set out in the Appendix “C” hereto, it is our opinion that the security interests granted by the Debtor to the Lender under the Security Documents, as the concerns personal property of the Debtor situated in Ontario, are valid and enforceable as of the date hereof.

If you require any further assistance or have any questions in respect of the matters discussed herein, please do not hesitate to contact us.

Yours very truly,



LOOPSTRA NIXON LLP

E. & O. E.
Encl.



LOOPSTRA NIXON LLP
BARRISTERS AND SOLICITORS

APPENDIX "A"
PPSA SEARCHES
(see attached)

Enquiry Result

File Currency: 23JAN 2023







Show All Pages

Note: All pages have been returned.

Type of Search	Business Debtor						
Search Conducted On	KIVUTO SOLUTIONS INC.						
File Currency	23JAN 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	736444683	1	3	1	9	13FEB 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
736444683		001	1		20180213 1132 1590 3243	P PPSA	5

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	KIVUTO SOLUTIONS INC.			
	Address	City	Province	Postal Code
	126 YORK STREET, SUITE 200	OTTAWA	ON	K1N 5T5

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	Address	City	Province	Postal Code

Secured Party	Secured Party / Lien Claimant			
	THE TORONTO-DOMINION BANK			
	Address	City	Province	Postal Code
	1470 DON MILLS ROAD, 3RD FLOOR	TORONTO	ON	M3B 2X9

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent			
	FOGLER, RUBINOFF LLP (D. ROMPEN)			
	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								152
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444683	1	3	2					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230118 0951 1590 7266				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444683		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	AMENDMENT OF REFERENCE FILE NUMBER 736444683 TO CHANGE THE ADDRESS OF THE DEBTOR KIVUTO SOLUTIONS INC.								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	495 RICHMOND RD., SUITE 100				OTTAWA	ON	K2A 4B2		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 153	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								154
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444683	1	3	3					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	001		20230119 1452 1590 7631				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444683			B RENEWAL	1				
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 155	M5K 1G8

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC. 156								
File Currency	23JAN 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736444692	2	3	4	9	13FEB 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736444692		001	1		20180213 1132 1590 3244	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	10600598 CANADA INC.								
	Address				City	Province	Postal Code		
	199 BAY STREET, 5300 COMMERCE COURT WEST				TORONTO	ON	M5L 1B9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK								
	Address				City	Province	Postal Code		
	1470 DON MILLS ROAD, 3RD FLOOR				TORONTO	ON	M3B 2X9		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	FOGLER, RUBINOFF LLP (D. ROMPEN)								
	Address				City	Province	Postal Code		
	77 KING STREET WEST, SUITE 3000 PO BOX 9				TORONTO	ON	M5K 1G8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								157
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	2	3	5					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	2		20180313 1550 1590 5251				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	10600598 CANADA INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO CHANGE THE NAME OF THE DEBTOR TO KIVUTO SOLUTIONS INC. PURSUANT TO ARTICLES OF AMALGAMATION FILED ON MARCH 1, 2018 AND TO CHANGE THE ADDRESS OF THE DEBTOR TO 126 YORK STREET, SUITE 200, OTTAWA, ONTARIO								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	126 YORK STREET, SUITE 200				OTTAWA	ON	K1N 5T5		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (D. ROMPEN)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 158	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								159
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	2	3	6					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		002	2		20180313 1550 1590 5251				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692								
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
Other Change	Other Change								
Reason / Description	Reason / Description								
	K1N 5T5								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								

	Address	City	Province	Postal Code
			160	

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								161
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	2	3	7					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230119 1052 1590 7547				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	AMENDMENT OF REFERENCE FILE NUMBER 736444692 TO CHANGE THE ADDRESS OF THE DEBTOR KIVUTO SOLUTIONS INC.								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	495 RICHMOND RD., SUITE 100				OTTAWA	ON	K2A 4B2		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 162	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	KIVUTO SOLUTIONS INC.								163
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	2	3	8					9
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	001		20230119 1452 1590 7630				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692			B RENEWAL	1				
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 164	M5K 1G8

END OF FAMILY

Type of Search	Business Debtor							165	
Search Conducted On	KIVUTO SOLUTIONS INC.								
File Currency	23JAN 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736640415	3	3	9	9	22FEB 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736640415		001	1		20180222 1030 1590 3793	P PPSA	9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	126 YORK STREET, SUITE 200				OTTAWA	ON	K1N 5T5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	BDC CAPITAL INC.								
	Address				City	Province	Postal Code		
	SUITE 1100-50 O'CONNOR STREET				OTTAWA	ON	K1P 6L2		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	KELLY SANTINI LLP AG								
	Address				City	Province	Postal Code		
	160 ELGIN ST. SUITE 2401				OTTAWA	ON	K2P 2P7		

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Enquiry Result

File Currency: 23JAN 2023



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Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.								
File Currency	23JAN 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736444692	1	2	1	6	13FEB 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736444692		001	1		20180213 1132 1590 3244	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	10600598 CANADA INC.								
	Address				City	Province	Postal Code		
	199 BAY STREET, 5300 COMMERCE COURT WEST				TORONTO	ON	M5L 1B9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK								
	Address				City	Province	Postal Code		
	1470 DON MILLS ROAD, 3RD FLOOR				TORONTO	ON	M3B 2X9		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								

Registering Agent	Registering Agent			
	FOGLER, RUBINOFF LLP (D. ROMPEN)			
	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.								169
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	1	2	2					6
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	2		20180313 1550 1590 5251				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	10600598 CANADA INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO CHANGE THE NAME OF THE DEBTOR TO KIVUTO SOLUTIONS INC. PURSUANT TO ARTICLES OF AMALGAMATION FILED ON MARCH 1, 2018 AND TO CHANGE THE ADDRESS OF THE DEBTOR TO 126 YORK STREET, SUITE 200, OTTAWA, ONTARIO								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	126 YORK STREET, SUITE 200				OTTAWA	ON	K1N 5T5		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (D. ROMPEN)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 170	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.								171
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	1	2	3					6
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		002	2		20180313 1550 1590 5251				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692								
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
Other Change	Other Change								
Reason / Description	Reason / Description								
	K1N 5T5								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								

	Address	City	Province	Postal Code
			172	

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.								173
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	1	2	4					6
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230119 1052 1590 7547				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692		X	A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	AMENDMENT OF REFERENCE FILE NUMBER 736444692 TO CHANGE THE ADDRESS OF THE DEBTOR KIVUTO SOLUTIONS INC.								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	KIVUTO SOLUTIONS INC.								
	Address				City	Province	Postal Code		
	495 RICHMOND RD., SUITE 100				OTTAWA	ON	K2A 4B2		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 174	M5K 1G8

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.								175
File Currency	23JAN 2023								
	File Number	Family	of Families	Page					of Pages
	736444692	1	2	5					6
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	001		20230119 1452 1590 7630				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736444692			B RENEWAL	1				
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	KIVUTO SOLUTIONS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FOGLER, RUBINOFF LLP (THILL)								

	Address	City	Province	Postal Code
	77 KING STREET WEST, SUITE 3000 PO BOX 9	TORONTO	ON 176	M5K 1G8

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	10600598 CANADA INC.						177		
File Currency	23JAN 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736640487	2	2	6	6	22FEB 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736640487		001	1		20180222 1039 1590 3796	P PPSA	9		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	10600598 CANADA INC.								
	Address				City	Province	Postal Code		
	126 YORK STREET, SUITE 200				OTTAWA	ON	K1N 5T5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	BDC CAPITAL INC.								
	Address				City	Province	Postal Code		
	SUITE 1100-50 O'CONNOR STREET				OTTAWA	ON	K1P 6L2		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	KELLY SANTINI LLP AG								
	Address				City	Province	Postal Code		
	160 ELGIN ST. SUITE 2401				OTTAWA	ON	K2P 2P7		

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LOOPSTRA NIXON LLP
BARRISTERS AND SOLICITORS

APPENDIX "B"
BANK ACT SEARCHES
(see attached)

Confirmation Letter / Lettre de confirmation**Teranet Collateral Management Solutions Corporation / Teranet Solutions de gestion des garanties**

Suite 200, 4126 Norland Avenue, Burnaby, BC V5G 3S8

Authorized Section 427 Bank Act Registrar / Bureau d'enregistrement autorisé conformément à l'article 427 de la *Loi sur les banques*.

2023/01/24 10:32:53 AM PST

Dye & Durham Corporation
4610-199 Bay Street
Toronto, Ontario
M5L 1E9

Ref / Objet: 05404637

Tel/Tél: 1-416-964-2677
Fax/Télécopie: 1-416-923-1077
e-Mail/Courriel:

Acct#: 7129

Dear Sir / Madam

Monsieur / Madame

Re: **Bank Act Security - Section 427**Objet: **Garanties données en vertu de la *Loi sur les banques* - article 427**

We have processed your request(s) and hereby confirm the following results: (*see below).

Nous avons donné suite à votre (vos) demande(s) et nous vous faisons part des résultats suivants: (* voir ci-dessous).

REFERENCE

(2) A search has been made of the [notices of intention to give security](#) under the Bank Act registered in the province of [Ontario](#). As at the date and time above, our records indicate the following.

REFERENCE

(2) Nous avons examiné [les préavis](#) qui se rapportent aux garanties données en vertu de la *Loi sur les banques* et qui sont enregistrés pour la province de: [Ontario](#). À la date et à l'heure indiquées ci-dessus.

Your search for the company[KIVUTO SOLUTIONS INC.](#)

returns the following results:

Votre recherche pour la société[KIVUTO SOLUTIONS INC.](#)

révèle les résultats suivants:

Type	Registration Name Enregistrement au nom de	Address Adresse	Date	Number Numéro	Bank Banque
(2)	No matches were found / Aucune donnée correspondante au registre				



For Registrar / Pour le Régistrare

We acknowledge receipt of fees as follows:

Nous accusons réception des droits prescrits dont les montants s'établissent comme suit:

Type	Fee Tarif	GST/HST TPS/TVH	Qty Qté	TOTAL	Receipt No. Numéro du reçu
(2)	\$14.00	\$0.78	1	\$14.78	05404637 - R-R-SN-W
				\$14.78	

GST-HST / TPS-TVH #: **713 901 494 RT0001**

Confirmation Letter / Lettre de confirmation**Teranet Collateral Management Solutions Corporation / Teranet Solutions de gestion des garanties**

Suite 200, 4126 Norland Avenue, Burnaby, BC V5G 3S8

Authorized Section 427 Bank Act Registrar / Bureau d'enregistrement autorisé conformément à l'article 427 de la *Loi sur les banques*.

2023/01/24 10:45:22 AM PST

Dye & Durham Corporation
4610-199 Bay Street
Toronto, Ontario
M5L 1E9

Ref / Objet: 05404655

Tel/Tél: 1-416-964-2677
Fax/Télécopie: 1-416-923-1077
e-Mail/Courriel:

Acct#: 7129

Dear Sir / Madam

Monsieur / Madame

Re: **Bank Act Security - Section 427**Objet: **Garanties données en vertu de la *Loi sur les banques* - article 427**

We have processed your request(s) and hereby confirm the following results: (*see below).

Nous avons donné suite à votre (vos) demande(s) et nous vous faisons part des résultats suivants: (* voir ci-dessous).

REFERENCE(2) A search has been made of the [notices of intention to give security](#) under the Bank Act registered in the province of [Ontario](#). As at the date and time above, our records indicate the following.**REFERENCE**(2) Nous avons examiné [les préavis](#) qui se rapportent aux garanties données en vertu de la *Loi sur les banques* et qui sont enregistrés pour la province de: [Ontario](#). À la date et à l'heure indiquées ci-dessus.**Your search for the company**[10600598 CANADA INC.](#)**returns the following results:****Votre recherche pour la société**[10600598 CANADA INC.](#)**révèle les résultats suivants:**

Type	Registration Name Enregistrement au nom de	Address Adresse	Date	Number Numéro	Bank Banque
(2)	No matches were found / Aucune donnée correspondante au registre				



For Registrar / Pour le Régistrare

We acknowledge receipt of fees as follows:

Nous accusons réception des droits prescrits dont les montants s'établissent comme suit:

Type	Fee Tarif	GST/HST TPS/TVH	Qty Qté	TOTAL	Receipt No. Numéro du reçu
(2)	\$14.00	\$0.78	1	\$14.78	05404655 - R-R-SN-W
				\$14.78	

GST-HST / TPS-TVH #: **713 901 494 RT0001**

APPENDIX “C”

GENERAL ASSUMPTIONS AND QUALIFICATIONS

Assumptions

For the purposes of the views expressed in the security review to which these general assumptions and qualifications are appended, we have made the following assumptions:

- (a) all signatures, including, without limitation, any electronic or digital signatures, are genuine, all documents submitted to us as originals are authentic, and all documents submitted to us as copies conform to authentic original documents;
- (b) that each of the documents provided to us was executed on the day appearing on each document as the date of the document or the date of execution;
- (c) the full legal capacity of those individuals signing any documents at all relevant times;
- (d) the documents and any amendments thereto that we have reviewed have not been otherwise amended or supplemented since execution;
- (e) other than as disclosed and discussed, no further registrations by the Lender were required to maintain perfected security interests under governing laws;
- (f) that the security interests granted by the Security Documents have attached;
- (g) the conduct of the parties to the documents has complied with any requirement of good faith, fair dealing and conscionability;
- (h) there are no agreements or understandings between any parties, written or oral, and there is no usage of trade or course of prior dealing between any parties that would, in either case, define, supplement or qualify the terms of the documents;
- (i) the accuracy and completeness of the records maintained by any office of public record;
- (j) that the funds purported to be advanced by pursuant to the Loan Document and secured by the Security Documents have actually been advanced to the appropriate parties following or, as the case may be, in advance of the execution of the Loan Document, and remain outstanding; and
- (k) there are no facts that would disentitle the Lender from relying on the “Indoor Management Rule” (if necessary and available under governing laws).

Qualifications

The views expressed in the security review to which these general assumptions and qualifications are appended are subject to the following qualifications:

- (a) the enforceability of the Loan Document and the Security Documents may be limited by general principles of equity, and no opinion is given as to any specific remedy that may be granted, imposed or rendered (including equitable remedies such as specific performance and injunction);
- (b) no opinion is expressed as to title or the beneficial interest of any person in any property;
- (c) no opinion, other than expressly stated, is expressed regarding any security interests or registered or unregistered third-party claims which may rank in priority to the Lender's security interests;
- (d) no opinion, other than expressly stated, is expressed regarding the priority of the security interests discussed herein or their relative priority as between the Lender and any other creditor of the Company; and
- (e) the enforcement of the Letter Agreement and Leases, as amended from time to time, the Security Documents and Mortgages and any other documents held by the Lender or any judgment arising out of or in connection therewith may be limited by bankruptcy, insolvency, winding-up, reorganization, limitation of action, moratorium, fraudulent conveyance, assignments and preferences, or other laws affecting creditors' rights generally.

TAB 2G

Court File No. CV-23-00693569-00CL

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

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT,
R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O.
1990, C.43, AS AMENDED**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

**AFFIDAVIT OF MATTHEW MARCHAND
(Sworn April 6, 2023)**

I, **MATTHEW MARCHAND**, of the City of Toronto, in the Province of Ontario,
MAKE OATH AND SAY that:

1. I am a Partner and Senior Vice President of BDO Canada Limited (“BDO”), the court appointed receiver and manager (the “Receiver”) of Kivuto Solutions Inc. (“Kivuto”) and as such have knowledge of the matters referred to herein.
2. By Order of the Honourable Justice McEwen, dated February 7, 2023 (the “Order”), BDO was appointed as Receiver of all of the assets, undertaking and properties of Kivuto.

- 2 -

3. Pursuant to the Order, the Receiver has provided services and incurred disbursements which are particularly described in the detailed accounts attached hereto and marked as **Exhibit "A"**, **Exhibit "B"** and **Exhibit "C"**, which are true copies of the accounts rendered for the below noted period by BDO in its capacity as Receiver.
4. The Receiver requests that the Court approve its fees in the amount of \$198,589.00 and disbursements in the amount of \$2,794.01 plus sales taxes of \$26,179.79 for a total of \$227,562.80 for the period from January 12, 2023 to March 31, 2023, for the services set out in **Exhibit "A"**, **Exhibit "B"** and **Exhibit "C"**.
5. The Receiver also requests that the Court approve future professional fees estimated at up to \$25,000 plus HST of \$3,250 for a total of \$28,250, which may be incurred by the Receiver to complete its mandate and obtain a discharge.
6. I consider the amounts disclosed for BDO's fees and expenses to be fair and reasonable.
7. This affidavit is sworn in support of the Receiver's motion for, among other things, approval of its fees and disbursements and those of its legal representatives and for no other or improper purpose.

SWORN before me at the City of)
 Toronto, in the Province)
 of Ontario this 6th day)
 of April 2023)



Matthew Marchand, CPA, CMA, CIRP, LIT



 Commissioner for taking affidavits, etc.

Antonio Montesano, a Commissioner, etc.,
 Province of Ontario, for BDO Canada LLP
 and BDO Canada Limited, and
 their subsidiaries, associates and affiliates
 Expires December 21, 2023

This is Exhibit "A" Referred to in the affidavit of

Matthew Marchand

Sworn before me this 6th day of April 2023



A COMMISSIONER FOR TAKING AFFIDAVITS

Antonio Montesano, a Commissioner, etc.,
Province of Ontario, for BDO Canada LLP
and BDO Canada Limited, and
their subsidiaries, associates and affiliates
Expires December 21, 2023



Tel: 416 865 0210
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INVOICE

Strictly Private & Confidential

Kivuto Solutions Inc.
495 Richmond Road
Suite 100
Ottawa, ON K2A 4B1

Attention: Sarah Foottit, CFO

Date
April 4, 2023

Invoice No.
CINV2236048

Re **Kivuto Solutions Inc. ("Kivuto" or the "Company")**

FOR PROFESSIONAL SERVICES RENDERED in connection with our Engagement as Receiver for the above noted company for the period from January 12, 2023 to March 31, 2023 as per the details below:

For Professional Services	\$ 178,080.00
Disbursements Mileage, Travel, Meals	<u>2,794.01</u>
Subtotal	180,874.01
HST - 13.0% (#R101518124)	<u>23,513.62</u>
Total	<u><u>\$ 204,387.63</u></u>

<i>Summary of Time Charges:</i>	Hours	Rate	Amount
C. Lonergan, Partner	29.6	635.00	18,796.00
M. Marchand, Partner	125.7	595.00	74,791.50
N. Sagolili, Sr. Manager	118.6	475.00	56,335.00
E. Klein, Manager	17.8	425.00	7,565.00
A. Phadke, Sr. Analyst	47.3	325.00	15,372.50
T. Montesano, Administrator	11.9	200.00	2,380.00
J. Hue, Administrator	7.5	200.00	1,500.00
Administrative Support	13.4	100.00	1,340.00
	<u>371.8</u>		<u><u>\$ 178,080.00</u></u>

Staff	Date	Comment	Hours
Marchand, M	12-Jan-23	Phone call with T. Duncan re court materials and related matters; draft proposed receiver's report; review email from C. Keliher re approval and vesting order; teleconference with Fasken, Fogler and Blakes re sale agreement and related matters.	2.6
Marchand, M	13-Jan-23	Draft proposed receiver's report; correspondence with S. Foottit re December financials and insurance.	1.2
Marchand, M	14-Jan-23	Email correspondence with T. Duncan re court materials; draft email to management re stakeholder contacts.	0.2
Marchand, M	15-Jan-23	Correspondence with management re stakeholder contacts; correspondence with S. Foottit re information requests; draft proposed receiver's report; prepare operations transitioning considerations.	2.4
Marchand, M	16-Jan-23	Email to G. Phoenix re conflicts, situation and security opinion; email correspondence with T. Duncan re security opinion information; draft proposed receiver's report; receive phone call from H. Codrington re sale agreement; correspondence with A. Phadke re investor listing for service; email correspondence with T. Duncan re same; email correspondence with T. Duncan re court report and related matters.	4.9
Marchand, M	17-Jan-23	Draft proposed receiver's report; email correspondence with S. Foottit re creditor listing and accrued liabilities; email correspondence with Origin re sales process statistics; review PPSA; review email from G. D'Addese re security documents; correspondence with C. Lonergan re court report.	3.9
Marchand, M	18-Jan-23	Draft court report; draft confidential supplementary report; phone calls with T. Duncan re court materials and related matters; email correspondence with G. Phoenix re security opinion and related matters; correspondence with C. Lonergan re court report; email correspondence with T. Duncan re court report and court materials; correspondence with J. Hue re receiver's website; email correspondence with S. Foottit re vendor listing; correspondence with T. Duncan re service list; correspondence with J. Meloche re affidavit and supporting materials.	6.4
Lonergan, C	18-Jan-23	Update with BDO team and Counsels re: SISP and Sales Agent affidavit requirements, sales process review and discussion with BDO team, re: the same, etc.	0.8
Marchand, M	19-Jan-23	Draft email to G. Phoenix re court date; draft confidential supplementary court report; draft court report; correspondence with J. Hue re receiver's website; draft email to T. Duncan re same;	2.3
Marchand, M	20-Jan-23	Draft email to G. Phoenix re court date; draft confidential supplementary report.	0.9
Lonergan, C	21-Jan-23	Review of Proposed Receiver's Report, etc.	2.1
Lonergan, C	22-Jan-23	Review of Proposed Receiver's Report, etc.	2.8

Staff	Date	Comment	Hours
Marchand, M	22-Jan-23	Email correspondence with T. Duncan re court materials and related matters.	0.3
Lonergan, C	23-Jan-23	Follow up with BDO team re: Proposed Receiver's Report.	0.6
Marchand, M	23-Jan-23	Email correspondence with M. McKenzie and C. Virtue re service list contact particulars; email correspondence with T. Duncan re matters related to court materials; review email and attachment from C. Lonergan re court report; revise court report; email correspondence with C. Virtue re information requests; email correspondence with G. Phoenix re security opinion and court materials.	3.8
Marchand, M	24-Jan-23	Phone call with T. Duncan re conflicts with landlord, court materials and service list; correspondence with C. Virtue re information requests; revise court report; draft email to T. Duncan re court report; revise confidential supplementary report; review comments from Origin re sales process; review email and attachment from T. Duncan re court report; email correspondence with T. Duncan re service list and court materials.	3.7
Phadke, A	24-Jan-23	Prepare corporate structure appendix to be attached to proposed receiver report.	0.6
Lonergan, C	25-Jan-23	Review of Confidential Supplement Report, review of various Court Orders and motion materials, and discussion with BDO team re: the same, etc.	1.4
Marchand, M	25-Jan-23	Email correspondence with C. Virtue and T. Duncan re service list details; review email and attachment from J.Meloche re sales process; revise court report; phone call with A. Jamnisek re court materials and related matters; review email and attachment from S. Hamraz re security opinion; review email and attachment from T. Duncan re receiver's confidential report; review email and attachment from C. Lonergan re same; revise receiver's confidential report; review email and attachment from T. Duncan re draft orders; correspondence with C. Lonergan re court materials; review updated PPSA results; provide direction to A. Phadke re report appendices; provide direction to E. Klein re report appendices; review email and attachment from T. Duncan re notice of motion; review email and attachments from T. Duncan re revised orders; review email from counsels re notice of motion and orders; draft email to Origin re sales process; draft email to T. Duncan re revised report.	5.4
Klein, E	26-Jan-23	Reviewing Proposed Receiver's Report and APA; redacting APA for confidential information; reviewing emails from Company.	1.8
Lonergan, C	26-Jan-23	Reviewing Proposed Receivers Report and Confidential Summary Report, discussion with BDO team re: the same, review of motion materials and affidavit, etc.	0.8

Staff	Date	Comment	Hours
Marchand, M	26-Jan-23	Review email and attachment from T. Duncan re affidavit; draft email to T. Duncan re same; review emails from T. Duncan re receiver's reports; sign consent to act; draft email to T. Duncan re same; email correspondence with D. Chochla re charges; email correspondence with T. Duncan re same; phone call with T. Duncan re court report and court materials; phone and email correspondence with S. Quennnell re sales process; review email from T. Duncan re service list; revise receiver's reports; assemble court report appendices; draft email to C. Lonergan re court reports for review.	4.3
Lonergan, C	27-Jan-23	Review of final reports of the Proposed Receiver, discussion with Counsels re: motion materials, update call with Company and Counsels re: service list and update correspondence re: the same, etc.	1.9
Phadke, A	27-Jan-23	Download application record and court materials and save to estate records.	0.2
Marchand, M	27-Jan-23	Review emails from C. Keliher re applicant affidavit and receiver's report; review email from T. Duncan re same; phone call with T. Duncan re same; correspondence with C. Lonergan re updates; email correspondence with T. Duncan re court report; matters related to stakeholder communications re notice of application sent to service list.	2.1
Marchand, M	30-Jan-23	Email correspondence with parties from service list; matters related to receivership planning; correspondence with A. Phadke and N. Sagolili re receivership planning.	0.7
Lonergan, C	30-Jan-23	Call with Company and BDO team re: employee and other transition items and next steps, call with potential purchaser and Company re: employee communication.	1.3
Marchand, M	30-Jan-23	Correspondence with C. Lonergan re transition services agreement.	0.5
Phadke, A	31-Jan-23	Discussion with M. Marchand re termination letters, WEPPA schedules, cash management and other receivership planning items. Review receivership checklist.	0.4
Marchand, M	31-Jan-23	Email to S. Footit re receivership banking controls and process; correspondence with A. Phadke and N. Sagolili re receivership planning; review email and attachments from H. Codrington re closing documents; draft email to H. Codrington re same; review email and attachment from J. Yu re closing agenda.	0.8
Sagolili, N	31-Jan-23	Review of insurance policies. E-mail to S. Footit re: insurance. Prepare receivership planning checklist.	3.0
Lonergan, C	31-Jan-23	Review of TSA and discussion with BDO team re same.	0.6
Marchand, M	31-Jan-23	Correspondence with C. Lonergan re transition services agreement.	0.4
Phadke, A	1-Feb-23	Teleconference with BDO team and Company management re banking items.	0.5

Staff	Date	Comment	Hours
Loneragan, C	1-Feb-23	Review of Court materials, update Day 1 planning discussion with BDO team, etc.	0.7
Sagolili, N	1-Feb-23	Receipt and review of e-mails. Various updates to receivership planning checklist, and review with M. Marchand. Attend call with S. Foottit and C. Virtue re: banking matters. E-mails to/from S. Foottit and C. Virtue re: insurance and banking matters. Attend re: insurance matters. Compile list of follow-up questions for Management and TD Bank.	3.9
Marchand, M	1-Feb-23	Email correspondence with S. Foottit re receivership support; review email and attachment from D. Chochla re transition services agreement; review email and attachment from H. Codrington re same; review email and attachment from C. Lonergan re same; draft email to legal counsels re same; review email and attachment from H. Codrington re certificate of vendor; correspondence with C. Lonergan re updates; correspondence with A. Phadke re travel and accommodations coordination; email correspondence with H. Codrington re closing documents; review email from C. Keliher re wire instructions; phone call with T. Duncan re service list communications; review email from C. Keliher re transition services agreement; draft email to counsels re same.	3.2
Montesano, T	1-Feb-23	Prepare digital estate account in Ascend.	0.3
Loneragan, C	1-Feb-23	Review of transition services agreement and discussion with BDO team re same.	0.5
Marchand, M	1-Feb-23	Email correspondence re US entity bank account control; review email and attachments from O. Solovyeva re employee T4s; email correspondence with D. Chocla re non retained employee term and task letters.	0.5
Sagolili, N	2-Feb-23	Discussion with M. Marchand. Update list of follow-up questions for Management, and e-mail to Management re: same. Draft term and task letters for S. Foottit and C. Virtue. Discussion with A. Phadke re: WEPP requirements.	1.1
Phadke, A	2-Feb-23	Draft employee termination letter template.	0.6
Marchand, M	2-Feb-23	Make travel arrangements together with A. Phadke; correspondence with N. Sagolili re receivership planning; prepare fee schedule for transition services agreement; review and revise term and task letter; draft email to S. Foottit re same; review email correspondence re closing documents; review email correspondence re receivership planning; email correspondence with T. Duncan re employee liabilities; review email from C. Keliher re transition services agreement.	1.9
Loneragan, C	2-Feb-23	Review of transition services agreement.	0.8
Phadke, A	3-Feb-23	Call with N. Sagolili re all items on Receivership Planning Checklist; Work on receivership checklist items.	4.1
Sagolili, N	3-Feb-23	Receipt and review of e-mails. Review of receivership planning checklist and tasks to complete. Complete FCA Insurance insurance survey form, and e-mail same to FCA Insurance. Review	2.9

Staff	Date	Comment	Hours
		and revise termination letter template. Discussion with M. Marchand.	
Marchand, M	3-Feb-23	Phone call with S. Foottit re term and task letter, banking; correspondence with N Sagolili re receivership planning; correspondence with C. Lonergan re receivership planning, banking, employee terminations.	1.1
Sagolili, N	5-Feb-23	Review of responses from Management regarding preliminary receivership planning questions. Update receivership planning checklist notes. Compile and send list of follow-up questions to Management. E-mail to A. Phadke.	1.8
Marchand, M	5-Feb-23	Review email and attachment from T. Duncan re conflict waivers; sign same; email correspondence with T. Duncan re same; review email and attachments from C. Keliher re closing documents, transition services agreement and related matters; review email from H. Codrington re same; draft email to H> Codrington re same; receivership planning; review email and attachment from N. Sagolili re employee liabilities; review email and attachment from M. McKenzie re sales agent invoice.	2.4
Sagolili, N	6-Feb-23	Receipt and review of various e-mails. Attend call with the Company and Valsoft regarding planning of employee meetings on February 8. Call with M. Marchand and A. Phadke re: receivership planning. Follow-up with C. Virtue re: banking matters. Call with M. Pasiak (Rhodes & Williams Insurance Brokers) re: insurance. Update receivership planning checklist. Discussion with M. Marchand re: payroll matters.	3.6
Lonergan, C	6-Feb-23	Update call with Company, BDO team and Counsels re: employees items, day 1 receivership planning and APA closing items, etc.	2.6
Phadke, A	6-Feb-23	Call with management re receivership planning, on-site planning, banking items, cash management etc; Update term and task letters and send to M. Marchand for signing; Correspond with K. Leblanc re obtaining access cards to premises.	1.5

Staff	Date	Comment	Hours
Marchand, M	6-Feb-23	Revise term and task letters; email correspondence with S. Foottit re term and task letter; email correspondence with C. Virtue re term and task letter; email correspondence with S. Foottit re employee liabilities; review and revise termination letter; prepare for call with Valsoft re employee communications and liabilities; teleconference with Valsoft re same; correspondence with N. Sagolili and A. Phadke re receivership planning; correspondence with A. Jamnisek re updates and receivership planning; email correspondence with K. Leblanc re termination letters and benefits plan; email correspondence with C. Malouf re payroll and benefits plan; teleconference with insurance provider re continuation of insurance; phone call with C. Virtue re term and task; matters related to payroll planning; review email and attachment from N. Sagolili re weppa; review email correspondence re receivership planning; review email from H. Codrington re closing documents; phone call with T. Duncan re H. Codrington re closing documents and related matters; correspondence with N. Sagolili re employee liabilities; phone call with T. Duncan re situation and next steps; email correspondence with C. Virtue re bank account access; calls with counsel re employee liabilities; phone call with D. Chochla re updates; review email correspondence with counsel re updates.	9.2
Sagolili, N	7-Feb-23	Receipt and review of numerous e-mails. Discussions with M. Marchand. Receipt and review of payroll report and e-mail to C. Virtue re: same. Follow-up re: CRA accounts. E-mail to K. Leblanc re: final employee list from Purchaser. Attend re: Receiver's website. Review of Transition Services Agreement and Asset Purchase Agreement re: closing cash holdbacks. Instructions to C. Virtue and S. Foottit re: calculation of estimate payroll and benefits for retained employees.	3.0
Lonergan, C	7-Feb-23	Attendance at Court for hearing, update with BDO team re: Day 1 planning, review of various closing agreements and check lists, update call with Counsels re: endorsement, various other receivership matters, etc.	2.2
Hue, J	7-Feb-23	Phone call with A. Phadke and correspondence with N. Sagolili regarding website and communications, request to post the Receivership Order, Endorsement and Approval and Vesting Order with IT and further correspondence with IT on timing.	0.8
Phadke, A	7-Feb-23	Attend premises; Complete various tasks including email notice of appointment to debtor, send notices of appointment email to insurer and landlord, arrange for disablement of pass cards for terminated employees, correspond with J. Hue re activation of BDO website and upload of court documents to website; liaise with Management re obtaining accesses to Company's electronic records and systems, identifying locations of books and records on premises.	6.6

Staff	Date	Comment	Hours
Marchand, M	7-Feb-23	Email correspondence with S. Foottit and C. Virtue re payroll processing; phone call with T. Duncan re updates; review email and attachment from K. Leblanc re termination letters; email correspondence with K. Leblanc re same; review email and attachments from C. Keliher re closing documents; provide direction to A. Phadke; meeting with C. Virtue re updates; phone call with C. Lonergan re court hearing updates; phone call with T. Duncan re updates; phone call with N. Sagolili re payroll processing; phone call with S. Foottit re same; correspondence with C. Malouf re transition planning; email correspondence with J. Yu re transition services agreement and closing documents; correspondence with K. Leblanc re employee matters; teleconference with Valsoft re employee and business transitioning; review email and attachment from T. Duncan re court orders; phone call with T. Duncan re endorsement; review email and attachment from C. Keliher re retained employee listing and matters related to closing; correspondence with K. Leblanc re same; phone call with G. Phoenix re updates; teleconference with H. Codrington and T. Duncan re closing agenda, closing documents and related matters; review termination letters; correspondence with C. Lonergan re updates; review email correspondence re insurance; review email from C. Keliher re closing documents; draft email to C. Keliher re same; email correspondence with C. Virtue re closing cash; email correspondence with C. Virtue and S. Foottit re term and task letters; correspondence with K. Leblanc re coordination of employee meetings; review email from H. Codrington re closing documents and related matters; email correspondence with G. Phoenix re situation, closing documents and related matters; correspondence with S. Foottit re closing balance sheet; phone call with stakeholders re closing cash and related matters; email correspondence with M. McKenzie re employment status; email to G. Phoenix re same; prepare for non-retained employee meeting; prepare for retained employee meeting; attend at site and take possession.	11.6
Hue, J	8-Feb-23	Further correspondence with IT on corrections to name of receivership, request to add website to the BRTS website. Email N. Sagolili and A. Phadke link to the website.	0.4
Sagolili, N	8-Feb-23	Review of various e-mails. Various discussions with M. Marchand. Correspond with C. Virtue re: banking. Set-up of access to Oracle NetSuite accounting system. Discussions with A. Phadke re: various matters. Calculate estimated retained employees' payroll and employee benefits for holdback of closing cash. Calculate payroll and benefits costs of pay period ending February 3, 2023 for non-retained employees. Prepare and revise reconciliation of closing cash. Various discussions with C. Virtue, S. Foottit, M. Marchand, and C. Malouf re: closing cash calculations. Download and save various copies of documents. Review of Receiver's website.	7.5
Hue, J	8-Feb-23	Prepare the creditors list and email A. Phadke.	1.6

Staff	Date	Comment	Hours
Phadke, A	8-Feb-23	Attend premises; Take videos of premises for records; Call from landlord re deactivation of pass cards for terminated employees, issues with receiving February rent payment; save termination emails sent to terminated employees on the server; review and save contact information confirmation emails for WEPP purposes from terminated employees throughout the day; export accounting records and backup from accounting software; obtain list of creditors and asset listing; secure and review petty cash; sort mail and identify cheques from customers; Scan cheques and send to M. Marchand for review; Fill various receivership checklists throughout the day including taking possession and new engagement checklists.	7.6
Marchand, M	8-Feb-23	Email correspondence with D. Chochla re cash flow projection; correspondence with C. Virtue re accounting records updates; correspondence with D. Chochla and T. Duncan re updates; phone call with C. Malouf re employee communications and terminations; correspondence with S. Footit re closing balance sheet; correspondence with K. Leblanc re employee meetings; meeting with non-retained employees re situation and terminations; meeting with retained employees re situation and next steps; correspondence with M. McKenzie and S. Foottit re financial position; email correspondence with K. Yao re wire instructions; review email and attachments from C. Virtue cash flow and cash balances; teleconference with C. Malouf and S. Foottit re cash balances; correspondence with D. Chochla and T. Duncan re balance sheet; email correspondence with H. Codrington re closing documents and tax elections; correspondence with N Sagolili re closing cash, payroll and updates; provide direction to A. Phadke; correspondence with L. Dula re wire transfers; email correspondence with J. Yu re direction to pay; review email from C. Keliher re closing documents; phone call with G. Phoenix re tax elections; provide direction to K. Leblanc re termination letters and related matters; sign closing documents; correspondence with C. Virtue re closing documents; correspondence with counsel re closing documents, closing cash and related matters; execute term and task letters; phone call with H. Codrington re closing cash schedule and related matters; email correspondence with counsels re closing cash and closing; phone call with G. Phoenix and C. Lonergan re closing status and related matters; phone call with C. Keliher re same; email correspondence re creditor inquiries.	11.2
Sagolili, N	9-Feb-23	Receipt and review of numerous e-mails re: closing. Call with M. Marchand and C. Malouf re: closing cash reconciliation. Various discussions on and revisions to closing cash reconciliation. Recalculate payroll relating to retained employees from ADP data. Calls with M. Marchand and S. Foottit re: closing cash. Calls with legal counsel re: closing cash. Correspond with C. Virtue re: banking tokens. Attend re: set-up of access to BMO bank accounts. Discussions with A. Phadke re: bank access, and other receivership matters. Draft and send correspondence to Canada Revenue Agency re: HST account and trust examination. Call with M. Marchand, C. Virtue, and S. Foottit re: bank accounts and transfer of funds to Purchaser.	6.6

Staff	Date	Comment	Hours
Lonergan, C	9-Feb-23	Closing items, call with BDO team re: the same, call with Counsel, cash position discussion and wire payment details, payroll discussion and other closing items, etc.	1.1
Phadke, A	9-Feb-23	Attend premises; Review boxes of books and records stored in storage room and prepare summary of books and records; Review and record summarized inventory of furniture and equipment on site.	9.1
Marchand, M	9-Feb-23	Correspondence with C. Malouf re closing cash and related matters; correspondence with C. Virtue re cash balances and cash flow; teleconferences with N. Sagolili and S. Foottit re closing cash and related matters; correspondence with G. Phoenix re matters related to closing; correspondence with T. Duncan and H. Codrington re same; review emails from C. Keliher re matters related to closing; provide direction to A. Phadke; provide direction to K. Leblac; correspondence with S. Foottit and C. Virtue re closing cash transfers; compute purchase price balance owing; correspondence with G. Phoenix re matters related to closing; correspondence with L. Dula re wire transfer receipts; review email correspondence re insurance; correspondence with C. Virtue re request to access banking and processing systems; teleconference with S. Foottit and C. Virtue re closing cash transfers; review email and attachment from C. Keliher re transfer of funds and closing documents; correspondence with L. Dula re wire confirmation; phone calls with G. Phoenix re situation and solutions; correspondence with T. Duncan re same; review email from C. Keliher re Valsoft undertaking; correspondence with K. Virtue re issuance of termination letters; complete receiver's certificate; draft email to counsel re same; review email from M. McKenzie re resignation.	7.3
Sagolili, N	10-Feb-23	Receipt and review of numerous e-mails. Set-up of access to TD and Worldline accounts. Set-up of access to ADP. Discussions re: T4 slips, ROE's and payroll matters. Discussions with M. Marchand and A. Phadke re: outstanding items on receivership planning checklist. Call with M. Marchand, S. Foottit, and C. Virtue re: transfers of closing cash. Instructions to C. Virtue re: updated calculation of liabilities to non-retained employees. Compile list of follow-up questions/issues for Valsoft.	6.3
Lonergan, C	10-Feb-23	Update with BDO team re: closing, termination of employees, next steps, etc.	0.8
Phadke, A	10-Feb-23	Call with BDO team re status of receivership planning tasks, outstanding tasks; draft 245/245 notice; call with K. Leblanc and O. Solovyeva re information for WEPP, ROEs and T4s; Follow up with insurer re status of insurance; Fill various taking possession checklists; Correspond with K. Leblanc re confirm security codes not provided to employees, confirm benefits cancellation request provided to benefits provider, request for deactivation of pass cards for non-retained employees and status of obtaining signed keyholder agreements from employees retained by purchaser; Obtain and review copies of 2022 T4 slips; Set up access to BMO and Word line accounts.	6.5

Staff	Date	Comment	Hours
Marchand, M	10-Feb-23	Correspondence with L. Dula re wire receipt confirmation; draft email to counsel re same; sign deposit slip; provide direction to A. Phadke; correspondence with C. Malouf re closing cash; email correspondence with C. Keliher re same; correspondence with K. Leblanc re office coordination; email correspondence with Fasken re deposit wire transfers; provide direction to C. Virtue and S. Foottit; correspondence with S. Foottit re updates and next steps; correspondence with N. Sagolili and A. Phadke re receivership planning; correspondence with H. Codrington re transition services agreement; email correspondence re insurance; teleconference with S. Foottit, C. Virtue and N. Sagolili re closing cash transfers, transition services agreement and related matters; approve PayPal transfer requests; review email and attachment from D. Chochla re wire transfers; correspondence with L. Dula re wire confirmations; sign deposit slips; review email and attachment from C. Virtue re bank activity; approve cash transfer requests from S. Foottit; draft email to A. Jamnisek re transfer requests and approvals; email correspondence with C. Virtue re banking activity; review email correspondence re account transfers; correspondence with C. Virtue re invoicing; meeting with S. Foottit re banking fobs, cheque deposits and accounting software; correspondence with N. Sagolili re transition questions for Valsoft; correspondence with M. McKenzie re customer refunds process; correspondence with S. Aires re same.	4.8
Sagolili, N	13-Feb-23	Various discussions with M. Marchand re: closing cash transfer reconciliation and other items to be completed. Review tasks to be completed by C. Virtue. E-mails to/from and call with C. Virtue re: tasks to be completed. Prepare wire requisition for US payroll. Prepare reconciliation of closing cash after bank account transfers. Instructions to C. Virtue and S. Foottit re: wire transfers to Valsoft. E-mail to TD Bank re: wire transfers to Valsoft. E-mail to C. Malouf re: wire transfers. Various e-mails re: insurance policies.	4.8
Lonergan, C	13-Feb-23	Status update with BDO team, closing cash analysis, employee update, etc.	0.6
Hue, J	13-Feb-23	Revised the creditors list and email A. Phadke.	0.3
Marchand, M	13-Feb-23	Prepare closing cash transfer reconciliation; correspondence with N. Sagolili re closing cash, US payroll and receivership planning; correspondence with C. Virtue re tasks; email correspondence re insurance; review email from C. Virtue re cash balances; email correspondence with C. Virtue re closing cash transfers; email correspondence with M. McKenzie re US workers compensation account; sign wire letter re US payroll; email correspondence with C. Martin re insurance; correspondence with N. Sagolili re closing cash transfer reconciliation; correspondence with N. Sagolili, C. Virtue and S. Foottit re closing cash transfers; email correspondence with C. Malouf re closing cash transfers; email correspondence with G. Phoenix re matters related to closing.	2.5
Phadke, A	13-Feb-23	Correspond with K. Leblanc re taking possession and handing over petty cash box and undeposited cheques to Valsoft; Upload employee contact confirmation emails to server for WEPPA;	3.1

Staff	Date	Comment	Hours
		Correspond with D. Law re Rogers accounts; Liaise with J.Hue re; Prepare asset and secured creditor charts for 245/246 notice to creditors; Send draft notice to N. Sagolili for review.	
Sagolili, N	14-Feb-23	Receipt and review of various e-mails. Discussions with A. Phadke re: Receiver's notice. Instructions to S. Foottit and C. Virtue re: wire to Valsoft from TD CAD account, and approval of same. E-mail to C. Malouf re: wire transfer sent to Valsoft. Various discussions with M. Marchand and C. Virtue re: American Express account, and obtain access to account. E-mail to Valsoft re: American Express credit cards. Attend re: banking tokens. Review of bank transactions from the prior day. Phone call from Canada Revenue Agency. Review and revise Receiver's Notice and Statement, and discussions with/instructions to A. Phadke re: same. Review of comments on Receiver's Notice and Statement from M. Marchand and respond to inquiries.	5.5
Marchand, M	14-Feb-23	Review email correspondence re closing cash transfer; correspondence with N. Sagolili re wire transfer and AMEX; email correspondence re CRA HST account; matters related to receivership status assessment and planning; review and revise notice of receiver and receiver's statement; draft email to N. Sagolili re same.	2.4
Phadke, A	14-Feb-23	Liaise with C. Virtue obtaining details of overseas tax agencies and addresses for creditor listing; Search for creditor addresses for creditors with missing address; Finalize creditor listing; Complete internal receivership taking possession and new engagement checklists; Correspond with K. Leblanc re arranging drop offs of company equipment from non-retained employees; Update 245/246 notice to creditors as per N. Sagolili's comments.	2.8
Lonergan, C	14-Feb-23	Receivership planning and next steps discussion with BDO team, etc.	0.3
Sagolili, N	15-Feb-23	Receipt and review of e-mails. Review of bank transactions from the prior day. Various discussions with M. Marchand re: Receiver's Notice and Statement and other matters to be completed. Instructions to A. Phadke re: revisions to Receiver's Notice and Statement. Attend re: mailing of Receiver's Notice and Statement. Correspond with S. Foottit re: related party balances. Update calculation of employee liabilities for non-retained employees. Set-up of access to Pay pal account. Correspond with C. Virtue re: tasks to complete.	3.6
Hue, J	15-Feb-23	Prepare the mail merge for addresses, prepare schedule A and the mailing of the notice of receiver. Email the OSB the notice and the appointment order; prepare the affidavit of mailing.	2.9
Marchand, M	15-Feb-23	Matters related to 245/246 notices; draft email to C. Malouf re same; review email correspondence re related party balances; email correspondence with S. Foottit re workers compensation insurance; phone call with G. Phoenix re updates; correspondence with N. Sagolili re employee liabilities, receiver's website and 245/246; matters related to Receiver's accounts and those of legal counsel; review non-retained employee liability analysis; draft email to A. Jamnisek re non-retained employee liabilities and fees;	2.7

Staff	Date	Comment	Hours
		correspondence with A. Phadke re keyholder agreements; correspondence with D. Chochla re closing book; email correspondence with S. Quennel re outstanding fees; email correspondence with S. El-Bikai re tokens; email correspondence with C. Martin re insurance; receive phone call from J. Meloche re transaction closing and fees.	
Phadke, A	15-Feb-23	Update creditor mailing list with employee details; revise notice to creditors based on related party balances information received from S. Foottit; Correspond with J. Hue re mailing of notice to creditors; Review and upload keyholder agreements received from employees with access to premises to server.	1.7
Sagolili, N	16-Feb-23	Receipt and review of e-mails. Review of bank transactions from the prior day. Coordinate update of Receiver's website with Asset Purchase Agreement and Receiver's Notice and Statement. Review and update receivership planning checklist. Call with M. Marchand and A. Phadke to re: outstanding items/tasks. Respond to inquiries on employee liabilities. Correspond with S. Foottit and C. Virtue re: books and records, accounting system, and items in storage. Correspond with C. Virtue re: tasks to complete. Discussions with A. Phadke re: Internet and books and records.	3.9
Lonergan, C	16-Feb-23	Review of statutory filing materials, update with BDO team re: next steps, etc.	0.8
Marchand, M	16-Feb-23	Email correspondence with C. Virtue re bank activity; email correspondence with A. Jamnisek re same; draft email to R. Wilson re same; email correspondence with S. Foottit re insurance refund; teleconference with N. Sagolili and A. Phadke re receivership planning and related matters; email and phone correspondence with A. Jamnisek re non-retained employee liabilities; correspondence with T. Montesano re WEPPA; email correspondence with C. Virtue and N. Sagolili re tasks to complete, AR postings and HST filings.	1.5
Phadke, A	16-Feb-23	Telephone call with BDO team re outstanding receivership tasks; Correspond with S. Foottit re Netsuite expiry date, Dymon and Skyline storage monthly costs, location of electronic tax and financial records; Call with D. Law re backup of financial and tax records.	2.0
Hue, J	16-Feb-23	Update the website with the notice of and statement of receiver and asset purchase agreement.	0.3
Sagolili, N	17-Feb-23	Receipt and review of various e-mails. Call with C. Virtue re: tasks (HST, AR, etc.). Discussion with M. Marchand re: various receivership matters. Correspond with O. Solovyeva re: payroll for non-retained employees.	1.1
Marchand, M	17-Feb-23	Review email and attachment from C. Virtue re HST returns; review email and attachment from C. Virtue re accounts receivable postings; correspondence with N. Sagolili re accounts	0.6

Staff	Date	Comment	Hours
		receivable, sales tax issues and payroll; matters related to potential non-retained employee payroll processing.	
Sagolili, N	20-Feb-23	Receipt and review of various e-mails. Instructions to C. Virtue re: tasks to complete (accounts receivable balance, etc.).	0.3
Sagolili, N	21-Feb-23	Discussions with M. Marchand re: payroll for non-retained employees. Prepare wire transfer forms for non-retained payroll (CAD and USD). Phone call from Canada Revenue Agency re: trust examination, and discussion with M. Marchand re: same. Review of invoices from S. Foottit and C. Virtue for receivership-related work. Discussions with M. Marchand and T. Montesano re: issues to confirm with WEPPA re: non-retained employees. Draft and send e-mail to A. Tessier (Service Canada) re: WEPPA inquiries. Attend re: creditor inquiries. Compile documents for Receiver's website, and attend re: update of same.	2.9
Klein, E	21-Feb-23	Creditor correspondences re: status of Company.	0.3
Marchand, M	21-Feb-23	Email correspondence with A. Jamnisek re non-retained employee liability processing; correspondence with N. Sagolili re payroll, CRA deemed trust and accounts receivable; email correspondence with G. Phoenix re closing documents; review letters from CRA re HST filings; review email and attachment from S. Foottit re fees; review email and attachments from C. Virtue re fees; correspondence with N. Sagolili re same.	1.0
Lonergan, C	21-Feb-23	Review of correspondence from Counsel re: APA, update of TSA, remaining items, payroll, WEPPA, etc.	0.8
Sagolili, N	22-Feb-23	Receipt and review of e-mails. Call and correspondence with C. Virtue re: receivership -related tasks (accounts receivable balance, etc.). Review and update receivership planning checklist. Call with A. Phadke to discuss outstanding items. E-mails from/to and phone call with J. Matte (Service Canada) re: WEPP inquiries. Review of update to Receiver's website. Call with M. Marchand re: various receivership matters (accounts receivable balance, WEPPA, non-retained employees payroll, etc.). Prepare cheque requisitions for receivership-related invoices of C. Virtue and S. Foottit.	3.2
Hue, J	22-Feb-23	Request amendments and to post the Application record to the case website. Follow up with the OSB on the estate number; email to N. Sagolili; re same update Ascend accordingly.	0.7
Montesano, T	22-Feb-23	Send request to CRA to create an RT0002 account; send request through represent a client for authorization.	0.6
Marchand, M	22-Feb-23	Correspondence with T. Montesano re WEPPA and HST; correspondence with C. Lonergan re updates; review email and attachment from E. Reid re reporting duties of receiver; correspondence with N. Sagolili re HST, WEPPA, accounts receivable and contractor fees; draft email to G. Phoenix re updates and issues; sign cheques.	1.4
Sagolili, N	23-Feb-23	E-mail to J. Matte (Service Canada) re: WEPP inquiries. Correspond with C. Virtue re: access to TD and BMO bank accounts, and	2.5

Staff	Date	Comment	Hours
		NetSuite. Discussion with M. Marchand re: various receivership matters (HST filings, WEPPA, and non-retained employees payroll). Correspond with C. Virtue re: HST filings for January and February 2023. Correspond with A. Phadke re: status of electronic books and records. E-mail to S. Foottit re: BMO bank account matters. Preparation of analysis re: secured claims of non-retained employees.	
Marchand, M	23-Feb-23	Correspondence with G. Phoenix re sales tax issues, not-retained employees and WEPPA; correspondence with N. Sagolili re WEPPA, non-retained employees, accounts receivable and HST.	0.7
Sagolili, N	24-Feb-23	Receipt and review of e-mails. Call with C. Virtue re: HST filings for January and February 2023, and accounts receivable balance. Call with M. Marchand re: HST, accounts receivable balance, and secured claims for non-retained employees. Attend re: steps for BMO account closure and access to NetSuite and bank accounts. E-mails to/from K. Leblanc re: non-retained employee ROE's, and various calls with and e-mails to/from M. Marchand and O. Solovyeva re: same. Review of HST calculations for January and February 2023 prepared by C. Virtue and compile follow-up questions. Prepare analysis of secured claims for non-retained employees.	3.7
Marchand, M	24-Feb-23	Correspondence with N. Sagolili re HST, accounts receivable, non-retained employees ROEs; email correspondence with O. Solovyeva re ROE's for non-retained employees.	0.6
Lonergan, C	24-Feb-23	Update with BDO team re: next steps, Origin fees, distribution, etc.	0.3
Sagolili, N	27-Feb-23	E-mails to/from C. Virtue re: HST calculations for January and February 2023. Follow-up e-mail to J. Matte (Service Canada) re: WEPP inquiries. Various e-mails with O. Solovyeva and S. Foottit re: non-retained employee ROE's. Prepare analysis of secured claims for non-retained employees. Review and update receivership planning checklist. Follow-up with K. Leblanc re: various employee matters (credit cards, cancellation of benefits, etc.). Follow-up with D. Law re: obtaining electronic financial records, and access to Hub spot. Save documents to server. Receipt and review of various e-mails. Various correspondence with D. Law and E. Klein re: access to Hubspot, Paypal, and Worldline. Correspond with E. Klein re: WEPP claims.	3.3
Klein, E	27-Feb-23	Reviewing various emails.	0.2
Marchand, M	27-Feb-23	Email correspondence re non-retained employee ROEs; correspondence with C. Lonergan re updates; email correspondence with G. Phoenix re distributions.	0.4
Sagolili, N	28-Feb-23	Receipt and review of e-mails. Save documents to the server. Correspond with C. Virtue re: pending receivership-related tasks. Discussion with M. Marchand re: various receivership matters (HST, bank accounts, etc.). Respond to terminated employee inquiry. E-mail to C. Virtue and S. Foottit re: invoices.	0.7

Staff	Date	Comment	Hours
Hue, J	28-Feb-23	Prepare cheque requisition for the filing fee and email M. Marchand for approval.	0.3
Marchand, M	28-Feb-23	Correspondence with N. Sagolili re receivership planning, HST, ROE's and WEPPA; sign cheque requisition; sign cheque.	0.4
Sagolili, N	1-Mar-23	Respond to numerous terminated employee inquiries. Receipt and save copies of ROE's for non-retained employees. E-mails to/from O. Solovyeva and K. Leblanc re: ROE's and WEPP matters. Follow-up with D. Law re: back-up of financial electronic records. Receipt and review of invoice from C. Virtue for receivership-related tasks, and prepare cheque requisition. Receipt and review of insurance documentation. Various correspondence with M. Marchand and T. Montesano re: CRA trust examination requests. Review of non-retained employee secured claim analysis with M. Marchand, and make updates to same. E-mail to C. Virtue re: accrued vacation pay, and receipt and review of report. Password protect ROE's and e-mail to non-retained employees. E-mails from/to J. Matte (Service Canada) re: inquiries on secured claims of non-retained employees.	5.1
Hue, J	1-Mar-23	E-file filing fee remittance with the OSB.	0.2
Marchand, M	1-Mar-23	Email correspondence with T. Coram re outstanding fees; email correspondence re non-retained employee ROE's and WEPPA; review letter from CRA re payroll trust examination; correspondence with N. Sagolili and T. Montesano re same; review non-retained employee secured WEPPA calculations; correspondence with N. Sagolili re same.	1.0
Montesano, T	1-Mar-23	Call M. Marchand information request by CRA re payroll examination; discuss wepp issues with N, Sagolili.	0.3
Sagolili, N	2-Mar-23	Prepare reconciliation of post-receivership HST transactions, and call with C. Virtue re: same. Discussions with M. Marchand and T. Montesano re: WEPP claims for non-retained employees and response from Service Canada. Discussion with C. Lonergan re updates.	2.8
Marchand, M	2-Mar-23	Correspondence with N. Sagolili re WEPPA and HST.	0.3
Lonergan, C	2-Mar-23	Receivership update, discussion with BDO team re: same.	0.4
Sagolili, N	3-Mar-23	Review of letter from CRA regarding payroll account trust examination, and phone call with S. Randhawa (CRA) re: same. Follow-up with D. Law re: electronic books and records. E-mails to/from J. Matte (Service Canada). Discussion with M. Marchand re: various matters (CRA trust examination, non-retained employees analysis, Service Canada correspondence, etc.). Update non-retained employees analysis and send to A. Jamnisek. Receipt and review of e-mails.	3.1
Marchand, M	3-Mar-23	Correspondence with C. Lonergan re updates; correspondence with N. Sagolili re WEPPA, HST and payroll audit.	0.6
Sagolili, N	6-Mar-23	Receipt and review of invoice from C. Virtue for receivership-related tasks, and prepare cheque requisition. E-mail from/to J. Matte (Service Canada) re: secured claim of non-retained	1.5

Staff	Date	Comment	Hours
		employees. Review of correspondence from CRA re: payroll account discrepancy. Correspond with T. Montesano re: payroll trust examination, and e-mail to C. Virtue re: same. Set-up of access to electronic financial records, and correspond with D. Law re: same.	
Marchand, M	6-Mar-23	Review email correspondence re CRA payroll audit information request; review letter from CRA re payroll notice of account discrepancy; email correspondence with N. Sagolili re same.	0.2
Sagolili, N	7-Mar-23	Review of e-mail from J. Matte (Service Canada) re: secured claim of non-retained employees, and correspond with M. Marchand re: same. Send update on secured claim analysis for non-retained employees to A. Jamnisek (TD Bank). Follow-up with K. Leblanc re: employee matters (benefits plan, etc.). Review and validate revised HST data from C. Virtue, and correspond re: same. Review and update HST calculations for January and February 2023, and e-mail to M. Marchand re: same. E-mail from A. Jamnisek (TD Bank). Various e-mails from C. Virtue re: receivership matters.	2.8
Montesano, T	7-Mar-23	Call with S. Randawa to discuss Notice of Discrepancy on the RP0001 account for the tax year 2022.	0.3
Marchand, M	7-Mar-23	Correspondence with N. Sagolili re WEPPA; review email from Service Canada re same; correspondence with S. El-Bikai re pre-receivership sales taxes; correspondence with N. Sagolili re sales taxes.	0.3
Klein, E	7-Mar-23	Reviewing data room provided by Company for financial records. Corresponding with employees re: WEPPA inquiries.	0.5
Sagolili, N	8-Mar-23	Review and update receivership planning checklist. Discussion with T. Montesano re: trust examination and discrepancy in payroll remittance. Correspond with C. Virtue re: premium refund for employee benefits plan. E-mails to/from O. Solovyeva re: ROE's, and receipt of additional ROE's. Discussion with M. Marchand re: HST and other receivership matters. E-mail C. Virtue re: PST reconciliation.	1.6
Montesano, T	8-Mar-23	Correspond with C. Virtue re payroll audit, review and save information received from C. Virtue re CRA payroll audit on the network; discuss same with N. Sagolili.	1.1
Marchand, M	8-Mar-23	Phone call with A. Jamnisek re updates; correspondence with N. Sagolili re receivership planning and sales taxes.	0.4
Sagolili, N	9-Mar-23	Receipt and review of e-mails (CRA trust examination, etc). Discussion with T. Montesano re: CRA trust examination. Instructions to and discussions with E. Klein re: WEPP claims. Discussions with M. Marchand re: non-retained employee payroll, WEPP, account access, etc. Review of PST and QST data from C. Virtue, and e-mail various follow-up questions. Prepare reconciliations of PST (BC, MB, and SK) and QST. Complete documentation for BMO accounts and e-mail to C. Virtue.	3.2
Klein, E	9-Mar-23	Drafting WEPP spreadsheet and calculating termination pay. Meeting with N. Sagolili re: WEPP.	1.7

Staff	Date	Comment	Hours
Marchand, M	9-Mar-23	Phone call with N. Sagolili re WEPPA and BMO account authorizations; complete BMO account authorization form; email correspondence with C. Virtue re same; correspondence with S. El-Bikai re closing accounts receivable;	0.3
Klein, E	10-Mar-23	Downloading and organizing documents provided by Company.	1.3
Sagolili, N	10-Mar-23	Discussion with M. Marchand re: various matters (electronic records, sales tax, etc.). Receipt and review of e-mails. Discussion with E. Klein re: electronic records. Review and update receivership planning checklist. Receipt and review of various PST and QST documents from C. Virtue. Update reconciliations for PST and QST.	2.0
Marchand, M	10-Mar-23	Phone call with S. El-Bikai re sales tax audit support; phone call with N. Sagolili re sales tax filings and accounting records; correspondence with G. Phoenix re updates.	0.4
Klein, E	13-Mar-23	Downloading Kivuto general ledger for N. Sagolili.	0.2
Sagolili, N	13-Mar-23	Receipt and review of invoice from C. Virtue for receivership-related tasks, and prepare cheque requisition. Attend re: payment of invoices. E-mail to C. Virtue re: PST-related documents. Review of final accounts receivable balance at date of close, and related e-mails.	0.8
Marchand, M	13-Mar-23	Review emails and attachments from C. Virtue re invoicing; correspondence with N. Sagolili re same; sign cheques; review email and attachment from C. Virtue re closing accounts receivable; review email from S. El-Bikai re same; correspondence with N. Sagolili re same.	0.6
Montesano, T	14-Mar-23	Call with C. Virtue re update on balance of information requested; call with N. Sagolili re same.	0.4
Sagolili, N	14-Mar-23	Call with T. Montesano re: status of documents requested by CRA for payroll trust examination. Discussion with M. Marchand re: various matters (WEPP, non-retained employee payroll, closing accounts receivable balance, etc.). Review and update reconciliation of HST, QST, and PST. Discussion with C. Lonergan re updates.	1.5
Lonergan, C	14-Mar-23	File update and discussion with BDO team re: the same, etc.	0.4
Marchand, M	14-Mar-23	Correspondence with N. Sagolili re WEPPA; review closing accounts receivable balance listing; correspondence with N. Sagolili re closing accounts receivable balance; draft email to G. Phoenix and C. Keliher re same.	0.4
Sagolili, N	15-Mar-23	Receipt and review of e-mails re: CRA payroll trust examination and closing accounts receivable balance. Follow-up with C. Virtue re: Pay pal account transfer. Receipt and review of documentation re: PST accounts from C. Virtue. E-mail from A. Jamnisek re: non-retained employees payroll. Send updated reconciliation of HST, PST, and QST to M. Marchand. Discussion with M. Marchand re: outstanding receivership matters. Instructions to E. Klein re: WEPP calculations. E-mail to O. Solovyeva re: potential additional	1.6

Staff	Date	Comment	Hours
		payroll run. Phone call to CRA re: online access, and update to T. Montesano re: same.	
Montesano, T	15-Mar-23	Discussion with N. Sagolili; re status of request for information from C. Virtue.	0.2
Marchand, M	15-Mar-23	Email correspondence with A. Jamnisek re non-retained employee liabilities; review email from C. Keliher re accounts receivable and closing documents; sign sales tax election form; correspondence with N. Sagolili and C. Lonergan re WEPPA claims.	0.7
Klein, E	15-Mar-23	Update WEPP schedule to include outstanding wages, vacation pay, bonuses, commission, and severance payments.	1.0
Sagolili, N	16-Mar-23	E-mail from A. Jamnisek re: non-retained employee payroll, and correspond with M. Marchand re: same. Instructions to E. Klein re: WEPP calculations.	0.2
Marchand, M	16-Mar-23	Email correspondence with A. Jamnisek re updates; email correspondence with A. Jamnisek re non-retained employee liabilities; correspondence with N. Sagolili re payroll processing and WEPPA.	0.3
Klein, E	16-Mar-23	Discussing WEPP schedule with N. Sagolili and updating same.	0.2
Marchand, M	17-Mar-23	Email correspondence with M. McKenzie re non-retained employee liabilities.	0.1
Sagolili, N	20-Mar-23	Various e-mails to/from O. Solovyeva re: payroll for non-retained employees, and compile payroll information. Attend re: payment of invoices from C. Virtue for receivership-related tasks. Various correspond with E. Klein re: WEPP calculations and review of same. Discussion with T. Montesano re: CRA account and trust examination. Discussion with M. Marchand re: various matters (non-retained employee payroll and WEPP).	2.0
Marchand, M	20-Mar-23	Correspondence with N. Sagolili re non-retained employee liabilities and WEPPA claims; review email correspondence re non-retained employee liability payments and revised ROE's; review and sign premises lease disclaimer; email correspondence with G. Phoenix re same; correspondence with E. Klein re WEPPA calculations; correspondence with T. Montesano re mass termination; review Ontario Employment Standards Act.	1.0
Klein, E	20-Mar-23	Calculating WEPP and discussing with M. Marchand re: same.	0.3
Montesano, T	20-Mar-23	Correspond with E. Klein re WEPPA calculations.	0.2
Sagolili, N	21-Mar-23	Various correspondence with and instructions to O. Solovyeva re: payroll for non-retained employees. Review of Employment Standards Act. Correspond with C. Virtue re: payroll. Review of	2.5

Staff	Date	Comment	Hours
		draft ADP report and draft Paychex for non-retained employee payroll. Discussions with M. Marchand re: payroll matters. Request wire transfers (CAD and USD) for reimbursement of payroll costs. Receipt and review of various e-mails.	
Marchand, M	21-Mar-23	Email correspondence with O. Solovyeva and N. Sagolili re non-retained employee payroll; phone call with N. Sagolili re same; email correspondence with E. Klein and K. LeBlanc re non-retained employee ROE; review draft non-retained employee payroll journal; sign cheque requisitions and wire letters re non-retained employee payroll; review WEPPA schedule; correspondence with E. Klein re same; correspondence with N. Sagolili re WEPPA.	1.1
Klein, E	21-Mar-23	WEPP calculations and discussing same with M. Marchand. Corresponding with employees re: status of WEPP.	1.2
Montesano, T	22-Mar-23	Discuss weppa calculation with E. Klein.	0.2
Marchand, M	22-Mar-23	Correspondence with T. Montesano re WEPPA; review email and attachment from E. Klein re revised WEPPA calculations; correspondence with E. Klein re revised WEPPA calculations; review email and attachment from S. Footit re insurance premium audit; email correspondence with S. Quennell re updates.	0.7
Klein, E	22-Mar-23	Correspondence with M. Marchand and T. Montesano re: WEPP. Updating schedule.	1.3
Sagolili, N	23-Mar-23	Review of payroll documents compiled by C. Virtue, and correspond with T. Montesano re: payroll trust examination. Discussion with M. Marchand re: WEPP.	0.3
Montesano, T	23-Mar-23	Correspondence with E. Klein and M. Marchand re Weppa; register with Service Canada; enter the receivers information forms; prepare weppa proof of claims; draft weppa letter to former employees; prepare spreadsheet breakdown of entitlement; prepare and upload documents to CRA re in response to payroll examination.	4.5
Marchand, M	23-Mar-23	Email correspondence with T. Montesano re CRA payroll audit; correspondence with E. Klein and T. Montesano re finalization of WEPPA calculations; email correspondence with S. Footit re payment of fees and WEPPA.	0.6
Klein, E	23-Mar-23	Correspondence with M. Marchand and T. Montesano re: WEPP. Updating schedule.	0.8
Lonergan, C	23-Mar-23	Drafting Court Report.	1.0
Klein, E	24-Mar-23	Correspondence with M. Marchand and T. Montesano re: WEPP. Updating schedule. Sending WEPP documents to employees.	2.2
Montesano, T	24-Mar-23	Finalize weppa proof of claims; send same to E. Klein for review; upload balance of information to CRA re payroll examination; send confirmation of submission to N. Sagolili.	1.0
Marchand, M	24-Mar-23	Email correspondence with G. Phoenix re scheduling court date; email correspondence with J. Meloche re updates; correspondence with C. Lonergan re updates; review WEPPA proof of claims; correspondence with E. Klein re same.	0.6

Staff	Date	Comment	Hours
Lonergan, C	24-Mar-23	Drafting Court Report for distribution and discharge, follow up with BDO team re: the same, etc.	2.0
Sagolili, N	27-Mar-23	Receipt and review of e-mails. Correspond with O. Solovyeva re: issuance of ROE's and payroll fees. E-mails to/from T. Montesano re: CRA payroll trust examination and HST returns. Discussion with M. Marchand re: various matters (WEPP, T4's, banking, Court report, etc.). Discussion with C. Lonergan re: Court report. Prepare cheque requisition for C. Virtue for receivership-related tasks.	1.4
Klein, E	27-Mar-23	Corresponding with employees re: WEPP calculations and updating Service Canada website with proofs of claims received.	2.1
Marchand, M	27-Mar-23	Email correspondence with A. Jamnisek re court hearing; review email correspondence re non-retained employee records of employment and payroll processing; email correspondence with P. Zhao re closing documents; phone call with N. Sagolili re receivership planning and court report.	0.4
Montesano, T	27-Mar-23	Upload balance of information to CRA re payroll examination.	0.3
Sagolili, N	28-Mar-23	E-mails to/from A. Jamnisek and S. Fernandes re: closure of bank accounts. Review of payroll fee and reimbursement shortfall re: non-retained employee payroll run, and prepare requisition for wire transfer to both CAD and USD accounts. Discussion with C. Lonergan re: Receiver's 2nd Report to Court. Drafting of Receiver's 2nd Report to Court. Discussion with M. Marchand re: pre-receivership HST, PST, and QST, and e-mail to T. Montesano re: same.	4.2
Klein, E	28-Mar-23	Corresponding with employees re: WEPP.	0.2
Marchand, M	28-Mar-23	Email correspondence with P. Zhao re closing documents; draft email to C. Keliher re same; sign wire letters; review email and attachment from N. Sagolili re sales tax filings; phone call with N. Sagolili re same.	0.5
Lonergan, C	28-Mar-23	BDO team update re: the Receiver's Report, etc.	0.5
Marchand, M	29-Mar-23	Email correspondence with O. Solovyeva re Paychex account; review email and attachments from C. Keliher re closing documents; email correspondence with P. Zhao re same; email correspondence with G. Phoenix re court date and materials.	0.3
Lonergan, C	29-Mar-23	Follow up with Origin Merchant and BDO team re: distributions and timing of the Court Report, etc.	0.4
Klein, E	29-Mar-23	Reviewing employee proofs of claim and updating Service Canada website for WEPP. Corresponding with employees re: their claims.	1.0
Sagolili, N	30-Mar-23	Review of videos of premises at time of taking possession, and coordinate landlord walkthrough with K. Wallace. Draft landlord acknowledgment for walkthrough. Review of banking transactions re: reimbursements for non-retained employee payroll. Coordinate sending out 2nd ROE's to non-retained employees with	4.3

Staff	Date	Comment	Hours
		E. Klein. E-mails to/from O. Solovyeva re: 2023 T4 and W2 preparation. Review and update receivership planning checklist. Compile HST, PST, and QST amounts for filing of pre-receivership returns, and various discussions re: same with T. Montesano. Review of pre-receivership HST returns prior to filing. Discussion with M. Marchand re: 2nd Report to Court report. E-mail to G. Phoenix re: 2nd Report to Court. Drafting of 2nd Report to Court.	
Montesano, T	30-Mar-23	Call with N. Sagolili to discuss filing of HST, PST and QST returns; contact the BC, Manitoba and Saskatchewan Ministry of Finance to discuss filing of returns and closing accounts; prepare the HST and PST returns; send HST returns to N. Sagolili.	2.0
Marchand, M	30-Mar-23	Review email from Paychex re US payroll and W2 form; email correspondence with O. Solovyeva and N. Sagolili re US W2 payroll form; phone call with N. Sagolili re court report; email correspondence with O. Solovyeva and S. El-Bikai re closure of Paychex account.	0.6
Lonergan, C	30-Mar-23	Working with BDO on drafting Receiver's Report, discussion with BDO team re: the same, etc.	1.1
Klein, E	30-Mar-23	Password protecting ROEs and sending employees the same. Saving Company documents on BDO drive.	1.2
Sagolili, N	31-Mar-23	Drafting of 2nd Report to Court.	2.5
Montesano, T	31-Mar-23	Draft Fee Affidavit.	0.5
Marchand, M	31-Mar-23	Email correspondence with J. Bachynski re minute books.	0.1
Klein, E	31-Mar-23	Reviewing employee proofs of claim and updating Service Canada website for WEPP. Corresponding with.	0.3

This is Exhibit "B" Referred to in the affidavit of

Matthew Marchand

Sworn before me this 6th day of April 2023

A handwritten signature in black ink, appearing to read "T. Montano". The signature is written in a cursive style with a large, stylized initial "T".

A COMMISSIONER FOR TAKING AFFIDAVITS

Antonio Montesano, a Commissioner, etc.,
Province of Ontario, for BDO Canada LLP
and BDO Canada Limited, and
their subsidiaries, associates and affiliates
Expires December 21, 2023



Tel: 416 865 0210
 Fax: 416 865 0904
 www.bdo.ca

BDO Canada Limited
 20 Wellington Street E., Suite 500
 Toronto ON M5E 1C5 Canada

INVOICE

Strictly Private & Confidential

Valsoft Corporation
 7405, Route Transcanadienne, Suite 100
 Montreal, QC H4T 1Z2

Attention: Chris Malouf

Date
 March 8, 2023

Invoice No.
 TSA - 001

Re Kivuto Solutions Inc., in receivership (“Kivuto” or the “Company”) - Transition Services Agreement

FOR PROFESSIONAL SERVICES RENDERED in connection with the Transition Services Agreement for the above noted for the period February 3, 2023 to February 28, 2023 as per the details below:

For Professional Services	\$ 10,217.00
HST - 13.0% (#R101518124)	1,328.21
Sub Total	<u>11,545.21</u>
Disbursements paid by estate	
As per attached Summary - inclusive of sales taxes	10,586.31
Total Due and Payable	<u><u>\$ 22,131.52</u></u>

<i>Summary of Time Charges:</i>	Hours	Rate	Amount
M. Marchand, Partner	7.1	595.00	4,224.50
N. Sagolili, Sr. Manager	11.9	475.00	5,652.50
E. Klein, Manager	0.8	425.00	340.00
	<u>19.8</u>		<u><u>\$ 10,217.00</u></u>

Staff	Date	Comments	Hours
Marchand, M	13-Feb-23	Review email from G. Farruggia re UCB payment; correspondence with N. Sagolili re same; correspondence with G. Farruggia re Kivuto bank accounts; email correspondence with C. Malouf re payroll coordination.	0.3
Sagolili, N	14-Feb-23	Review of balance in BMO USD account, arrange for payment to be made to customer (University of Colorado Boulder), and send payment confirmation to Valsoft. Compile American Express transactions charged post-receivership.	0.8
Marchand, M	14-Feb-23	Email correspondence with Y. Matos re customer refund; correspondence with N. Sagolili re banking transactions; email correspondence with S. El-Bikai re cheques; phone call with S. El-Bikai re same; correspondence with A. Phadke re keyholder agreements; email correspondence with C. Martin re insurance extension; correspondence with N. Sagolili re issues with processing payroll for retained employees; review email and attachment from N. Sagolili re transition services questions for Valsoft; draft email to C. Malouf and G. Farruggia re transition services inquiries; correspondence with S. Aires re customer wire information; provide direction to C. Virtue re same; review email from C. Virtue re banking activity.	1.2
Marchand, M	15-Feb-23	Review email from C. Malouf re TSA meeting; review email from G. Marouchos re same; review email from T. Murray re same; review email and attachment from N. Martin re Microsoft assignment agreement; email correspondence with G. Phoenix re same; email correspondence with N. Martin re same; correspondence with N. Sagolili re post-closing bank account transfers to Valsoft; email correspondence with G. Marouchos re introduction to post-close Valsoft counsel.	0.6
Sagolili, N	16-Feb-23	Compile additional follow-up questions for Valsoft. Attend call with Valsoft to review various transition matters. Draft memo on transition action items, compile attachments, and circulate to Valsoft team. Download updated American Express credit card transactions.	2.7
Marchand, M	16-Feb-23	Email correspondence with C. Martin re insurance extension; email correspondence with M. McKenzie re system access; review transition services agreement and prepare for teleconference with Valsoft; teleconference with Valsoft and N. Sagolili re transition items and related issues.	1.1
Sagolili, N	17-Feb-23	Correspond with S. Foottit re: various Valsoft transition matters (NetSuite Access, HubSpot, insurance, lease, etc.). Call with C. Virtue re: Valsoft's requirements for banking and accounts receivable transactions. Discussion with M. Marchand re: various transition matters. Various correspondence with O. Solovyeva re: payroll for retained employees. Call with S. El-Bikai and R. Zazyan re: transition matters (payroll and balance sheet). Compile various documents for Valsoft (insurance, lease, payroll, etc.) And drafting of e-mail re: same.	2.9
Marchand, M	17-Feb-23	Email correspondence with C. Martin re insurance extension; email correspondence with N. Sagolili and S. Foottit re coordinating numerous transition items; review email and attachment from C. Virtue re bank activity; correspondence with N. Sagolili re transition issues and directions.	0.8
Sagolili, N	20-Feb-23	Instructions to C. Virtue re: TSA-related tasks to complete (banking, etc.).	0.2
Sagolili, N	21-Feb-23	Discussions with M. Marchand re: payroll for retained employees. E-mail to C. Virtue re: funds in TD CAD account for retained employees payroll. Various e-mails to/from O. Solovyeva re: retained employees payable. Review of payroll report of retained employees. Draft and send e-mail re: Receiver's transition action items to Valsoft (payroll, CRM system, insurance, lease, etc.). Correspond with C. Virtue re: information to send to Valsoft. Review of invoices from S. Foottit and C. Virtue for TSA-related work. E-mail to S. El-Bikai re: bank transaction data and review of transactions going forward.	1.9

Staff	Date	Comments	Hours
Klein, E	21-Feb-23	Meeting with A. Phadke re: ongoing services and status. Reviewing emails re: same.	0.5
Marchand, M	21-Feb-23	Email correspondence with O. Solovyeva re retained employee payroll processing; correspondence with N. Sagolili re same; email correspondence with C. Virtue re same; review email correspondence from S. Aires and C. Virtue re banking statements; review email from S. El-Bikai re month-end tasks; email correspondence with C. Malouf re expenses; review email from C. Virtue re banking transactions; correspondence with E. Klein re vendor inquiries; email correspondence with Valsoft re same.	0.6
Sagolili, N	22-Feb-23	Call and correspondence with C. Virtue re: TSA-related tasks (bank transactions, etc.). Call with M. Marchand re: various TSA-related items (accounts receivable, extension of lease, insurance, etc.). Phone call and e-mails to/from landlord re: extension of lease. E-mails to/from G. Marouchos re: extension of lease. Prepare cheque requisitions for TSA-related invoices of C. Virtue and S. Foottit.	1.5
Marchand, M	22-Feb-23	Correspondence with C. Virtue and N. Sagolili re bank account charges; email correspondence with G. Marouchos re retention of premises; correspondence with N. Sagolili re office lease; email correspondence with C. Martin re insurance extension; teleconference with C. Malouf and G. Marouchos re pre-closing expenses.	0.7
Sagolili, N	23-Feb-23	E-mails from/to landlord re: lease extension. E-mail to Valsoft team re: various action items (lease, accounting system, etc.). Call with and e-mails to/from M. Marchand re: various transition items.	1.0
Marchand, M	23-Feb-23	Email correspondence re Netsuite; correspondence with N. Sagolili re transition action items including bank accounts and office space; email correspondence with S. Aires and S. El-Bikai re PayPal transaction details; correspondence with G. Phoenix re TSA office lease, bank accounts and accounts receivable updates and next steps; email correspondence with S. El-Bikai re closing balance and open items.	1.0
Marchand, M	24-Feb-23	Email correspondence with C. Virtue re BMO account access; email correspondence with C. Virtue re Netsuite access; review email from C. Martin re insurance extension updates; phone call with S. El-Bikai and N. Sagolili re PayPal and Worldline account transfers and Netsuite contract and access.	0.4
Klein, E	24-Feb-23	Corresponding with creditors re: transfer of services to purchaser.	0.3
Marchand, M	28-Feb-23	Correspondence with N. Sagolili re transfer of PayPal and Worldline accounts and office lease updates; email correspondence with N. Sagolili and C. Martin re insurance status; email correspondence with S. El-Bikai re bank accounts.	0.4
Sagolili, N	28-Feb-23	Follow-up with C. Martin (Rhode & Williams Group) re: extension of insurance policy. Discussion with M. Marchand re: various TSA-related matters (bank accounts, insurance, premises, etc.). E-mail to C. Virtue re: Paypal and Worldline accounts. Review of transition action items and send out revised list to Valsoft.	0.9

Kivuto Solutions Inc., in receivership
 Expenses to Bill Back to Valsoft Corporation

Vendor	Invoice #	Invoice Date	Description	Amount
Carly Virtue (Balanced Solutions)	711238	13-Feb-2023	TSA-related tasks (Feb. 13-17, 2023)	1,045.25
Carly Virtue (Balanced Solutions)	711241	24-Feb-2023	TSA-related tasks (Feb. 21-24, 2023)	2,147.00
Carly Virtue (Balanced Solutions)	711271	3-Mar-2023	TSA-related tasks (Feb. 27-Mar. 3, 2023)	1,333.40
Sarah Foottit	TSA-1		TSA-related tasks (Feb. 8-17, 2023)	45.00
Sarah Foottit	TSA-2	3-Mar-2023	TSA-related tasks (Feb. 20-Mar. 3, 2023)	240.00
Rhode & Williams Limited	259421	1-Mar-2023	Insurance extension to Mar. 31, 2023 (\$812 USD)	1,105.29 (1)
Rhode & Williams Limited	259422	1-Mar-2023	Insurance extension to Mar. 31, 2023	60.64
Rhode & Williams Limited	259423	1-Mar-2023	Insurance extension to Mar. 31, 2023	27.76
American Express	N/A	14-Feb-2023	Post-receivership credit card transactions	4,581.97
				10,586.31

Note 1:

Invoice 259421 was for \$812.00 USD, converted to CAD at FX rate of 1.3612.

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711238**DATE** 13/02/2023**DUE DATE** 01/03/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Feb 13 - Bank balances calculation,	1.25	100.00	125.00
CFO/Controller Services	Feb 14 - Bank balances, UBC ACH,	2	100.00	200.00
CFO/Controller Services	Feb 15 - Bank balances,	1.25	100.00	125.00
CFO/Controller Services	Feb 16 - Bank balances, Susanas vendor bank list start	1.50	100.00	150.00
CFO/Controller Services	Feb 17 - Bank balances, meeting for tasks, Complete Susana's vendor bank list	3.25	100.00	325.00

Thank you for your business!

SUBTOTAL 925.00
 HST @ 13% 120.25
 TOTAL 1,045.25
BALANCE DUE \$1,045.25

Please make cheque payable to Balanced Solutions, or send transfers to Carly@BalancedSolutionsInc.com

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711241**DATE** 24/02/2023**DUE DATE** 01/03/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Feb 21 - Bank transactions from Feb 9-20, Paypal transactions, WL transactions started	7.50	100.00	750.00
CFO/Controller Services	Feb 22 - WL transactions, Bank balances, Statements for Susana, Meeting with Samer	5.50	100.00	550.00
CFO/Controller Services	Feb 23 - Bank/WL transactions, meeting with Samer, Petras/Susana requests	4	100.00	400.00
CFO/Controller Services	Feb 24 - Bank/WL transactions, email requests,	2	100.00	200.00

Thank you for your business!

SUBTOTAL	1,900.00
HST @ 13%	247.00
TOTAL	2,147.00
BALANCE DUE	\$2,147.00

Please make cheque payable to Balanced Solutions, or send transfers to
 Carly@BalancedSolutionsInc.com

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711271**DATE** 03/03/2023**DUE DATE** 01/04/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Feb 27 - Bank transactions. WL transactions	2	100.00	200.00
CFO/Controller Services	Feb 28 - Bank/WL transactions	1.25	100.00	125.00
CFO/Controller Services	Mar 1 - Bank transactions/WL transactions, Paypal WL transfer accounts emails and discussions kicked off	2.50	100.00	250.00
CFO/Controller Services	Mar 2 - Bank/WL transactions, email requests	1.50	100.00	150.00
CFO/Controller Services	Mar 3 - Bank/WL transactions, email questions, inventory questions, call with Samer re: Liberty, Paypal call for transfer account, bank info to Neda	4.55	100.00	455.00

Thank you for your business!

SUBTOTAL 1,180.00
 HST @ 13% 153.40
 TOTAL 1,333.40
BALANCE DUE \$1,333.40

Please make cheque payable to Balanced Solutions, or send transfers to Carly@BalancedSolutionsInc.com

Sarah Foottit Consulting

INVOICE

214 Horseshoe Cres
Stittsville, ON K2S 0B8
613-716-7629

DATE: February 17, 2023
INVOICE # TSA-1
PERIOD: February 8-17, 2023

Bill To:

BDO Canada Limited
In its capacity as court-appointed Receiver of
Kivuto Solutions Inc. and not in its personal or corporate
capacity
20 Wellington Street E., Suite 500
Toronto, ON M5E 1C5

DESCRIPTION	DATE	HOURS	RATE PER HOUR	AMOUNT
Approve wire payment to University of Colorado at Boulder, as approved by G.Faruggia	14-Feb	0.10	150.00	\$ 15.00
Respond to K.LebLANC re recovery of wages & expenses for M.Larocque	14-Feb	0.10	150.00	\$ 15.00
Respond to D.Law re Finance fileshare permissions	17-Feb	0.10	150.00	\$ 15.00
Subtotal				\$ 45.00
Sales Tax (HST)				\$ -
TOTAL				\$ 45.00

GST No:

Make all checks payable to Sarah Foottit

If you have any questions concerning this invoice, contact sfoottit@gmail.com

THANK YOU FOR YOUR BUSINESS!

INVOICE

Sarah Foottit Consulting

214 Horseshoe Cres
Stittsville, ON K2S 0B8
613-716-7629

DATE: March 3, 2023
INVOICE # TSA-2
PERIOD: Feb 20-Mar 3, 2023

Bill To:

BDO Canada Limited
In its capacity as court-appointed Receiver of
Kivuto Solutions Inc. and not in its personal or corporate
capacity
20 Wellington Street E., Suite 500
Toronto, ON M5E 1C5


DESCRIPTION	DATE	HOURS	RATE PER HOUR	AMOUNT
Call with S.El-Bikai re IBM SPSS purchasing process, prepare and send all documentation re same	22-Feb	1.00	150.00	\$ 150.00
Respond to email from D.Law re Admin folder, review files in Admin folder	22-Feb	0.20	150.00	\$ 30.00
Prepare SPSS purchase form as directed by S.El-Bikai and send to IBM, introduce S.El-Bikai to IBM contact	23-Feb	0.20	150.00	\$ 30.00
Forward proof of purchase from IBM to O.Solovyeva, P.Harvie, J.Taing and S.El-Bikai	24-Feb	0.10	150.00	\$ 15.00
Respond to Teams message from M.Yilmaz re Admin folder	02-Mar	0.10	150.00	\$ 15.00
Subtotal				\$ 240.00
Sales Tax (HST)				\$ -
TOTAL				\$ 240.00

GST No:

Make all checks payable to Sarah Foottit

If you have any questions concerning this invoice, contact sfoottit@gmail.com

THANK YOU FOR YOUR BUSINESS!

220			 Your Best Insurance Is An Insurance Broker
INVOICE NO. 259421			
ACCOUNT NO.	OP	DATE	
KIVOS-1	TM	03/01/2023	
AMOUNT PAID		AMOUNT DUE	
		\$812.00	

Kivuto Solutions Inc. & BDO Canada
 20 Wellington St East ,Ste 500
 Toronto, ON M5E 1C5

Itm #	Due Date	Trn	Type	Description	Amount
9BPJSM	03/01/23	+EN	HT	HT Policy Ext to Mar 31/23-US	\$557.00
9BPJSY	03/01/23	+EN	UM	UM Policy Ext to Mar 31/23-US	\$255.00
Invoice Balance:					\$812.00

The Rhodes & Williams Group of Companies




DEWAR & BETHUNE
 Insurance Brokers Ltd.



Cleary & Associates
 Insurance Brokers Ltd.

EMERIC MCLEAN
IB INSURANCE BROKERS
 Where your protection is priority.



INVOICE NO. 259422			 <small>Your Best Insurance Is An Insurance Broker</small>
ACCOUNT NO.	OP	DATE	
KIVOS-2	TM	03/01/2023	
High Technology Policy			
POLICY #			
35946852			
COMPANY			
Chubb Insurance Company			
EFFECTIVE	EXPIRATION	BALANCE DUE ON	
10/01/2021	03/31/2023		
AMOUNT PAID		AMOUNT DUE	
		\$60.64	

Kivuto Solutions Inc. & BDO Canada
 20 wellington St, East, Ste 500
 Toronto, ON M5E 1C5

Itm #	Eff Date	Trn	Description	Amount
9BPJT8	02/28/23	OTX	ONT Tax-HT Ext to Mar31/23-CAD	\$60.64
Invoice Balance:				\$60.64

The Rhodes & Williams Group of Companies




DEWAR & BETHUNE
 Insurance Brokers Ltd.



Cleary & Associates
 Insurance Brokers Ltd.

EM ERIC MCLEAN
IB INSURANCE BROKERS
 Where your protection is priority.



INVOICE NO. 259423			
ACCOUNT NO.	OP	DATE	
KIVOS-2	TM	03/01/2023	
Umbrella Policy			
POLICY #			
79873141			
COMPANY			
Chubb Insurance Company			
EFFECTIVE	EXPIRATION	BALANCE DUE ON	
10/01/2021	03/31/2023		
AMOUNT PAID		AMOUNT DUE	
		\$27.76	

Kivuto Solutions Inc. & BDO Canada
 20 Wellington St, East, Ste 500
 Toronto, ON M5E 1C5

Itm #	Eff Date	Trn	Description	Amount
9BPJT9	02/28/23	OTX	ONT Tax-UM Ext to Mar31/23-CAD	\$27.76
Invoice Balance:				\$27.76

The Rhodes & Williams Group of Companies



DEWAR & BETHUNE
 Insurance Brokers Ltd.



Cleary & Associates
 Insurance Brokers Ltd.

EM ERIC MCLEAN
IB INSURANCE BROKERS
Where your protection is priority.



Kivuto Solutions Inc., in receivership
 Post-receivership American Express Charges

Cardmember Last Name	Cardmember First Name	Card Account No.	Transaction Date	Transaction Amount	Description	
LAW	DAVID	3790-635920-83001	02/07/2023	138.76	MSFT *<E0700M83QH>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/07/2023	3.62	MSFT *<E0700M8AU0>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/07/2023	92.21	MSFT *<E0700M83QI>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/07/2023	17.40	MSFT *<E0700M80FI>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/07/2023	85.20	MSFT *<E0700M83QJ>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/07/2023	28.89	-FEDEX-*256608953	MISSISSAUGA
LAW	DAVID	3790-635920-83001	02/07/2023	233.62	VOIP.MS/VOIP.MS	TERREBONNE
LAW	DAVID	3790-635920-83001	02/08/2023	1,465.38	ADOBE CREATIVE CLOUD SAN JOSE	CA
LAW	DAVID	3790-635920-83001	02/08/2023	352.07	AHA LABS 08487005160 LOS ALTOS	CA
LAW	DAVID	3790-635920-83001	02/09/2023	29.37	ADOBE ACROPRO SUBS A SAN JOSE	CA
DALLAIRE	CHRISTIAN	3790-671707-71002	02/10/2023	129.64	WWW.DOODLE.COM	ZURICH
DALLAIRE	CHRISTIAN	3790-671707-71002	02/10/2023	827.39	BAMBOOHR HRIS	866-387-9595 UT
LAW	DAVID	3790-635920-83001	02/10/2023	309.51	LEADIQ* LEADIQ SUBSC SOUTH SAN FRANCISC	CA
LAW	DAVID	3790-635920-83001	02/10/2023	10.00	MYFAX SERVICES	6132160978
LAW	DAVID	3790-635920-83001	02/12/2023	130.52	MSFT *<E0500M7C4H>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/12/2023	89.50	MSFT * E0700MB47I	425-703-8358
LAW	DAVID	3790-635920-83001	02/12/2023	165.35	DNH*SUCURI WEBSITE S 888-873-0817	DE
LAW	DAVID	3790-635920-83001	02/13/2023	62.38	MSFT *<E0700MB47J>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/13/2023	49.72	MSFT *<E0500M805B>	MSBILL.INFO
LAW	DAVID	3790-635920-83001	02/13/2023	137.10	PAYPAL *GITHUB INC	4154486673 CA
LAW	DAVID	3790-635920-83001	02/14/2023	224.34	-FEDEX-*256684490	MISSISSAUGA

4,581.97

- 5 -

This is Exhibit "C" Referred to in the affidavit of

Matthew Marchand

Sworn before me this 6th day of April 2023



A COMMISSIONER FOR TAKING AFFIDAVITS

Antonio Montesano, a Commissioner, etc.,
Province of Ontario, for BDO Canada LLP
and BDO Canada Limited, and
their subsidiaries, associates and affiliates
Expires December 21, 2023



Tel: 416 865 0210
 Fax: 416 865 0904
 www.bdo.ca

BDO Canada Limited
 20 Wellington Street E., Suite 500
 Toronto ON M5E 1C5 Canada

INVOICE

Strictly Private & Confidential

Valsoft Corporation
 7405, Route Transcanadienne, Suite 100
 Montreal, QC H4T 1Z2

Attention: Chris Malouf

Date
 April 4, 2023

Invoice No.
 TSA - 002

Re Kivuto Solutions Inc., in receivership (“Kivuto” or the “Company”) - Transition Services Agreement

FOR PROFESSIONAL SERVICES RENDERED in connection with the Transition Services Agreement for the above noted for the period March 1, 2023 to March 31, 2023 as per the details below. Note that a time charge incurred on February 24, 2023 was not included on invoice TSA - 001.

For Professional Services	\$ 10,292.00
HST - 13.0% (#R101518124)	<u>1,337.96</u>
Subtotal	11,629.96
Disbursements paid by the estate	
As per attached Summary - inclusive of sales taxes	<u>5,683.90</u>
Total Due and Payable	<u><u>\$ 17,313.86</u></u>

<i>Summary of Time Charges:</i>	Hours	Rate	Amount
M. Marchand, Partner	7.6	595.00	4,522.00
N. Sagolili, Sr. Manager	11.7	475.00	5,557.50
E. Klein, Manager	0.5	425.00	212.50
	<u>19.8</u>		<u><u>\$ 10,292.00</u></u>

Staff	Date	Comment	Hours
Sagolili, N	24-Feb-23	Receipt and review of e-mails re: TSA matters. Call with C. Virtue re: TSA matters (update of balance sheet, etc.). Receipt of e-mail from the landlord. Follow-up with insurance broker re: extension of insurance policy. Call with S. El-Bikai re: transition matters (NetSuite access, balance sheet, and Paypal and Worldline accounts).	0.9
Sagolili, N	1-Mar-23	Receipt and review of invoice from C. Virtue for TSA-related tasks, and prepare cheque requisition. Coordinate preparation of draft invoice for TSA. Review of TSA terms. Correspond with C. Virtue re: TD bank accounts.	0.6
Marchand, M	1-Mar-23	Correspondence with N. Sagolili re TD bank account fees and continued operation.	0.1
Sagolili, N	2-Mar-23	E-mails from/to S. El-Bikai re: transfer of PayPal and Worldline, and discussion with C. Virtue re: same.	0.1
Marchand, M	2-Mar-23	Email correspondence with S. El-Bikai re bank account transactions.	0.1
Sagolili, N	3-Mar-23	E-mail from C. Martin (Rhode & Williams Group) re: insurance policy extension, receipt and review of documentation, and attend re: payment. Attend re: invoice to Valsoft, and compile expenses to be reimbursed. Receipt and review of e-mails.	1.4
Marchand, M	3-Mar-23	Review email from S. El-Bikai re time extension of TD and BMO accounts; review emails with N. Sagolili, S. El-Bikai and G. Marouchos re transition services action items status and next steps; email correspondence with C. Virtue re permission to provide historical banking transaction data; correspondence with N. Sagolili re TSA fees and invoicing.	0.4
Marchand, M	5-Mar-23	Review email updates from C. Virtue re PayPal and Worldline account transfers and activity; review email and attachment from S. Foottit re invoice.	0.1
Sagolili, N	6-Mar-23	Attend re: payment of insurance premiums. Receipt and review of invoice from S. Foottit re: TSA-related tasks, and prepare cheque requisition. Receipt and review of invoice from C. Virtue for TSA-related tasks, and prepare cheque requisition. Update list of disbursements to bill-back to Valsoft, and attend re: invoice to Valsoft. Correspond with C. Virtue re: transfer of PayPal account, and e-mail to S. El-Bikai re: same.	1.2
Marchand, M	6-Mar-23	Sign cheque and wire letter re insurance.	0.1
Sagolili, N	7-Mar-23	E-mail from S. El-Bikai re: transfer of PayPal account, and e-mail to C. Virtue re: same. Review of invoice to Valsoft. E-mail from C. Martin (Rhodes & Williams Group) re: proof of insurance.	0.6

Staff	Date	Comment	Hours
Marchand, M	7-Mar-23	Phone call with G. Phoenix re TSA extension and related matters; email correspondence with S. El-Bikai re bank accounts.	0.3
Sagolili, N	8-Mar-23	E-mails re: extension of lease. E-mails re: additional access to bank accounts. Finalize TSA invoice, and e-mail to C. Malouf. Review and update transition action item list, and send revised list to Valsoft.	0.8
Marchand, M	8-Mar-23	Correspondence with N. Sagolili re TSA fees; phone and email correspondence with G. Phoenix re request for extended access to premises and access to bank accounts; email correspondence with S. El-Bikai re same; correspondence with C. Lonergan re TSA issues; correspondence with N. Sagolili re potential insurance extension.	0.5
Sagolili, N	9-Mar-23	Discussion with M. Marchand re: extension of lease, access to bank accounts, etc.	0.1
Marchand, M	9-Mar-23	Review email from G. Phoenix re lease continuance and related matters; phone call with S. El-Bikai re TSA extension matters.	0.3
Marchand, M	10-Mar-23	Phone call with S. El-Bikai re NetSuite; review emails from S. Aires and S. El-Bikai re request to refund customers.	0.3
Sagolili, N	10-Mar-23	E-mails re: requests from Valsoft.	0.1
Sagolili, N	13-Mar-23	Receipt and review of invoice from C. Virtue for TSA-related tasks, and prepare cheque requisition. Attend re: payment of invoices. Follow-up with Valsoft re: Receiver's invoice for TSA services.	0.3
Marchand, M	13-Mar-23	Review emails from C. Virtue and S. Aires re customer refunds.	0.1
Marchand, M	14-Mar-23	Email correspondence with S. El-Bikai re office space and bank accounts; email correspondence with C. Virtue re Worldline account transfers; email correspondence with G. Phoenix re landlord matters.	0.3
Sagolili, N	15-Mar-23	Receipt and review of e-mails re: various TSA-related matters (transfer of Worldline and PayPal accounts, Valsoft task requests, status of lease, etc.). E-mail from G. Marouchos re: transition action items. Discussion with M. Marchand re: various transition matters (premises, bank accounts, insurance, etc.). Coordinate walkthrough of premises. E-mail to S. El-Bikai and C. Virtue re: process of closing bank accounts. E-mail to C. Virtue re: Rogers accounts.	1.4
Marchand, M	15-Mar-23	Review email from C. Keliher re office lease and TSA extension; review email from G. Marouchos re transition services action items; correspondence with N. Sagolili re same; email correspondence with G. Phoenix re same; review email from S. El-Bikai re mail redirection.	0.7
Sagolili, N	16-Mar-23	Receipt and review of various e-mails re: TSA-related tasks, update to TSA, and other banking matters. Correspond with C.	0.4

Staff	Date	Comment	Hours
		Virtue re: Rogers invoices. Coordinate walkthrough with landlord. E-mail to S. El-Bikai and C. Virtue re: closure of accounts.	
Marchand, M	16-Mar-23	Email correspondence with S. Aires and S. El-Bikai re customer refunds; email correspondence with C. Virtue re BDC fees; email correspondence with R. Wilson re same; email correspondence with A. Jamnisek re same; email correspondence with G. Phoenix and C. Keliher re TSA extension.	0.6
Sagolili, N	17-Mar-23	Receipt and review of various e-mails re: TSA-related tasks, and update to TSA. Review of transition action items and e-mail to Valsoft re: same. Correspond with C. Virtue re: bank account closures.	0.5
Marchand, M	17-Mar-23	Email correspondence with Valsoft team re customer refunds.	0.1
Sagolili, N	20-Mar-23	Attend re: payment of invoices from C. Virtue for TSA-related tasks.	0.1
Marchand, M	20-Mar-23	Review email from S. Aires re Worldline; correspondence with O. Solovyeva re TSA payment; review emails from S. Aires and S. El-Bikai re customer refund investigation; draft email to C. Virtue re same; review and sign cheque re C. Virtue fees; draft email to Valsoft team re end of premises occupancy and related matters; review email from G. Marouchos re same; email correspondence with G. Phoenix re same; review email from N. Sagolili re TSA action items status updates.	0.5
Marchand, M	21-Mar-23	Email correspondence with C. Virtue re PayPal and Worldline account transfers; email correspondence with O. Solovyeva re payment of TSA fees; review email from C. Virtue re customer account investigations.	0.3
Marchand, M	22-Mar-23	Email correspondence with S. Aires re customer PayPal refund inquiry; correspondence with C. Virtue re same.	0.1
Sagolili, N	23-Mar-23	E-mail to landlord re: walkthrough of premises, and coordination of same. Follow-up with Valsoft re: outstanding transition action items.	0.3
Marchand, M	23-Mar-23	Review email correspondence re TSA action items status updates; email correspondence with S. Aires and C. Virtue re PayPal refunds; email correspondence with O. Solovyeva re TSA invoice payment status.	0.2
Sagolili, N	27-Mar-23	Receipt and review of e-mails re: TSA-related tasks. E-mail to and call with landlord re: coordination of walkthrough of premises. Discussion with M. Marchand re: various outstanding transition matters (premises, bank accounts, Rogers accounts, etc.). Instructions to E. Klein re: cancellation of Rogers cell phone account. Prepare cheque requisition for C. Virtue for TSA-related tasks.	0.8

Staff	Date	Comment	Hours
Marchand, M	27-Mar-23	Email correspondence with C. Virtue re Worldline account transfer issues; phone and email correspondence with N. Sagolili re transition services agreement task status updates; email correspondence with L. Dula re receipt of TSA fees.	0.5
Sagolili, N	28-Mar-23	E-mails to/from K. Wallace and G. Marouchos re: walkthrough of premises. E-mail to/from O. Solovyeva re: Rogers bills paid by Valsoft. E-mails to/from E. Klein re: Rogers cell phone account. Discussion with M. Marchand re: various transition items (Worldline and BMO accounts, premises, insurance, etc.), and receipt and review of e-mails re: same.	0.8
Klein, E	28-Mar-23	Corresponding with Rogers re cancelling wireless account.	0.5
Marchand, M	28-Mar-23	Email correspondence with M. Morinaga and C. Virtue re PayPal customer reimbursements; phone call with N. Sagolili re transition services tasks and issues; email correspondence with C. Virtue and S. El-Bikai re Worldline account transfer issues; email correspondence with S. El-Bikai and G. Marouchos re insurance.	0.5
Marchand, M	29-Mar-23	Review email from N. Sagolili re bank account closure issues; phone call with C. Virtue and S. El-Bikai re Worldline account transfer issues, PayPal, and closure of TD and BMO bank accounts; draft email to N. Sagolili re TSA action item updates; email correspondence with T. Beattie re customer refund request.	0.6
Sagolili, N	30-Mar-23	Various e-mail correspondence re: Paychex account for US payroll, and status of insurance and Worldline accounts. Discussion with M. Marchand re: various TSA-related matters (insurance, premises, closure of bank accounts and Worldline account).	0.8
Marchand, M	30-Mar-23	Review email from C. Martin re insurance; draft email to G. Marouchos re same; email correspondence with C. Virtue re Worldline account transfer issues; email correspondence with C. Virtue re customer refund; phone call with N. Sagolili re transition service agreement action items.	0.5
Sagolili, N	31-Mar-23	E-mails from G. Marouchos re: insurance policy. Follow-up e-mail to G. Phoenix re: insurance policy. Various e-mails to/from M. Pasiak (Rhodes & Williams Ltd.) re: insurance policy. Correspond with M. Marchand.	0.5
Marchand, M	31-Mar-23	Review email from C. Virtue re Worldline; review email from G. Marouchos re insurance; phone call with G. Marouchos re same; email correspondence with G. Phoenix re insurance and bank account extensions.	0.4



Kivuto Solutions Inc., in receivership
Expenses to Bill Back to Valsoft Corporation

Vendor	Invoice #	Invoice Date	Description	Amount
Carly Virtue (Balanced Solutions)	711273	10-Mar-2023	TSA-related tasks (Mar. 6-10, 2023)	1,553.75
Carly Virtue (Balanced Solutions)	711282	17-Mar-2023	TSA-related tasks (Mar. 13-17, 2023)	1,627.20
Carly Virtue (Balanced Solutions)	711310	24-Mar-2023	TSA-related tasks (Mar. 20-24, 2023)	1,322.10
Carly Virtue (Balanced Solutions)	711312	31-Mar-2023	TSA-related tasks (Mar. 27-31, 2023)	1,180.85
				<hr/> 5,683.90 <hr/>

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711273**DATE** 10/03/2023**DUE DATE** 01/04/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Mar 6 - Bank/WL transactions, Neda requests WL balances updated from Feb17 on	5.75	100.00	575.00
CFO/Controller Services	Mar 7 - Bank/WL transactions, Paypal	2.25	100.00	225.00
CFO/Controller Services	Mar 8 - Bank/WL transactions,	1.75	100.00	175.00
CFO/Controller Services	Mar 9 - Bank/WL transactions, email requests	1.75	100.00	175.00
CFO/Controller Services	Mar 10 - Bank/WL transactions, Paypal	2.25	100.00	225.00

Thank you for your business!

SUBTOTAL	1,375.00
HST @ 13%	178.75
TOTAL	1,553.75
BALANCE DUE	\$1,553.75

Please make cheque payable to Balanced Solutions, or send transfers to
 Carly@BalancedSolutionsInc.com

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711282**DATE** 17/03/2023**DUE DATE** 01/04/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Mar 13 - Bank/WL transactions, email requests, AR meeting	3.50	100.00	350.00
CFO/Controller Services	Mar 14 - Bank/WL transactions, email requests	1.75	100.00	175.00
CFO/Controller Services	Mar 15 - Bank/WL transactions. email requests. Paypal/WL transfer account	3.25	100.00	325.00
CFO/Controller Services	Mar 16 - Bank/WL transactions, refunds/email requests	3	100.00	300.00
CFO/Controller Services	Mar 17 - Bank/WL transactions, email requests, paypal bulk orders	2.90	100.00	290.00

Thank you for your business!

SUBTOTAL	1,440.00
HST @ 13%	187.20
TOTAL	1,627.20
BALANCE DUE	\$1,627.20

Please make cheque payable to Balanced Solutions, or send transfers to
 Carly@BalancedSolutionsInc.com

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711310**DATE** 24/03/2023**DUE DATE** 01/04/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Mar 20 - Bank/WL transactions,	2.10	100.00	210.00
CFO/Controller Services	Mar 21 - Bank/WL transactions, emails/WL transfers	2.40	100.00	240.00
CFO/Controller Services	Mar 22 - Bank/WL transactions. email requests.	2.30	100.00	230.00
CFO/Controller Services	Mar 23 - Bank/WL transactions, accesses/refunds	2.10	100.00	210.00
CFO/Controller Services	Mar 24 - Bank/WL transactions, email requests, paypal bulk orders, Call Paypal LOA	2.80	100.00	280.00

Thank you for your business!

SUBTOTAL	1,170.00
HST @ 13%	152.10
TOTAL	1,322.10
BALANCE DUE	\$1,322.10

Please make cheque payable to Balanced Solutions, or send transfers to Carly@BalancedSolutionsInc.com

**BALANCED SOLUTIONS**

(613)371-1792
 carly@balancedsolutionsinc.com
 www.balancedsolutionsinc.com
 HST Registration No.: 847284700RT0001

INVOICE**BILL TO**

BDO Canada Limited
 Re: Kivuto Solutions
 Receivership - TSA billings

INVOICE # 711312**DATE** 31/03/2023**DUE DATE** 01/04/2023**TERMS** Due on receipt

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
CFO/Controller Services	Mar 27 - Bank/WL transactions,	2.25	100.00	225.00
CFO/Controller Services	Mar 28 - Bank/WL transactions, WL account transfer, refunds	2.10	100.00	210.00
CFO/Controller Services	Mar 29 - Bank/WL transactions. WL meeting with Matt and Samer	2.25	100.00	225.00
CFO/Controller Services	Mar 30 - Bank/WL transactions, WL meeting	2.10	100.00	210.00
CFO/Controller Services	Mar 31 - Bank/WL transactions, WL emails	1.75	100.00	175.00

Thank you for your business!

SUBTOTAL	1,045.00
HST @ 13%	135.85
TOTAL	1,180.85
BALANCE DUE	\$1,180.85

Please make cheque payable to Balanced Solutions, or send transfers to Carly@BalancedSolutionsInc.com

TAB 2H

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

**AFFIDAVIT OF SHAHRZAD HAMRAZ
(Affirmed April 10, 2023)**

I, **SHAHRZAD HAMRAZ**, of the City of Toronto, in the Province of Ontario,
AFFIRM AND SAY:

1. I am a lawyer at the law firm Loopstra Nixon LLP ("**Loopstra Nixon**"), counsel to BDO Canada Limited in its capacity as Court-appointed Receiver of the assets, undertaking and property of Kivuto Solutions Inc. (in such capacity, the "**Receiver**"). Accordingly, I have knowledge of matters hereinafter deposed to.

2. Attached hereto and marked as **Exhibit "A"** are true copies of the Statements of Account issued by Loopstra Nixon in respect of services rendered to the Receiver for the period from January 16, 2023, through March 31, 2023 (the "**Billing Period**"). During the Billing Period, the total fees and disbursements billed were \$16,875.50 and \$471.37, respectively, and applicable taxes of \$2,255.10 for an aggregate amount of \$19,601.97.

3. As set out in the following table, 29.70 hours were billed by Loopstra Nixon during the Billing Period, resulting in an average hourly rate of \$568.20 (exclusive of applicable taxes):

Name of Professional	Total Hours	Hourly Rate(s) (\$)
R.G. Phoenix (2006)	19.30	\$695
Shahrzad Hamraz (2022)	9.40	\$355
Amanda Adamo (Law Clerk)	1.00	\$125

4. I confirm that the activities detailed in the Statements of Account attached hereto as Exhibit "A" accurately reflect the services provided by Loopstra Nixon; and, that the rates charged are the standard hourly rates for each such professional at the time that such charges were incurred.

5. In connection with the within accounts, Loopstra Nixon has been paid nil (\$0.00) and holds nil (\$0.00) on retainer in trust.

6. In anticipation of completing a discharge motion on behalf of the Receiver and Loopstra Nixon's involvement as counsel to the Receiver through to the completion of the Receiver's remaining tasks and obligations, Loopstra Nixon estimates a fee accrual of up to \$12,500, plus taxes and disbursements (the "**Fee Accrual**") to complete the same.

7. I affirm this affidavit in support of a motion for, *inter alia*, approval of the fees and disbursements of Loopstra Nixon, including the Fee Accrual detailed herein and for no other reason or improper purpose.

AFFIRMED BEFORE ME at the)
 City of Toronto, in the)
 Province of Ontario, this)
 10th day of April, 2023)

Al Bt

 A Commissioner for taking affidavits, etc.

Shahrzad Hamraz

SHAHMZAD HAMRAZ

This is Exhibit "A" referred to in the Affidavit of Shahrzad Hamraz affirmed before me this 10th day of April, 2023.



A Commissioner, etc.



March 31, 2023

R. Graham Phoenix
Direct Line: 416.748.4776
Email: gphoenix@loonix.com
RGP Professional Corporation

CONFIDENTIAL

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Matter No. 06325-0012

Attention: Matthew Marchand

RE: Kivuto Solutions Inc.

Please find enclosed herewith our Statement of Account for services rendered with regard to the above-noted matter to and including March 31, 2023 which we trust you will find satisfactory.

If you have any questions, please contact the undersigned.

Yours truly,

LOOPSTRA NIXON LLP
Per:

R. Graham Phoenix
Encl.



March 31, 2023

Invoice No. 123636

Matter No. 06325-0012

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Matthew Marchand

RE: Kivuto Solutions Inc.

STATEMENT OF ACCOUNT

TO OUR FEE FOR PROFESSIONAL SERVICES rendered in connection with the above-noted matter through to March 31, 2023.

OUR FEE	\$12,288.50
HST on Fees @ 13%	\$1,597.51

DISBURSEMENTS:

Total Disbursements	\$471.37
HST on Disbursements	\$61.28
Total Fees, Disbursements and HST	<u>\$14,418.66</u>

The above account represents a summary of the professional services rendered to you, and this firm reserves the right to provide further particulars of our professional services rendered in the event the same is required or requested.

THIS IS OUR STATEMENT OF ACCOUNT HEREIN

LOOPSTRA NIXON LLP

Per:

R. Graham Phoenix
RGP/pca

In accordance with the Solicitor's Act, interest will be charged on this account until paid, at the rate of 2.0% per annum, commencing one month after delivery, E. & O.E. * HST No. 122610298RT0001



PRIVILEGED AND CONFIDENTIAL
Billing Detail Report to 31-Mar-2023

March 31, 2023

Invoice No. 123636

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Matter No. 06325-0012

Attention: Matthew Marchand

RE: Kivuto Solutions Inc.

FEES

<u>Date</u>	<u>Narrative</u>	<u>Professional</u>	<u>Time</u>
27-Mar-2023	To creating NetDocs sub folder re: hearing rtbl April 19, 2023	AMA	0.00
16-Jan-2023	Emails with BDO. Preliminary review of banking documents. Directions to associate re: security review.	RGP	0.30
16-Jan-2023	Review loan documents.	SHH	0.80
16-Jan-2023	To complete various corporate searches re. Kivuto Solutions Inc	AMA	0.30
17-Jan-2023	Emails with receiver re: loan and security documents. Review of same and email to associate wiht direciions.	RGP	0.20
17-Jan-2023	Review loan documents. Begin draft of security review.	SHH	2.20
18-Jan-2023	Continue draft of security review.	SHH	4.50
19-Jan-2023	Review and revise security review. Directions to SHH re: same.	RGP	1.50
19-Jan-2023	Continue security review.	SHH	1.10
19-Jan-2023	To complete various searches re: 10600598 CANADA INC.	AMA	0.20
24-Jan-2023	Review and revised security review. Directions to associate to finalize and send same.	RGP	0.50
24-Jan-2023	Review and finalize security review. Send to BDO.	SHH	0.80
24-Jan-2023	To pull updated searches on Kivuto & 106Co.; to provide same to Graham Phoenix.	AMA	0.20
01-Feb-2023	Conference with associate re: research requirements.	RGP	0.20



07-Feb-2023	Calls with BDO re: independent counsel role. Emails with Fogler Rubinoff. Various Emails re: closing. Review of Sale Agreement and various closing documents. Emails with BDO re: employee issue.	RGP	3.00
08-Feb-2023	Review additional closing documents. Review issues re: ITA elections. Call with client re: same and closing matters. Emails with counsel to TD. Review final closing documents. Email releasing receiver's certificate.	RGP	4.80
09-Feb-2023	Various calls with parties re: closing and closing costs adjustment. Negotiate agreement re: same. Various closing items, including after-hours undertaking, etc.	RGP	0.50
10-Feb-2023	Call with M. Marchand, confirming closing money and discussion re: remaining elements. Emails re: same.	RGP	0.30
13-Feb-2023	Emails with counsel to purchaser and to receiver re closing items.	RGP	0.50
17-Feb-2023	Emails with counsel to purchaser and receiver re: closing items.	RGP	0.10
17-Feb-2023	To submit Receiver's Certificate for issuance with the Court	AMA	0.10
21-Feb-2023	Email with Receiver re: closing items. Emails to all re: Receiver's Certificate	RGP	0.10
27-Feb-2023	Emails with receiver re: Origin. Review materials and provide view re: need to wait for distribution on payout and other issues.	RGP	0.40
24-Mar-2023	Emails with Receiver	RGP	0.10
25-Mar-2023	Emails with Court	RGP	0.10
27-Mar-2023	To drafting motion materials	AMA	0.20
29-Mar-2023	Emails with receiver re: court date.	RGP	0.10
OUR FEE			\$12,288.50

<u>Time Summary</u>	<u>Hours</u>
Amanda Adamo	1.00
R. Graham Phoenix	12.70
Shahrzad Hamraz	9.40
Total hours:	23.10

<u>DISBURSEMENTS</u> (E=HST exempt)	Amount
Bankruptcy Search	146.80
Litigation Searches	173.92
Oncorp EDD	150.65



Total Disbursements

\$471.37



March 31, 2023

R. Graham Phoenix
Direct Line: 416.748.4776
Email: gphoenix@loonix.com
RGP Professional Corporation

CONFIDENTIAL

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Matter No. 06325-0014

Attention: Matthew Marchand

RE: Kivuto - TSA

Please find enclosed herewith our Statement of Account for services rendered with regard to the above-noted matter to and including March 31, 2023 which we trust you will find satisfactory.

If you have any questions, please contact the undersigned.

Yours truly,

LOOPSTRA NIXON LLP
Per:

R. Graham Phoenix
Encl.



March 31, 2023

Invoice No. 123637

Matter No. 06325-0014

BDO Canada Limited
 20 Wellington Street East, Suite 500
 Toronto, ON M5E 1C5

Attention: Matthew Marchand

RE: Kivuto - TSA

STATEMENT OF ACCOUNT

TO OUR FEE FOR PROFESSIONAL SERVICES rendered in connection with the above-noted matter through to March 31, 2023.

OUR FEE	\$4,587.00
HST on Fees @ 13%	\$596.31

Total Fees, Disbursements and HST	\$5,183.31
--	-------------------

The above account represents a summary of the professional services rendered to you, and this firm reserves the right to provide further particulars of our professional services rendered in the event the same is required or requested.

THIS IS OUR STATEMENT OF ACCOUNT HEREIN

LOOPSTRA NIXON LLP

Per:

R. Graham Phoenix
 RGP/pca

In accordance with the Solicitor's Act, interest will be charged on this account until paid, at the rate of 2.0% per annum, commencing one month after delivery, E. & O.E. * HST No. 122610298RT0001



PRIVILEGED AND CONFIDENTIAL
Billing Detail Report to 31-Mar-2023

March 31, 2023

Invoice No. 123637

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Matter No. 06325-0014

Attention: Matthew Marchand

RE: Kivuto - TSA

FEES

<u>Date</u>	<u>Narrative</u>	<u>Professional</u>	<u>Time</u>
13-Feb-2023	To provide accounting update to Graham Phoenix.	AMA	0.00
09-Feb-2023	Review and discuss TSA	RGP	0.50
15-Feb-2023	Call with Reciever re: outstading matters.	RGP	0.10
23-Feb-2023	Call with counsel to LL. Review closing docs. Call with Trustee. Call with counsel to LL	RGP	1.00
27-Feb-2023	Emails with Receiver re: various issues related to transition	RGP	0.20
07-Mar-2023	Call with BDO re: TSA extensions issues.	RGP	0.60
08-Mar-2023	Call with BDO re: TSA matters/bank accounts and lease. Call with Valsoft's counsel. Emails with LL's counsel.	RGP	0.70
10-Mar-2023	Email to counsel to LL re: occupation of premises.	RGP	0.10
14-Mar-2023	Call with counsel to Valsoft re: AR, etc. Call and email with M. Marchand re: same. Emails with Counsel to LL	RGP	1.00
15-Mar-2023	Emails/Discussion with BDO re: amendment to TSA.	RGP	0.30
16-Mar-2023	Emails with client. Draft and send TSA extension email. Drafting Lease termination letter.	RGP	1.10
17-Mar-2023	Review lease. Draft non-occupancy letter	RGP	0.50
20-Mar-2023	Emails with client and counsel to LL re: status of property.	RGP	0.30
31-Mar-2023	Review and analyze insurance issue.	RGP	0.20
OUR FEE			\$4,587.00



Time Summary

Hours

Amanda Adamo

0.00

R. Graham Phoenix

6.60

Total hours:

6.60

Applicant

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

Proceedings commenced at **TORONTO**

**MOTION RECORD OF
BDO CANADA LIMITED**
*(returnable April 19, 2023 at 11:30am via
Judicial Videoconference)*

LOOPSTRA NIXON LLP

135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix (LSO No.: 52650N)
&
Shahrzad Hamraz (LSO No.: 85218H)

t. 416.746.4710

f. 416.746.8319

e. gphoenix@loonix.com /
shamraz@loonix.com

*Counsel to the Court-Appointed Receiver,
BDO Canada Limited*

TAB 3

Court File No. ~~_____~~ CV-23-00693569-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

(IN BANKRUPTCY & INSOLVENCY)

[COMMERCIAL LIST—]

THE HONOURABLE _____)	WEEKDAY, <u>WEDNESDAY</u> , THE # <u>19th</u>
)	
JUSTICE )	DAY OF MONTH, 20YR <u>APRIL, 2023</u>

B E T W E E N:

~~PLAINTIFF~~

Plaintiff

THE TORONTO-DOMINION BANK

Applicant

- and -

~~DEFENDANT~~

Defendant

KIVUTO SOLUTIONS INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDED

DISCHARGE ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~BDO Canada Limited, in its capacity as the Court-appointed receiver (the "**Receiver**"), of ~~all of the undertaking, property~~undertakings, properties and assets of ~~[DEBTOR]~~Kivuto Solutions Inc. (the "**Debtor**"), for an order, *inter alia*:

1. ~~approving the activities of the Receiver as set out in the report~~second of the Receiver dated ~~[DATE]~~April 10, 2023 (the "~~Second Report~~"), including the Receiver's interim statements of receipts and disbursements appended thereto;
2. ~~approving the fees and disbursements of the Receiver and its counsel;~~
2. ~~approving the distribution of,~~ including the remaining~~estimated~~ accrual to satisfy the Remaining Fees and Disbursements (as defined in the Second Report);
3. ~~authorizing and directing the Receiver to (a) establish and maintain a reserve sufficient to satisfy the Outstanding Disbursements (as defined in the Second Report) and (b) to apply the same as set out herein;~~
4. ~~authorizing and directing the Receiver to pay the amount of \$623,245.14 to Origin Merchant Partners on account of a transaction fee payable in connection with the closing of a previously Court-approved transaction;~~
- 3.5. ~~authorizing and directing the Receiver to distribute the net proceeds available in the receivership estate of the Debtor;~~ ~~and~~ subject to the provisions of this Order, to The Toronto-Dominion Bank ("TD Bank");
6. ~~authorizing, but not obligating the Receiver to change the legal name of the Debtor;~~
7. ~~authorizing, but not obligating the Receiver to assign the Debtor into bankruptcy;~~
8. ~~approving the fees and disbursements of the Receiver and its legal counsel, Loopstra Nixon LLP ("Loopstra Nixon"), including an accrual for the Remaining Fees and Disbursements, as described in the Second Report; and~~
4. ~~discharging [RECEIVER'S NAME] BDO as Receiver of the undertaking, property and assets of the Debtor;~~ ~~and~~

~~5.9.~~ upon completion of the Remaining Matters (as defined in the Second Report) and releasing [RECEIVER'S NAME] BDO Canada Limited. from any and all liability, as set out in paragraph 510 of this Order¹,

was heard this day by judicial videoconference at the Courthouse at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, the affidavits of the Receiver and its counsel as to fees ~~(the "appended to the Second Report (collectively, the "Fee Affidavits");")~~, and on hearing the submissions of counsel for the Receiver, the Debtor, and such other counsel and parties as listed on the Attendance Slip, no one else appearing although served as ~~evidenced by~~ appears form the Affidavit of ~~[NAME]~~ Amanda Adamo sworn ~~[DATE]~~, filed² April 10, 2023;

SERVICE

1. THIS COURT ORDERS that the time for service of the Second Report and the motion record in respect of this motion is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

APPROVAL OF ACTIVITIES AND FEES

~~1.2.~~ **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Second Report, including the interim statement of receipts and disbursements appended to the Second Report, are hereby approved.

~~2.3.~~ **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, including the Remaining Fees and Disbursements (as defined in the Second Report) and as set out in the Second Report and the Fee Affidavits, (collectively the "Approved Administrative Fees"), are hereby approved.

¹ ~~If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.~~

² ~~This model order assumes that the time for service does not need to be abridged.~~

RESERVE FOR OUTSTANDING DISBURSEMENTS

4. THIS COURT ORDERS that the Receiver be and is hereby authorized and directed to (a) establish and maintain a reserve in an amount sufficient to satisfy the Outstanding Disbursements (as defined in the Second Report) (the “Reserve”) and (b) to apply such Reserve, and any further receipts, to satisfy the Outstanding Disbursements without further approval of this Court.

PAYMENT OF TRANSACTION FEE

5. THIS COURT ORDERS that, after payment of ~~the fees~~ or provision for the amounts set out in paragraph 3 hereof and the Reserve, the Receiver be and is hereby authorized and directed to pay, out of funds remaining in its hands, the transaction fee amount of \$623,245.14 to Origin Merchant Partners.

DISTRIBUTIONS TO TD BANK

6. THIS COURT ORDERS that the Receiver be and is hereby authorized and directed to make distributions out of funds remaining in its hands to TD Bank as follows:

- (a) after payment of or provision for the amounts set out in paragraphs 3, 4 and 5 hereof and the Reserve, the Receiver be and is hereby authorized to make an immediate interim distribution in the amount of \$2,600,000 to TD Bank, on account of its secured claim against the Debtor; and
- (b) after the foregoing and after satisfaction of or making provision for all Outstanding Disbursements and paying the amount set out in paragraph 8 hereof (as applicable), the Receiver be and is hereby authorized and directed to distribute all funds remaining in its hands to TD Bank,

provided that the aggregate of all distributions to TD shall not exceed the amount of TD's secured claim against the Debtor.

DEBTOR CHANGES

7. THIS COURT ORDERS that the Receiver is authorized but not obligated to take such steps as are necessary to change the legal name of the Debtor that (i) the Receiver is hereby authorized, directed and permitted to execute and file articles of reorganization or such other documents or instruments as may be required (including any necessary corporate resolutions and the authority to request and obtain a corporation key) to change the legal name the Debtor, and such articles, documents or other instruments (including any corporation key or necessary corporate resolutions) and shall be deemed to be duly authorized, valid and effective and shall be accepted by the Director, as defined in, and appointed under the *Ontario Business Corporations Act*, without the requirement (if any) of obtaining director, partner or shareholder approval pursuant to any federal or provincial legislation, and (ii) any third party requirements, required consents or solvency requirement pursuant to any federal or provincial legislation relating to same shall be waived.

~~3.8. THIS COURT ORDERS that the Receiver is authorized but no obligated to cause the Debtor to make an assignment in bankruptcy naming BDO Canada Limited as trustee of the bankruptcy estate and paying the amount of \$11,300 of out funds in Receiver's hands to cover the costs of the bankruptcy administration (inclusive of all taxes and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY]³ -).~~

DISCHARGE AND RELEASE

~~4.9. THIS COURT ORDERS that upon payment of the amounts set out in paragraph paragraphs 3, 5 and 6 hereof,~~ and upon the Receiver filing a certificate substantially in the form appended hereto as Schedule "A" certifying that it has completed the other remaining activities described in the Second Report, (the "Discharge Certificate"), the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however

~~³ This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.~~

that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of ~~{RECEIVER'S NAME}~~BDO Canada Limited, in its capacity as Receiver.

~~5.10.~~ {THIS COURT ORDERS AND DECLARES that ~~{RECEIVER'S NAME}~~BDO Canada Limited is hereby released and discharged from any and all liability that ~~{RECEIVER'S NAME}~~BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~{RECEIVER'S NAME}~~BDO Canada Limited while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. -Without limiting the generality of the foregoing, ~~{RECEIVER'S NAME}~~BDO Canada Limited is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver'sReceiver's part.⁴.

11. THIS COURT ORDERS that this order is effective from today's date and is enforceable without the need for entry and filing.

⁴~~The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.~~

|

SCHEDULE "A"Court File No. CV-23-00693569-00CLONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]BETWEEN:THE TORONTO-DOMINION BANKApplicant- and -KIVUTO SOLUTIONS INC.RespondentAPPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDEDDISCHARGE CERTIFICATERECITALS

A. Pursuant to a Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated February 7, 2023, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of all of the undertakings, properties and assets of Kivuto Solutions Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated April 19, 2023 (the "**Discharge Order**"), the Court approved the discharge of the Receiver effective upon the filing by the Receiver of a certificate confirming: (i) the completion of the payments and distributions contemplated by the Discharge Order (the "**Payments & Distributions**"); (ii) the payment of approved professional fees and disbursements; and, (iii) the completion of the remaining activities to complete its administration, as set out in the Second Report to Court of the Receiver dated April 10, 2023 (the "**Remaining Activities**").

THE RECEIVER CERTIFIES the following:

1. the Payments & Distributions has been completed;
2. the Receiver has paid all approved professional fees and disbursements; and
4. the Receiver has completed the Remaining Activities.

THIS CERTIFICATE was executed by the Receiver on _____, 2023

BDO CANADA LIMITED, solely in its
capacity as Court-appointed Receiver of all of
the undertakings, properties and assets of Kivuto
Solutions Inc. and not in any personal, corporate
or other capacity

Per: _____
Name: _____
Title: _____

Revised: May 11, 2010
Applicant

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-23-00693569-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY & INSOLVENCY)
[COMMERCIAL LIST]

Proceedings commenced at TORONTO

DISCHARGE ORDER

LOOPSTRA NIXON LLP

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Canada Limited

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

Court File No. CV-23-00693569-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

Proceedings commenced at **TORONTO**

**MOTION RECORD OF
BDO CANADA LIMITED**
*(returnable April 19, 2023 at 11:30am via
Judicial Videoconference)*

LOOPSTRA NIXON LLP
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