

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF AGMEDICA BIOSCIENCE INC., 2472602 ONTARIO
INC., 2642466 ONTARIO INC., 8895309 CANADA INC., WELLWORTH
HEALTH CORP., 8050678 CANADA INC., 8326851 CANADA INC.,
TAVIVAT NATURALS INC., WORLDWIDE BEVERAGE INNOVATIONS
INC., UNIQUE BEVERAGES (USA) INC., and ESEELA INC.
(each an “**Applicant**” and collectively, the “**Applicants**”)

SECOND REPORT OF THE MONITOR
DATED DECEMBER 31, 2019

INTRODUCTION

1. On December 1, 2019, the Applicants brought an application (the “**CCAA Application**”) before this Court returnable on December 2, 2019, seeking an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”) to, among other things, obtain a stay of proceedings to allow them an opportunity to restructure their business and affairs.
2. On December 2, 2019, the Court granted an initial order in these proceedings (the “**Initial Order**”) that, among other things, appointed Ernst & Young Inc. as monitor of the Applicants in these CCAA proceedings (in such capacity, the “**Monitor**”), granted a stay of proceedings for the initial 10-day period (the “**Stay Period**”), granted certain Court-ordered charges, and approved the interim financing facility (the “**Hillmount DIP Facility**”) to be provided by Hillmount Capital Inc. (“**Hillmount**”).
3. On December 12, 2019, the Court granted an order (the “**Amended and Restated Initial Order**”), that among other things:

- a. extended the Stay Period until March 12, 2020;
 - b. increased the maximum amount of the Administrative Charge from \$250,000 to \$500,000;
 - c. increased the maximum amount of the DIP Charge from the principal amount of \$1,000,000 to \$7,500,000;
 - d. authorized the Applicants' entering into a DIP facility agreement with SF V Bridge III, LP ("**Stabilis**"), one of the Applicants' secured creditors, on the terms set out in the term sheet dated December 9, 2019 (the "**Stabilis DIP Term Sheet**"), and replacing Hillmount as the DIP Lender; and
 - e. increased the maximum amount of the Directors' Charge from \$250,000 to \$900,000.
4. On December 12, 2019, the Court also granted an order (the "**Non-Core Real Estate Order**") approving the retention of CBRE Limited ("**CBRE**") by the Applicants and authorizing the Applicants to market and sell the Non-Core Real Estate (as defined in the Non-Core Real Estate Order) with the assistance of the Monitor.

PURPOSE

5. The purpose of this second report of the Monitor (the "**Second Report**") is to provide information to the Court on:
- a. the execution of a definitive DIP loan agreement between the Applicants and Stabilis;
 - b. the Applicants' proposed Sales and Investment Solicitation Process (the "**SISP**"); and
 - c. the Monitor's recommendations with respect to the Applicants' motion for (i) an order approving the Stabilis DIP Facility Agreement (defined below) and authorizing and directing the Applicants to enter into it and perform their obligations thereunder (the "**DIP Facility Agreement Order**"), and (ii) an order authorizing, approving and directing the Applicants, with the assistance of the Monitor, to carry out the SISP (the "**SISP Order**").

TERMS OF REFERENCE

6. In preparing this Second Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Applicants, discussions with management of the Applicants (“**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in this Second Report in respect of the Cash Flow Forecast:
 - a. the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
 - b. some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
7. Future oriented financial information referred to in this Second Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
8. Unless otherwise indicated, the Monitor’s understanding of factual matters expressed in this Second Report concerning the Applicants and their business is based on the Information, and not independent factual determinations made by the Monitor.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND

10. The principal operating entity among the Applicants is AgMedica Bioscience Inc. (“**AgMedica**”), which is a licensed producer of cannabis in accordance with the *Cannabis Act* and the *Cannabis Regulations*. The principal activities of AgMedica are the production, distribution, and sale of dried cannabis flower, pre-rolled cannabis, cannabis soft gel capsules, and cannabis oil.
11. AgMedica currently holds two site licenses:
 - a. 1st Site license permits the cultivation, processing, and sale plants and seeds (dried and fresh), oils, extracts, edibles and topicals both for registered patients (medical use) and the recreational market (adult-use); and
 - b. 2nd Site license permits the sale of cannabis plants and seeds (dried and fresh) and oils for registered patients only (medical use).
12. All the legal entities comprising the Applicants are privately held companies incorporated under the laws of Ontario or Canada, with the sole exception of Unique Beverages (USA) Inc., a dormant corporation incorporated under the laws of Delaware.
13. All court documents and materials related to this CCAA proceedings have been posted on the Monitor’s website at www.ey.com/ca/agmedica (the “**Monitor’s Website**”).

STABILIS DIP LOAN AGREEMENT

14. As noted above, the Applicants and Stabilis entered into the Stabilis DIP Term Sheet dated December 10, 2019. The Stabilis DIP Term Sheet contemplated that the Applicants and Stabilis would enter into a definitive agreement governing the DIP financing to be advanced by Stabilis (the “**Stabilis DIP Facility**”).
15. The Applicants and Stabilis entered into a DIP Facility Loan Agreement dated as of December 20, 2019 (the “**Stabilis DIP Facility Agreement**”). The material terms of the Stabilis DIP Facility Agreement are substantially similar to the terms set out in the Stabilis DIP Term Sheet, with the following additions, among others:

- a. Each of the Applicants are Borrowers under the Stabilis DIP Facility Agreement with AgMedica appointed as the agent (in such capacity, the “**Borrower Agent**”) and each of the Applicants are jointly and severally liable for all obligations of the Applicants as Borrowers.
 - b. A rolling 14-week period detailed cash flow forecast (the “**DIP Budget**”) is attached as a schedule to the Stabilis DIP Facility Agreement. On Wednesday of each week, the Borrower Agent, with the assistance of the Monitor, shall provide Stabilis with an updated rolling 13-week cash flow forecast substantially in the form of the DIP Budget and a variance report, certified by an officer of the Borrower Agent, showing on a line-by-line basis the actual receipts and disbursements and the total available liquidity for the last day of the prior week and noting therein all variances on a line-by-line basis from the amounts in the DIP Budget, with explanations for all material variances. Stabilis may, in its sole discretion, acting reasonably, agree to substitute the updated cash flow for the then-current DIP Budget.
 - c. The proceeds of the Stabilis DIP Facility shall be used by the Applicants solely in accordance with, and subject to, the DIP Budget and the orders of the Court.
16. Reference should be made to the complete text of the Stabilis DIP Facility Agreement attached as **Exhibit “B”** to the affidavit of Trevor Henry sworn December 31, 2019 (the “**Henry Affidavit**”).
 17. The Monitor was actively involved in the negotiation of the Stabilis DIP Facility Agreement and is of the opinion that the terms are reasonable and appropriate.

SUMMARY OF THE PROPOSED SISF

18. Since the filing of the CCAA Application, the Applicants have focused on implementing a communications plan for their key stakeholders (including customers, regulators, suppliers and employees), reducing their cost structure, and continuing the Non-Core Real Estate Order sale process. The Applicants’ operations have been stabilized, and there has been no significant disruption to the core business.

19. The Applicants have now determined, with the assistance of the Monitor, that in order to canvass and develop longer-term restructuring strategies, it is now appropriate to commence a SISP to explore both M&A and recapitalization options.
20. Below is a summary of the proposed SISP. Reference should be made to the complete text of the proposed SISP attached as **Appendix “A”** to this Second Report and included as **Exhibit “A”** to the Henry Affidavit. Terms not defined here are as defined in the SISP.

Timeline of the Proposed SISP

21. The timeline of events of the proposed SISP are as follows:

Milestone	Deadline
The Monitor will arrange for the notice of the SISP (the “ Notice ”) to be published in The Globe and Mail (National Edition); and The Applicant will issue a press release with Canada Newswire containing similar information as the Notice.	No later than January 17, 2020
The Applicant will send a Teaser Letter and an NDA to all Known Potential Bidders.	No later than January 24, 2020
Phase 1 Bid Deadline	March 20, 2020 (5:00pm Eastern Time)
Bid Letter sent to Phase 2 Qualified Bidders	As soon as reasonably practicable after March 20, 2020
Phase 2 Bid Deadline	April 17, 2020 (5:00pm Eastern Time)

Closing Date Deadline	May 29, 2020
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Key Aspects of the Proposed SISP

22. The Applicants have proposed a flexible SISP to identify opportunities for sale of, or investment in, all or part of the Applicants' assets and business operations (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Applicants as a going concern or a sale of all, substantially all or one or more components of the Applicants' assets (the "**Property**") and business operations (the "**Business**") as a going concern or otherwise.
23. The Applicant, in consultation with the Monitor and the DIP Lender, will develop a list of potential bidders (the "**Known Potential Bidders**") by January 17, 2020. This list will be comprised of third parties that are known industry players, those that have previously shown interest in transacting with the Applicants, and other adjacent industries players that have either shown interest in the cannabis industry or in the Applicants specifically.
24. The Applicants, with the assistance of the Monitor, will also develop (i) a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Applicants and the Monitor (an "**NDA**"). The Applicants will send the Teaser Letter and NDA to all Known Potential Bidders no later than January 24, 2020.
25. Similarly, to attract other potential bidders the Applicants will send out a press release through Canada Newswire and the Monitor will issue the Notice through The Globe and Mail (National Edition) and post the Notice on the Monitor's Website, no later than January 17, 2020.
26. Each Potential Bidder (as defined in the SISP) will be required to submit an NDA, provided such Potential Bidder is not otherwise bound by an unexpired NDA, and such form of

financial disclosure or support that will allow the Applicants and the Monitor to make reasonable determination as to the Potential Bidder's financial and other capabilities to consummate their offers. After review by the Applicants, in consultation with the DIP Lender and the Monitor, and with approval of the Monitor, each such Potential Bidder may be deemed to be a "**Phase 1 Qualified Bidder**".

27. The Applicant, with assistance of the Monitor, will prepare and send each Phase 1 Qualified Bidders a confidential information memorandum (the "**CIM**"), which contains additional information regarding the Applicants that is considered relevant to the Opportunity.
28. Phase 1 Qualified Bidders will also be provided access to additional documents and information through a data room (the "**Data Room**") to allow the Phase 1 Qualified Bidders ability to perform their own independent review, investigation and/or inspection as required in their due diligence review.
29. The Monitor will manage the Data Room and coordinate all requests for information to be included into the Data Room, and will place reasonable and relevant information, if available, into the Data Room.
30. Phase 1 Qualified Bidders that wish to pursue the Opportunity shall deliver a non-binding letter of interest ("**LOI**") which must indicate, with the prescribed and required details, if it is an offer to:
 - a. acquire all, substantially all or a portion of the Property (a "**Sale Proposal**"); or
 - b. make an investment in, restructure, reorganize or refinance the Business or the Applicants (an "**Investment Proposal**").
31. LOIs must be submitted by March 20, 2020 (5:00pm Eastern Time). LOIs that have been received before the Phase 1 Bid Deadline and contain all of the prescribed and required details are deemed to be a "**Qualified LOI**".
32. Qualified LOIs will be reviewed by the Applicants, in consultation with the Monitor and the DIP Lender, and determined if they should be deemed as "**Phase 2 Qualified Bidders**". Various factors may be considered in determining if a Qualified LOI should be deemed a

Phase 2 Qualified Bidder, however, any Qualified LOI that is deemed not to be a Phase 2 Qualified Bidder by the Applicants shall require the approval of the Monitor in consultation with the DIP Lender.

33. The Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, will determine the best way to proceed to Phase 2 of the SISP, and a letter outlining the second phase of the SISP (the “**Bid Process Letter**”), will be sent to all Phase 2 Qualified Bidders, as soon as reasonably practicable after the Phase 1 Bid Deadline.
34. Final binding offers, including all the required details indicated in the SISP, must be submitted by Phase 2 Qualified Bidders by April 17, 2020 (5:00 p.m. Eastern Time).
35. The Applicants, in consultation with the Monitor and the DIP Lender, will review and assess all the bids to determine which are “**Qualified Bids**”. All Phase 2 Qualified Bidders that have submitted a formal bid by the Phase 2 Bid Deadline will receive notice in writing as to whether or not they have been deemed to have a Qualified Bid within ten business days of the Phase 2 Bid Deadline.
36. The Applicants, in consultation with the Monitor and the DIP Lender, have the ability to negotiate with the bidders that have submitted Qualified Bids, and will determine the highest or otherwise best bid (the “**Successful Bid(s)**”) from the “**Successful Bidder(s)**”.
37. The proposed closing date for any definitive agreement is May 29, 2020.
38. All agreements as a result of a Successful Bid will be subject to approval from the Court. All other Phase 2 Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Applicants on and as at the date of approval of the Successful Bid by the Court, if the Court sees fit to grant such relief.

Monitor’s Involvement in the Proposed SISP

39. The Monitor has been working with the Applicants to develop the proposed SISP to seek the best alternatives for the benefit of the Applicants and their stakeholders generally, while at the same time ensuring a fair and transparent process for bidders.

40. In addition to its involvement in developing the proposed SISP, the Monitor will have significant involvement in developing the materials for the SISP, and consultation and oversight throughout the SISP to monitor the effectiveness and fairness of the process. As indicated above, there are also certain key decision points under the proposed SISP that cannot be made without the approval of the Monitor in consultation with the DIP Lender.
41. The Applicants will have the right to modify the SISP with the prior written approval of the Monitor and the DIP Lender if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the CCAA service list will be advised of any substantive modification. The Monitor is of the view that this flexibility is appropriate to ensure the best possible outcome from the SISP.
42. The Monitor also notes that the proposed SISP provides that notwithstanding the process and deadlines set out in the SISP, the Applicants may, in consultation with the Monitor and the DIP Lender, at any time bring a motion to seek approval of a stalking horse agreement.

Monitor's Comments on the Proposed SISP

43. The Monitor is of the view that the proposed SISP is well-structured and will provide for a robust canvassing of sale, restructuring and recapitalization options for the benefit of the Applicants and their stakeholders generally. Some of the key benefits of the proposed SISP can be summarized as follows:
 - a. the proposed SISP provides ample notice of the Opportunity, as it will canvass known bidders as well as being published in a major daily newspaper and a through press release to generate interest amongst a broad base of potential bidders and interested parties;
 - b. the proposed SISP provides bidders with the ability to indicate their initial interest in a non-binding manner in Phase 1 and then complete further due diligence to gain a better understanding of the Applicants and their assets and business and determine whether to proceed further with a Phase 2 bid;

- c. the proposed SISP provides the flexibility to develop the details of the Phase 2 process and the Bid Process Letter once the level of interest is known after the completion of Phase 1;
- d. the proposed SISP will be carried out by the Applicants, under the oversight of the Monitor and under the ultimate oversight and supervision of the Court; and
- e. the factors to be considered in arriving at a Successful Bid are reasonable and appropriate in the circumstances.

CONCLUSIONS AND RECOMMENDATIONS

44. For the reasons stated herein, the Monitor recommends that the Court grant the DIP Facility Agreement Order and the SISP Order, should it see fit to do so.

All of which is respectfully submitted this 31st day of December, 2019.

**ERNST & YOUNG INC., in its capacity
as Monitor of the Applicants, and not in
its corporate or personal capacity.**

per:



**Alex Morrison, CPA, CA
Senior Vice President**

APPENDIX "A"
PROPOSED SISP

Sale and Investment Solicitation Process

Introduction

On December 2, 2019, AgMedica Bioscience Inc. (“**AgMedica**”) and certain of its subsidiaries (collectively, the “**Applicants**”) were granted an initial order (as amended or amended and restated from time to time, the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**” and the “**CCAA Proceedings**”) by the Ontario Superior Court of Justice (the “**Court**”). The Initial Order, as amended and restated on December 12, 2019, among other things:

- (a) stays all proceedings against the Applicants, their assets and their respective directors and officers;
- (b) appoints Ernst & Young Inc. as the monitor of the Applicants (in such capacity, the “**Monitor**”);
- (c) authorizes the Applicants to enter into a debtor-in-possession financing agreement (the “**DIP Financing**”) with SF V Bridge III, LP (“**Stabilis**” or the “**DIP Lender**”) whereby Stabilis agreed to provide a maximum principal amount of \$7.5 million in financing to the Applicants, as well as the charge (the “**DIP Charge**”) over all of the present and future assets, property and undertakings of every nature and kind whatsoever, and wherever situate including all proceeds thereof; and
- (d) authorizes the Applicants, with the assistance of the Monitor, to pursue all avenues of sale of their assets or business, in whole or in part, subject to prior approval of the Court before any material sale or refinancing.

In this regard, the Applicants will conduct the sale and investment solicitation process (the “**SISP**”) described herein, with the assistance and under the supervision of the Monitor and with the approval of the Court pursuant to a Court order dated January 3, 2019 (the “**SISP Order**”). The SISP is intended to solicit interest in an acquisition or refinancing of the business or a sale of the assets and/or the business of the Applicants by way of merger, reorganization, recapitalization, primary equity issuance or other similar transaction. The Applicants intend to provide all qualified interested parties with an opportunity to participate in the SISP.

This document (the “**SISP Procedure**”) outlines the SISP, which is comprised of two phases (“**Phase 1**” and “**Phase 2**”, respectively).

Opportunity

1. The SISP is intended to solicit interest in, and opportunities for, a sale of, or investment in, all or part of the Applicants’ assets and business operations (the “**Opportunity**”). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Applicants as a going concern or a sale of all, substantially all or one or more components of the Applicants’ assets (the “**Property**”) and business operations (the “**Business**”) as a going concern or otherwise.

2. Prior to the date of the Initial Order, the Applicants had been conducting a review of strategic alternatives, including an initial public offering and alternative financing arrangement (the “**Review of Strategic Alternatives**”). From and after the date of the SISP Order, the Review of Strategic Alternatives will be continued under and be governed by this SISP Procedure. Any non-disclosure or confidentiality agreement delivered to any third parties in relation to the Review of Strategic Alternatives that has not expired will continue to remain in effect during this SISP.
3. Except to the extent otherwise set forth in a definitive sale or investment agreement with a successful bidder, any sale of the Property or investment in the Business will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Applicants, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.

Timeline

4. The following table sets out the key milestones under the SISP:

Milestone	Deadline
Phase 1 Bid Deadline	March 20, 2020
Phase 2 Bid Deadline	April 17, 2020
Closing Date Deadline	May 29, 2020

Subject to any order of the Court, the dates set out in the SISP may be extended by the Applicants with the consent and approval of the Monitor and the DIP Lender.

Solicitation of Interest: Notice of the SISP

5. As soon as reasonably practicable, but in any event by no later than January 17, 2020:
 - (a) the Applicants, in consultation with the Monitor and the DIP Lender, will prepare a list of potential bidders, including (i) parties that have approached the Applicants or the Monitor indicating an interest in the Opportunity, and (ii) local and international strategic and financial parties who the Applicants, in consultation with the Monitor, believe may be interested in purchasing all or part of the Business and Property or investing in the Applicants pursuant to the SISP, in each case whether or not such party has submitted a letter of intent or similar document in the Review of Strategic Alternatives (collectively, “**Known Potential Bidders**”);

- (b) the Monitor will arrange for a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Applicants and the DIP Lender, considers appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition), and any other newspaper or journal as the Applicants, in consultation with the Monitor, consider appropriate, if any;
 - (c) the Applicants will issue a press release with Canada Newswire setting out the information contained in the Notice and such other relevant information which the Applicants, in consultation with the Monitor and the DIP Lender, consider appropriate, designating dissemination in Canada; and
 - (d) the Applicants, in consultation with the Monitor and the DIP Lender, will prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Applicants and the Monitor, and their respective counsel, and consistent with the form and substance of the non-disclosure agreement previously executed by interested parties under the Review of Strategic Alternatives (an “**NDA**”).
6. the Applicants will send the Teaser Letter and NDA to each Known Potential Bidder by no later than January 24, 2020 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Applicants or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

PHASE 1: NON-BINDING LOIs

Qualified Bidders and Delivery of Confidential Information Memorandum

7. Any party who wishes to participate in the SISP (a “**Potential Bidder**”) must provide to the Applicants and the Monitor, unless the Monitor confirms to such Potential Bidder that the below documents were already provided to the satisfaction of, or are already available to, the Applicants and the Monitor:
- (a) an NDA executed by it, and which shall inure to the benefit of any purchaser of the Business or Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder. If the Potential Bidder has previously delivered an NDA and letter of this nature to the Applicants or Monitor and the NDA remains in effect, the Potential Bidder is not required to deliver a new NDA or letter to the Applicants or the Monitor unless otherwise requested by the Applicants or the Monitor; and
 - (b) such form of financial disclosure and credit quality support or enhancement that allows the Applicants and the Monitor to make a reasonable determination as to the Potential Bidder’s financial and other capabilities to consummate a Sale Proposal, or Investment Proposal (as defined herein), as applicable.

8. If the Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, determine that a Potential Bidder: (i) has delivered the documents contemplated in paragraph 7 above; and (ii) has the financial capability based on the availability of financing, experience and other considerations, to be able to consummate a sale or investment pursuant to the SISP, then such Potential Bidder will be deemed to be a “**Phase 1 Qualified Bidder**”. For greater certainty, no Potential Bidder shall be deemed not to be a Phase 1 Qualified Bidder without the approval of the Monitor, in consultation with the DIP Lender.
9. At any time during Phase 1 of the SISP, the Applicants may, in their reasonable business judgment and after consultation with the DIP Lender and the Monitor and with the consent of the Monitor, eliminate a Phase 1 Qualified Bidder from the SISP, in which case such bidder will be eliminated from the SISP and will no longer be a Phase 1 Qualified Bidder for the purposes of the SISP.
10. The Applicants, with the assistance of the Monitor, will prepare and send to each Phase 1 Qualified Bidder a confidential information memorandum providing additional information considered relevant to the Opportunity (the “**Confidential Information Memorandum**”). The Applicants and the Monitor and their respective advisors make no representation or warranty as to the information contained in the Confidential Information Memorandum or otherwise made available pursuant to the SISP, except to the extent expressly contemplated in any definitive sale or investment agreement with a successful bidder ultimately executed and delivered by the Applicants.
11. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with the Applicants.

Due Diligence

12. The Applicants, in consultation with the Monitor, shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Phase 1 Qualified Bidder such access to due diligence material and information relating to the Property and Business as they or the Monitor deem appropriate. Due diligence access may include management presentations, access to electronic data rooms, on-site inspections, and other matters which a Phase 1 Qualified Bidder may reasonably request and as to which the Applicants, in their reasonable business judgment and after consulting with the Monitor, may agree. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. Neither the Applicants nor the Monitor will be obligated to furnish any information relating to the Property or Business to any person other than to Phase 1 Qualified Bidders. Furthermore and for the avoidance of doubt, selected due diligence materials may be withheld from certain Phase 1 Qualified Bidders if the Applicants, in consultation with and with the approval of the Monitor, determine such information to represent proprietary or sensitive competitive information.

Non-Binding Letters of Intent from Phase 1 Qualified Bidders

13. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of interest (an “**LOI**”) to the Monitor at the address specified in Schedule “1” hereto (including by e-mail), so as to be received by them not later than 5:00 PM (Eastern Time) on March 20, 2020 (the “**Phase 1 Bid Deadline**”).
14. Subject to paragraph 15, an LOI so submitted will be considered a qualified LOI (a “**Qualified LOI**”) only if:
 - (a) it is submitted on or before the Phase 1 Bid Deadline by a Phase 1 Qualified Bidder;
 - (b) it contains an indication of whether the Phase 1 Qualified Bidder is offering to:
 - (i) acquire all, substantially all or a portion of the Property (a “**Sale Proposal**”);
or
 - (ii) make an investment in, restructure, reorganize or refinance the Business or the Applicants (an “**Investment Proposal**”);
 - (c) in the case of a Sale Proposal, it identifies or contains the following:
 - (i) the purchase price or price range in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
 - (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (iii) a specific indication of the financial capability of the Phase 1 Qualified Bidder and the expected structure and financing of the transaction;
 - (iv) a description of the conditions and approvals required for a final and binding offer;
 - (v) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer; and
 - (vi) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction;
 - (d) in the case of an Investment Proposal, it identifies or contains the following:
 - (i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Applicants in Canadian dollars;

- (iii) the underlying assumptions regarding the pro forma capital structure;
 - (iv) a specific indication of the sources of capital for the Phase 1 Qualified Bidder and the structure and financing of the transaction;
 - (v) a description of the conditions and approvals required for a final and binding offer;
 - (vi) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
 - (vii) all conditions to closing that the Phase 1 Qualified Bidder may wish to impose; and
 - (viii) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and
- (e) in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Applicants, in consultation with the Monitor and the DIP Lender.
15. The Applicants, with the approval of the Monitor, and in consultation with the DIP Lender, may waive compliance with any one or more of the requirements specified above and deem such non-compliant bids to be a Qualified LOI. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

Preliminary Assessment of Phase 1 Bids and Subsequent Process

16. Following the Phase 1 Bid Deadline, the Applicants, in consultation with the Monitor and the DIP Lender, will assess the Qualified LOIs. If it is determined by the Applicants, in consultation with the Monitor and the DIP Lender, that a Phase 1 Qualified Bidder that has submitted a Qualified LOI (i) has a *bona fide* interest in completing a Sale Proposal or Investment Proposal (as the case may be); and (ii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided, then such Phase 1 Qualified Bidder will be deemed a “**Phase 2 Qualified Bidder**”, provided that the Applicants may, in their reasonable business judgment and after consultation with the DIP Lender and the Monitor and with the approval of the Monitor, limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process) taking into account the factors identified in paragraph 17 below and any material adverse impact on the operations and performance of the Applicants. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISF. No Phase 1 Qualified Bidder that has submitted a Qualified LOI shall be deemed not to be a Phase 2 Qualified Bidder without the approval of the Monitor.
17. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, the Applicants, in consultation with the DIP Lender and the Monitor

and with the approval of the Monitor, shall determine the process and timing to be followed in pursuing Qualified LOIs based on such factors and circumstances as they consider appropriate in the circumstances including, but not limited to: (i) the number of Qualified LOIs received, (ii) the extent to which the Qualified LOIs relate to the same Property or Business or involve Investment Proposals predicated on certain Property or Business, (iii) the scope of the Property or Business to which any Qualified LOIs may relate, and (iv) whether to proceed by way of sealed bid or auction (with or without a stalking horse bidder) with respect to some or all of the Property.

18. Upon the determination by the Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, of the manner in which to proceed to Phase 2 of the SISP, the Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, will prepare a bid process letter for Phase 2 (the "**Bid Process Letter**"), and the Bid Process Letter will be (i) sent by the Monitor to all Phase 2 Qualified Bidders as soon as practically possible following the Phase 1 Bid Deadline, and (ii) posted by the Monitor on the website the Monitor maintains in respect of the CCAA Proceedings.
19. Notwithstanding the process and deadlines outlined above with respect to Phase 1 of the SISP and the process to supplement Phase 2 by way of the Bid Process Letter, the Applicants may, in consultation with the DIP Lender and the Monitor and with the consent of the Monitor, at any time bring a motion to seek approval of a stalking horse agreement in respect of some or all of the Property and related bid procedures in respect of such Property or to establish further or other procedures for Phase 2.

PHASE 2: FORMAL OFFERS AND SELECTION OF SUCCESSFUL BIDDER

20. Paragraphs 21 to 31 below and the conduct of Phase 2 are subject to paragraphs 16 to 19, above, any adjustments made to Phase 2 in accordance with the Bid Process Letter and any further Court order regarding the SISP.

Formal Binding Offers

21. Phase 2 Qualified Bidders that wish to make a formal offer to purchase or make an investment in the Applicants or their Property or Business shall submit a binding offer (a "**Phase 2 Bid**") that complies with all of the following requirements to the Monitor at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than 5:00 PM (Eastern Time) on April 17, 2020 or as may be modified in the Bid Process Letter, in consultation with and with the approval of the Monitor (the "**Phase 2 Bid Deadline**"):
 - (a) the bid shall comply with all of the requirements set forth in paragraph 14 above in respect of Phase 1 Qualified LOIs;
 - (b) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Applicants or their Property or Business and is consistent with any necessary terms and conditions

established by the Applicants and the Monitor and communicated to Phase 2 Qualified Bidders;

- (c) the bid includes a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- (d) the bid includes duly authorized and executed transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto;
- (e) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Applicants and the Monitor to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;
- (f) the bid is not conditioned on (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld in Phase 1 from the Phase 2 Qualified Bidder, or (ii) obtaining financing, but may be conditioned upon the Applicants receiving the required approvals or amendments relating to the licences required to operate the business, if necessary;
- (g) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- (h) for a Sale Proposal, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a non-refundable deposit in the amount of not less than 10% of the Purchase Price offered upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
- (i) for an Investment Proposal, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a non-refundable deposit in the amount of not less than 10% of the total new investment contemplated in the bid upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
- (j) the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its offer (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld in Phase 1 from the Phase 2 Qualified Bidder); (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express,

implied, statutory or otherwise, regarding the Business, the Property, or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicants;

- (k) the bid is received by the Phase 2 Bid Deadline; and
 - (l) the bid contemplates closing the transaction set out therein on or before May 29, 2020.
22. Following the Phase 2 Bid Deadline, the Applicants and the Monitor will assess the Phase 2 Bids received. The Applicants, in consultation with the Monitor and the DIP Lender, and with the approval of the Monitor, will designate the most competitive bids that comply with the foregoing requirements to be “**Qualified Bids**”. No Phase 2 Bids received shall be deemed not to be Qualified Bids without the approval of the Monitor, in consultation with the DIP Lender. Only Phase 2 Qualified Bidders whose bids have been designed as Qualified Bids are eligible to become the Successful Bidder(s).
23. The Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Phase 2 Bids to be a Qualified Bid.
24. The Monitor shall notify each Phase 2 Qualified Bidder in writing as to whether its Phase 2 Bid constituted a Qualified Bid within ten (10) business days of the Phase 2 Bid Deadline, or at such later time as the Monitor deems appropriate.
25. If the Applicants, in consultation with the Monitor and the DIP Lender, are not satisfied with the number or terms of the Qualified Bids, the Applicants may, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, extend the Phase 2 Bid Deadline, or the Applicants may seek Court approval of an amendment to the SISP.
26. The Applicants may, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

Evaluation of Competing Bids

27. A Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transactions, (iii) the proposed transaction documents, (iv) factors affecting the speed, certainty and value of the transaction, (v) the assets included or excluded from the bid, (vi) any related restructuring costs, and (vii) the likelihood and timing of consummating such transaction, each as determined by the Applicants and the Monitor, in consultation with DIP Lender.

Selection of Successful Bid

28. The Applicants, in consultation with the DIP Lender and the Monitor and with the approval of the Monitor, will: (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among the Applicants, in consultation with the Monitor and the DIP Lender, and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Phase 2 Qualified Bid as a result of such negotiations, and (b) identify the highest or otherwise best bid (the "**Successful Bid**", and the Phase 2 Qualified Bidder making such Successful Bid, the "**Successful Bidder**") for any particular Property or the Business in whole or part. The determination of any Successful Bid by the Applicants, with the assistance of the Monitor and in consultation with the DIP Lender, shall be subject to approval by the Court.
29. The Applicants shall have no obligation to enter into a Successful Bid, and it reserves the right, after consultation with the Monitor and the DIP Lender, to reject any or all Phase 2 Qualified Bids.

Sale Approval Motion Hearing

30. At the hearing of the motion to approve any transaction with a Successful Bidder (the "**Sale Approval Motion**"), the Applicants shall seek, among other things, approval from the Court to consummate any Successful Bid. All the Phase 2 Qualified Bids other than the Successful Bid, if any, shall be deemed to be rejected by the Applicants on and as of the date of approval of the Successful Bid by the Court.

Confidentiality and Access to Information

31. All discussions regarding a Sale Proposal, Investment Proposal, LOI or Phase 2 Bid should be directed through the Monitor. Under no circumstances should the management of the Applicants be contacted directly without the prior consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP process.
32. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Phase 1 Qualified Bidders, Phase 2 Qualified Bidders, Phase 2 Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Applicants, the Monitor and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Applicants, with the approval of the Monitor and consent of the applicable participants, are seeking to combine separate bids from Phase 1 Qualified Bidders or Phase 2 Qualified Bidders.
33. In addition to the consultation rights granted to the DIP Lender, herein, the Monitor may consult with any other parties with a material interest in the CCAA proceedings regarding the status of and material information and developments relating to the SISP to the extent considered appropriate by the Monitor (subject to paragraph 32 and taking into account, among other things, whether any particular party is a Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder or other participant or prospective participant in the SISP

or involved in a bid) and as required by the Commitment Letter, provided that such parties shall have entered into confidentiality arrangements satisfactory to the Applicants and the Monitor.

Supervision of the SISP

34. The Monitor shall oversee, in all respects, the conduct of the SISP by the Applicants and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out in this SISP Procedure, the SISP Order, the Initial Order and any other orders of the Court, and is entitled to receive all information in relation to the SISP.
35. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the Applicants or the Monitor and any Phase 1 Qualified Bidder, any Phase 2 Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Applicants.
36. Without limiting the preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, the Successful Bidder, the Applicants, the DIP Lender or any other creditor or other stakeholder of the Applicants, for any act or omission related to the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Monitor. By submitting a bid, each Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Monitor.
37. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any LOI, Phase 2 Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
38. Without limiting in any way the intent and effect of the applicable provisions of the DIP Financing in respect of the SISP, the Applicants shall have the right to modify the SISP (including, without limitation, pursuant to the Bid Process Letter) with the prior written approval of the Monitor and the DIP Lender if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the Service List in this CCAA proceeding shall be advised of any substantive modification to the procedures set forth herein.

Schedule “1”

Address of Monitor

To the Monitor:

Ernst and Young Inc.
EY Tower, 100 Adelaide Street West
PO Box 1
Toronto, ON M5H 0B3

Attention: Alex Morrison and Karen Fung

Email: alex.f.morrison@ca.ey.com
karen.l.fung@ca.ey.com

