CAPITAL MARKETS TRIBUNAL

B E T W E E N:

BRANDCO HOLDCO, LLC

Applicant

- and -

FLUENT CORP. and ONTARIO SECURITIES COMMISSION

Respondents

APPLICATION RELATING TO A TRANSACTION OF BRANDCO HOLDCO, LLC

UNDER ss. 104(1) and 127 of the *Securities Act*, R.S.O. 1990, c. S.5

NOTICE OF APPLICATION

A. ORDER SOUGHT

The Applicant, BrandCo Holdco, LLC, requests that the Tribunal make the following order(s):

1. An order pursuant to s. 104(1)(c) of the *Securities Act* directing FLUENT Corp. to seek minority approval pursuant to s. 4.5 of MI 61-101 of its proposed transaction with Vireo Growth Inc., as described in the Arrangement Agreement between FLUENT and Vireo dated April 29, 2026;

2. In the alternative, an order pursuant to s. 127(1) of the *Securities Act* directing FLUENT to seek minority approval pursuant to s. 4.5 of MI 61-101 of its proposed transaction with Vireo, as described in the Arrangement Agreement between FLUENT and Vireo dated April 29, 2026;

3. In the further alternative, an order pursuant to s. 127(1) that the exemption provided in subsection (e) to the definition of “Business Combination” contained in s. 1.1 of MI 61-101 does not apply to FLUENT’s proposed transaction with Vireo, as described in the Arrangement Agreement between FLUENT and Vireo dated April 29, 2026;

4. To the extent necessary, an order granting BrandCo standing to pursue this application; and

5. Such further and other Relief as this Tribunal may deem appropriate.

B. GROUNDS

The grounds for the application are:

I. BACKGROUND TO FLUENT

6. FLUENT is incorporated pursuant to Ontario's *Business Corporations Act* and based in Florida;

7. FLUENT has two classes of shares: common shares and proportionate voting shares;

8. FLUENT's common shares trade on the Canadian Securities Exchange under the symbol FTU.U;

9. FLUENT's proportionate voting shares are convertible into common shares at a ratio of one proportionate voting share to ten common shares

10. BrandCo is a significant shareholder of FLUENT, holding approximately 5.35% of FLUENT's issued and outstanding common shares;

II. THE VIREO TRANSACTION

11. FLUENT has called an annual general and special meeting of shareholders for July 28, 2026 at which it will ask shareholders to pass a special resolution approving a statutory plan of arrangement in accordance with the terms of the Arrangement Agreement between FLUENT and Vireo;

12. The Arrangement Agreement contemplates a transaction though which all current FLUENT shareholders will sell their shares to Vireo in exchange for Vireo shares, making Vireo the sole shareholder of FLUENT;

13. If the transaction is approved, all proportionate voting shares will be converted into common shares, and each common share will be exchanged for 0.002351197 Vireo shares;

III. THE SMITH NOTE

14. The chair of FLUENT's board of directors is William Smith;

15. Mr. Smith is also a very significant beneficial shareholder of FLUENT;

16. Personally and through three different companies, Mr. Smith beneficially owns approximately 10.5% of FLUENT's issued and outstanding common shares and approximately 58% of its issued and outstanding proportionate voting shares;

17. Upon conversion of his proportionate voting shares into common shares, Mr. Smith will beneficially own approximately 12.3% of FLUENT's common shares;

18. One of the companies through which Mr. Smith holds shares, Can Endeavour LLC, is also party to a Secured Subordinated Convertible Note with FLUENT (under its prior name, Cansortium Inc.) pursuant to which FLUENT agreed to pay Can Endeavour the sum of US$6.5 million on May 26, 2029, plus interest at the rate of 15% per annum, compounded quarterly if not paid;

19. FLUENT is permitted to prepay the US$6.5 million due on the Note with Can Endeavour's consent;

20. Upon an uncured event of default under the Note, Can Endeavour is entitled to accelerate repayment of the total amount of all amounts "now or hereafter payable" under the Note, as well

as to demand payment of a "Prepayment Fee", a sum which the Note fails to quantify or otherwise define;

IV. THE SUPPORT AGREEMENT

21. In conjunction with the Arrangement Agreement, Vireo, FLUENT and Mr. Smith entered into a Voting and Support Agreement pursuant to which Mr. Smith agreed to vote all shares that he directly or beneficially holds in favour of the Vireo transaction;

22. The Voting and Support Agreement also contained provisions relating to the Note payable to Can Endeavour;

23. In the Voting and Support Agreement, FLUENT, Vireo and Can Endeavour agreed that the Vireo Transaction constituted a default under the Note and that all of FLUENT's obligations under the Note would be accelerated, with the result that Can Endeavour will receive all amounts owing under the Note, including payment of Can Endeavour's principal, two years before the May 26, 2029 payment date;

24. FLUENT has failed to provide specifics of the amounts to be paid to Can Endeavour as a result of the Voting and Support Agreement, but given the language of the Note, it appears that Can Endeavour will receive the "Prepayment Fee" in an undisclosed amount as well as early payment of interest that would have accrued over the balance of the term of the Note;

V. VIREO TRANSACTION IS A BUSINESS COMBINATION

25. The Vireo transaction may result in the interest of a holder of equity securities in FLUENT being terminated without the holder's consent, and is thus a "business combination" for the purposes of MI 61-101 unless one of the exceptions set out in that definition apply;

26. FLUENT asserts that the Vireo transaction is not a business combination because no related party to FLUENT is a party to any connected transaction or is entitled to receive a collateral benefit as a result of the transaction;

27. Contrary to FLUENT's position, the Voting and Support Agreement with Mr. Smith is a connected transaction and Mr. Smith, through Can Endeavour, is receiving a collateral benefit through the Vireo transaction;

28. The Voting and Support Agreement is a connected transaction because it was negotiated and completed at approximately the same time as the Arrangement Agreement and its terms go beyond a simple support agreement;

29. Mr. Smith is receiving a collateral benefit through the Vireo transaction as he is receiving an accelerated payment of all future obligations owing under the Note, meaning Mr. Smith will receive millions of dollars well in advance of when that money was due, and may receive interest payments in respect of periods of time when the principal amount had already been repaid as well as a Prepayment Fee;

30. Mr. Smith, the chair of FLUENT's board of directors, did not recuse himself from discussions about the Vireo transaction or declare himself to be conflicted, despite the fact that implementation of the Vireo transaction would result in collateral financial benefits to Can Endeavour;

31. Mr. Smith was free to permit FLUENT to prepay the Note without payment of a Prepayment Fee or future interest payments;

32. FLUENT acknowledges that Mr. Smith is a related party;

33. The Vireo Transaction is thus a “business combination” and requires minority approval pursuant to MI 61-101;

VI. FLUENT REFUSES TO SEEK MINORITY APPROVAL

34. On May 1, 2026, FLUENT published a Material Change Report disclosing the Arrangement Agreement and proposed plan of arrangement;

35. In the Material Change Report, FLUENT advised that it would seek support for the Vireo transaction from “if applicable, a simple majority of the votes cast on the Arrangement Resolution by FLUENT Shareholders, excluding FLUENT Shares owned and/or controlled by persons described in terms (a) through (d) of Section 8.1(2) of Multilateral Instrument 61-101 – Protection of Minority Security Holders in Special Transactions”;

36. Given FLUENT’s deliberately equivocal position as to whether minority approval was required, BrandCo wrote to FLUENT on May 22, 2026 to request confirmation that FLUENT would in fact seek minority approval;

37. FLUENT refused to provide any substantive response, writing back on May 28 only to say that it would disclose further details “in due course”;

38. It was not until release of FLUENT’s Circular on June 26, 2026 that it disclosed its position that no minority approval was required for the Vireo transaction;

39. On July 6, 2026, BrandCo wrote to FLUENT and advised of its position that minority approval was required as a result of Mr. Smith’s Voting and Support Agreement;

40. On July 8, 2026, FLUENT rejected BrandCo’s demand that it seek minority approval; and

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

C. EVIDENCE

The Applicant intends to rely on the following evidence at the hearing:

42. The affidavit of Amy Peckham affirmed July 14, 2026; and

43. Such further and other evidence as the lawyers may advise and the Tribunal may permit.

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Applicant Respondents

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IN THE MATTER OF BRANDCO HOLDCO, LLC

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