

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
SPARTAN BIOSCIENCE INC. OF THE CITY OF OTTAWA IN THE  
PROVINCE OF ONTARIO**

Applicant

**FIRST REPORT OF THE PROPOSAL TRUSTEE  
DATED APRIL 16, 2021**

**INTRODUCTION**

1. On April 5, 2021, Spartan Bioscience Inc. (“**Spartan**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). Ernst & Young Inc. (“**EY**” or the “**Proposal Trustee**”) was appointed as Proposal Trustee under the NOI.

**PURPOSE**

2. The purpose of this First Report of the Proposal Trustee (the “**Report**”) is to provide the following information to this Court:
  - a) a brief overview of Spartan;
  - b) a description of the activities of the Proposal Trustee since the NOI was filed;
  - c) an overview of Spartan’s cash flow statement for the period April 6, 2021 to July 30, 2021;
  - d) an overview of the Sale and Investment Solicitation Process (the “**SISP**”) for which Spartan seeks this Court’s approval, and the Proposal Trustee’s recommendations regarding the SISP;
  - e) a description of the proposed Court-ordered charges sought by Spartan in the proposed order, including the Administration Charge, the Directors’ Charge and the KERP Charge (each as defined below), and the Proposal

Trustee's recommendations regarding such charges; and

- f) information and recommendations regarding Spartan's request for a 45 day extension of the time period to make a proposal.

## **TERMS OF REFERENCE**

3. In preparing this Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by Spartan, and discussions with management of Spartan ("**Management**") and information from other third-party sources (collectively, the "**Information**"). Except as set out in the Trustee's Report on Cash-Flow Statement attached as Appendix A to this Report in respect of Spartan's cash flow statement:
  - a) The Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not 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 Assurance Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance 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 forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
4. Future oriented financial information referred to in this 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.

5. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian dollars.

## **BACKGROUND INFORMATION WITH RESPECT TO SPARTAN**

6. This Report is based on information obtained from Management and certain direct inquiries made by the Proposal Trustee.

### *Overview*

7. Spartan is an innovative DNA diagnostics company with technology that is targeted to provide the point of care market with accurate, rapid, cost effective molecular testing. Decentralized testing at the point of need rather than using traditional centralized laboratories is intended to enable faster and more widespread diagnosis capabilities resulting in lower cost to treat while at the same time improving time to effective treatment of identified illnesses and pathogens.
8. Spartan's "Cube" platform is comprised of a polymerase chain reaction ("PCR") based DNA analyzer that can rest in the palm of the user's hand, single use test kits, and software designed to automatically interpret complex PCR data to provide direct sample to answer results.
9. Prior to the global COVID-19 pandemic, Spartan had already introduced the Cube for applications such as environmental water testing for the detection of legionella bacteria, the cause of legionnaires disease, an Alzheimer's genetic risk screening used by research organizations, and for a precision medicine genotype guided antiplatelet therapy in acute cardiac care.
10. With the global outbreak of COVID-19 in early 2020, Spartan pivoted its business to rapidly develop a COVID-19 test for the detection of the SARS-CoV-2 virus. Through advance payments from the Canadian federal and provincial governments as well as certain commercial customers, Spartan developed and ramped up production of its rapid, point of care PCR COVID-19 test. It was approved by Health Canada under an interim order for sales to both government and commercial organizations.

11. After market introduction, Spartan's COVID-19 test showed some performance-related issues in the field, including higher than previously observed incidence of returning "inconclusive" results (the "**Technological Challenge**") than its clinical trials. Spartan began an investigation into the root causes of the Technological Challenge and voluntarily paused production and shipment of its COVID-19 test kits.
12. Due to these issues with the COVID-19 test, Spartan faced significant near-term financial pressure, owing in large part to its efforts to ramp up manufacturing and build product inventory to supply Canada's needs as quickly as possible. This, combined with not being able to ship and bill for its COVID-19 test product, put the Company in a working capital shortage, and rendered Spartan insolvent. Spartan took the decision to file an NOI.
13. Spartan immediately furloughed approximately 60 of its 86 employees and 11 of its co-op students to conserve its cash resources and intends to conduct the SISP (described in greater detail below) over the next two and a half months. During this time, the research and development team intends to continue to work to address the Technological Challenge.
14. Spartan operates primarily from leased premises located at 2934 Baseline Road, Ottawa, ON. It also has satellite offices in Kanata, ON and downtown Ottawa ON.
15. The Proposal Trustee understands that Spartan has four secured creditors:
  - a) Casa-Dea Finance Ltd. ("**CDFL**") – which is owed \$6.9 million, pursuant to a credit facility agreement wherein CDFL agreed to loan a principal amount of up to \$7 million. Interest accrues at a rate of 12% per annum and principle and interest is repayable upon the earlier of (i) and event of default; (ii) a transaction involving Spartan (subject to certain criteria) or (iii) May 24, 2021. CDFL and Spartan entered into a General Security Agreement (the "**CDFL Security**"). CDFL was also granted an option to purchase shares of Spartan.

- b) BDC Capital Inc. - which is owed \$8.8 million, pursuant to a loan in the principal amount of up to \$9 million that accrues interest at a rate of 6% per annum. BDC Capital Inc. and Spartan entered into a General Security Agreement (the “**BDC GSA**”) and an Assignment of Life Insurance with respect to Paul Lem (the “**BDC Security**”);
  - c) Eastern Ontario Community Futures Development Corporation (“**Eastern Ontario**”) - which is owed \$183,000 pursuant to a term loan that accrues interest at a rate of 8% semi-annually and is payable in monthly payments of principal and interest of \$6,066.38. Eastern Ontario and Spartan entered into a General Security Agreement related to all hardware inventory and all test consumables inventory belonging to Spartan; and
  - d) The Bank of Montreal (“**BMO**”) pursuant to a loan agreement wherein BMO agreed to provide a letter of credit “**LC**” on behalf of Spartan in favour of Sanmina (referenced later in the Report) and a \$100,000 LC in favour of the Ottawa head office landlord and a credit card facility with a \$25,000 aggregate limit. BMO is holding a guaranteed investment certificate for \$25,000 and cash of \$100,000 as security (“**BMO Security**”).
16. The Proposal Trustee has not reviewed any claim, encumbrance or security that exists or that has been asserted against Spartan. The Proposal Trustee understands that the creditors described above have in some cases entered into subordination agreements. The Proposal Trustee will report further on these matters at a later date.
17. The Proposal Trustee’s counsel has confirmed, based upon searches of the Personal Property Security Registry in Ontario, current to April 15, 2021, that the only registrations appearing against Spartan are made by: Eastern Ontario, BMO, BDC Capital Inc., and CDFL (the “**PPSA Registrants**”).

#### **ACTIVITIES OF THE PROPOSAL TRUSTEE SINCE THE FILING OF THE NOI**

18. Due to COVID-19, EY has been performing its responsibilities as Proposal Trustee virtually. While this creates some limitations, EY has the organizational and technological infrastructure in place to do so, and, on balance, is not aware of any

material differences in its ability to perform its role as Proposal Trustee.

19. Since filing of the NOI, the Proposal Trustee has:
- a) retained Norton Rose Fulbright Canada LLP to act as independent counsel in these proceedings;
  - b) established a website at [www.ey.com/ca/spartan](http://www.ey.com/ca/spartan) to make available to the public the documents filed in relation to these proceedings;
  - c) mailed the NOI documents to known creditors as prescribed by the BIA;
  - d) filed the cashflow and related reports with the Official Receiver and established monitoring procedures over the Company's cash flow and cash management system; and
  - e) consulted with the Company on the development of the SISP.

#### **SPARTAN'S CASH FLOW STATEMENT**

20. Spartan prepared a 17 week cash flow projection and related assumptions (the "**Cash Flow Statement**") for the period from April 6, 2021 to July 30, 2021 (the "**Cash Flow Period**") for the purpose of projecting the estimated results of Spartan's planned operating and other activities during the Cash Flow Period. The Cash Flow Statement was filed with the Official Receiver pursuant to the BIA on April 12, 2021 with the requisite reports of the Proposal Trustee and Spartan. A copy of the Cash Flow Statement and reports are attached as Appendix "A" to this Report.
21. As mentioned earlier, Spartan implemented cost cutting measures to conserve its cash resources to allow it sufficient time to conduct its SISP. Spartan's Cash Flow Statement estimates that during the Cash Flow Period, Spartan will have total receipts of approximately \$535,000 and total disbursements of approximately \$3.9 million thus depleting its cash resources by the end of the Cash Flow Period.
22. The Cash Flow Statement includes the payment of retention bonuses as part of the key employee retention program discussed further herein.

## THE SISP

23. The NOI filing was made with the intention of allowing Spartan to pursue all avenues of sale, restructuring and/or refinancing of its business or property by conducting the SISP.
24. The SISP was developed in consultation with the Proposal Trustee and reviewed by the Board of Directors. It is attached as Appendix “B” to this Report. The purpose of the SISP is to solicit interest in a transaction in connection with Spartan’s business whereby either: (a) Spartan is restructured and/or refinanced; or (b) the assets of Spartan are sold.
25. The following table sets out the key milestones under the SISP.

Milestone	Deadline
Commencement of the SISP	April 20, 2021
Distribution of the Notice and Teaser Letter	Commencing April 20, 2021
Phase 1 Bid Deadline	May 17, 2021
Phase 2 Bid Deadline	June 7, 2021
Selection of Winning Bid/Back up Bid	June 11, 2021
Sale Approval Hearing	Week of June 21, 2021
Closing Date Deadline	June 30, 2021

26. Spartan will conduct the SISP under the supervision of the Proposal Trustee. Under the SISP (all defined terms are as set out in the SISP)<sup>1</sup>:
- a) Spartan, in consultation with the Proposal Trustee, will prepare and distribute a “Teaser Letter” to a target list of potential bidders developed by

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<sup>1</sup> The following summary is provided for general information purposes only. In the case of any conflict between the terms of the SISP and this Report, the SISP shall govern.

Spartan with the assistance of the Proposal Trustee. The Proposal Trustee notes that this step has already been commenced by Spartan due to the liquidity pressures and resulting time limitations facing the Company;

- b) Spartan will arrange for a notice (the “**Notice**”) of the SISP to be published in the *Globe and Mail* (National Edition);
- c) Parties who execute a non-disclosure agreement and provide such form of financial disclosure to allow Spartan, in consultation with the Proposal Trustee, to make a reasonable determination as to the potential bidder’s financial capability to consummate a transaction (a “**Phase 1 Qualified Bidder**”), will receive a confidential information package. Spartan, in consultation with the Proposal Trustee, may defer the request for this financial disclosure;
- d) A Phase 1 Qualified Bidder that wishes to pursue the opportunity further must deliver a non-binding letter of interest (an “**LOI**”) by email to the Proposal Trustee so that it is received by 5:00 p.m. (Ottawa time) on May 17, 2021 (the “**Phase 1 Bid Deadline**”).
- e) Following the Phase 1 Bid Deadline, Spartan, in consultation with the Proposal Trustee, will assess the LOIs. If it is determined by Spartan, in consultation with the Proposal Trustee, 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 Spartan may, in its reasonable business judgment and after approval of the Proposal Trustee, limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process) taking into account the factors identified in the SISP.



Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISP.

- f) Upon the determination by Spartan, in consultation with the Proposal Trustee, of the manner in which to proceed to Phase 2 of the SISP, Spartan, with the approval of the Proposal Trustee, will prepare a bid process letter for Phase 2 (the "**Bid Process Letter**"), and the Bid Process Letter will be
    - (i) sent by the Proposal Trustee to all Phase 2 Qualified Bidders as soon as practically possible following selection as a Phase 2 Qualified Bidder, and
    - (ii) posted by the Proposal Trustee on the website the Proposal Trustee maintains in respect of the restructuring proceedings.
  - g) Phase 2 Qualified Bidders that wish to make a formal offer in the SISP must submit their binding offer so that it is received by the Proposal Trustee by email not later than 5:00 p.m. (Ottawa time) on June 7, 2021.
  - h) Spartan, in consultation with the Proposal Trustee, will assess the binding offers from the Phase 2 Qualified Bidders (the "**Phase 2 Bids**") received pursuant to the SISP to determine which are Qualified Bids based on the criteria set out in paragraph 22 of the SISP. Among these requirements is that the Phase 2 Bid be accompanied by a cash deposit in the amount of not less than 10% of the purchase price or total new investment contemplated by the bid, as applicable;
  - i) Spartan, in consultation with the Proposal Trustee, will review and evaluate each Qualified Bid provided that each Qualified Bid may be negotiated among Spartan, in consultation with the Proposal Trustee, and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations, and identify the Successful Bid and the Back-up Bid from the Qualified Bids.
27. The SISP stipulates that under no circumstances will Spartan or the Proposal Trustee share any material information concerning any of the bids with any other person; provided, however, that Spartan and the Proposal Trustee may disclose such

- information as they deem appropriate to the stakeholders of Spartan who are not participants in the SISP and who enter into appropriate confidentiality agreements with Spartan.
28. Spartan, with the approval of the Proposal Trustee, shall have the right at any time to modify (including extending any one or more of the deadlines set out in the SISP) or end the SISP if, in their reasonable business judgment, such modification or termination will enhance the process or better achieve the objectives of the SISP. The completion of any transaction through the SISP shall be subject to the approval of the Court.
29. The Proposal Trustee is of the view that the SISP is an open and fair process for prospective investors and/or purchasers to conduct a transaction with Spartan in an attempt to maximize recoveries for Spartan's stakeholders. The Proposal Trustee is further of the view that there is not a better viable alternative to the SISP at this time and that a transaction contemplated by the SISP would be the best option to seek to maximize value for the benefit of all stakeholders at this time.

## **COURT-ORDERED CHARGES**

30. The proposed order provides for three Court-ordered priority charges (collectively, the "**Charges**").

### *Administration Charge*

31. The proposed order provides for a charge (the "**Administration Charge**") in favour of counsel to the Company, the Proposal Trustee and its independent counsel.
32. The Administration Charge has been established at \$250,000 as security for the professional fees (at standard rates and charges) and disbursements of the Proposal Trustee, its counsel and counsel to Spartan for services rendered both before and after the commencement of the NOI proceedings.
33. The Proposal Trustee is of the view that the proposed Administration Charge is appropriate in the circumstances and the amount of the Administration Charge is

reasonable given, among other things, the complexity of the proceedings, the potential work involved at peak times, the size of charges approved in comparable proceedings and the quantum of fees and expenses that could arise.

34. The Proposal Trustee and the Company's counsel each have \$100,000 retainers.

*Directors' Charge*

35. The proposed order provides for a charge in an amount not to exceed \$250,000 (the "**Directors' Charge**") in favour of Spartan's current directors and officers as security for any obligations or liabilities that they may incur as directors or officers of the Company after the commencement of the NOI proceedings, including employee related and environmental liabilities, except to the extent that such obligation or liability is incurred as a result of such directors' or officer's gross negligence or wilful misconduct.
36. The Proposal Trustee assisted Spartan in preparing the calculation of the Directors' Charge taking into consideration the amount and timing of the Applicants' payroll, vacation pay and certain tax liabilities.
37. The Proposal Trustee is of the view that the Directors' Charge is appropriate and reasonable under the circumstances.

*Employee Retention Program and KERP Charge<sup>2</sup>*

38. The proposed order provides for a charge in an amount not to exceed \$725,000 (the "**KERP Charge**") to secure payment to certain eligible employees under Spartan's key employee retention program (the "**KERP**"). Spartan has identified 22 existing employees (the "**Eligible Employees**") that they believe are critical to the preservation of the Spartan's enterprise value and have formulated the KERP to incentivize those employees to stay with Spartan during the restructuring and pursuit of a potential transaction.

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<sup>2</sup> The following summary is provided for general information purposes only. In the case of any conflict between the terms of the KERP documents and this Report, the KERP documents shall govern.

39. The KERP provides for a lump sum payment (the “**Retention Bonus**”) to the Eligible Employees to be paid out as of the earliest of the following 3 dates (the “**Retention Date**”): (i) the date that the employment with the Company is terminated by the Company; (ii) the date a court approved sale or recapitalization of the Company closes; or (iii) June 30, 2021, with an option for Spartan to extend the Retention Date to July 31, 2021, with 50% of the Retention Bonus paid to the Eligible Employee on or about June 30, 2021 and the remaining 50% of the Retention Bonus paid on or about July 31, 2021. In addition, Eligible Employees will continue to be paid all regular salary and other amounts in accordance with their existing employment contracts.
40. The Eligible Employees will not be entitled to the Retention Bonus if they voluntarily resign prior to the Retention Date. To earn the Retention Bonus, the Eligible Employee must have worked diligently and in good faith throughout the transition period to successfully handover and transfer their knowledge or to take such other transition steps as are required by the Company.
41. A form of the Retention Agreement and a summary of the maximum amounts that any Eligible Employee may be entitled to under the KERP is included in the Confidential Exhibit “1” to the affidavit of Jennifer Ross-Carriere dated April 16, 2021.
42. The Proposal Trustee has reviewed the Retention Agreements and is of the view that given the highly technical nature of Spartan’ business and intellectual property, the retention of key employees to enable the Company to conduct an effective SISP process and to effectuate a possible transaction arising from the SISP is in the best interests of all stakeholders. In addition, the Proposal Trustee believes the terms of the proposed KERP and the amount of the proposed charge securing the KERP obligations are reasonable in the circumstances when compared to other retention plans that the Proposal Trustee has reviewed and that courts in Ontario have approved in other proceedings.

### *Priority of Charges*

43. The proposed order provides for the establishment of the following priority of the Charges:
  - a) First – the Administration Charge;
  - b) Second – the KERP Charge; and
  - c) Third – the Directors’ Charge.
44. Under the proposed order, the Charges will apply to all of Spartan’s assets, property or undertaking except the BMO Security (the “**Charged Property**”). The Charges will rank ahead of any existing security interests, liens, trusts, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”) in favour of any person in respect of the Charged Property.
45. The Proposal Trustee has been informed by Spartan that each of the PPSA Registrants has been served with the Company’s motion.

### **MANUFACTURING FACILITY**

46. Spartan entered into a manufacturing services agreement (“**MSA**”) with Sanmina Corporation (“**Sanmina**”) effective September 24, 2020 for the manufacturing of COVID-19 test cartridges.
47. Sanmina entered into a lease with a third-party landlord for a manufacturing facility located in Markham, Ontario (the “**Leased Manufacturing Facility**”) where the manufacturing activities under the MSA are performed.
48. As part of the MSA, Spartan was required to provide equipment and tooling for the manufacturing process.
49. The lease for the Leased Manufacturing Facility expires at the end of May 2021 but is renewable for at least a one year period from June 1, 2021 to May 31, 2022. Sanmina will not renew the lease for the 12 month period unless it receives the full rent for the lease in advance which totals \$350,000 U.S. This payment was not contemplated in the Cash Flow Forecast and would diminish Spartan’s limited cash

resources.

50. Sanmina received a Standby LC issued by the Bank of Montreal and guaranteed by Export Development Canada to secure the performance obligations of Spartan under the MSA. Sanmina has provided notice to Spartan of its intent to draw on the LC. In its calculation of the amount it intends to claim under the LC, Sanmina has excluded the future lease cost for the lease renewal.
51. The continued access to the Leased Manufacturing Facility and the ability to potentially resume production quickly is considered critical to the value proposition put forth by Spartan as it commences the SISP. Spartan does not have the time or resources to relocate the equipment and operationalize a new manufacturing facility.
52. Spartan is in discussions with CDFL in order to find a solution to the funding request including a possible debtor-in-possession loan. Alternatively, Spartan may seek a court-ordered charge to resolve this matter.

#### **REQUEST FOR AN EXTENSION TO THE STAY OF PROCEEDINGS**

53. To date, Spartan has provided the Proposal Trustee with its full co-operation.
54. Spartan has worked through the initial stage of the NOI proceeding. Such activities include:
  - a) initiating cost cutting measures to conserve its cash resources to provide time to conduct the SISP;
  - b) developing the SISP procedures and commencing its outreach to potential bidders;
  - c) preparing materials and populating an electronic data room for the SISP;  
and
  - d) furthering its investigation into the Technological Challenge and preparing a response to the Federal Government.

55. Spartan requires time to implement the SISP and, therefore, is seeking an extension of 45 days in which to make a proposal. The Proposal Trustee notes that the SISP is not expected to be completed within such 45 day period and, as a result, the Proposal Trustee expects a further extension of this period will be required.
56. As described earlier in this Report, the Cash Flow Statement indicates that Spartan should have sufficient liquidity to sustain operations during the proposed extension.

#### **PROPOSAL TRUSTEE'S CONCLUSION AND RECOMMENDATIONS**

57. In the Proposal Trustee's view, Spartan is working to advance its restructuring in good faith and with due diligence.
58. The Proposal Trustee is of the view that conducting the SISP offers the greatest prospect of maximizing value for Spartan's stakeholders either through a sale of Spartan's assets or through a restructuring/refinancing.
59. Based on the above, the Proposal Trustee recommends that the Court approve Spartan's request for an Order approving the SISP, granting the Charges and providing a 45 day extension of the period to make a proposal.

All of which is respectfully submitted this 16<sup>th</sup> day of April 2021.

**ERNST & YOUNG INC.**  
**in its capacity as the Proposal Trustee of**  
**Spartan Bioscience Inc.**

Per:



Greg Adams CPA, CA, CIRP, LIT  
Senior Vice President

## **APPENDIX “A”**



SPARTAN BIOSCIENCE INC  
CASH FLOW FORECAST  
For the Period April 06/21 - July 30/21  
Cndn \$

Week Ending	NOTES	09-Apr	16-Apr	23-Apr	30-Apr	07-May	14-May	21-May	28-May	04-Jun	11-Jun	18-Jun	25-Jun
<b>DETAILS</b>													
<b>CASH OPEN</b>	1	3,396,318	3,414,859	3,591,193	3,535,193	3,130,308	3,021,066	2,475,977	2,508,752	2,266,193	2,202,376	1,955,634	1,913,934
<b>RECEIPTS</b>		19,800	-	-	-	28,758	57,517	86,275	86,275	71,683	57,092	42,500	42,500
Accounts Receivable Collections	2	19,800											
Current Production	3	-	-	-	-	28,758	57,517	86,275	86,275	71,683	57,092	42,500	42,500
<b>DISBURSEMENTS</b>		1,259	(176,334)	56,000	404,885	138,000	602,606	53,500	328,834	135,500	303,834	84,200	111,849
Resourcing		101,259	263,183	-	163,485	-	237,381	-	200,334	-	200,334	34,200	36,849
Payroll, deductions, benefits	4	101,259	199,485	-	163,485	-	197,685	-	163,485	-	163,485	34,200	-
Contract Staff	5		63,698	-	-	-	39,696	-	36,849	-	36,849	-	36,849
Restructuring Professional Fees		(150,000)	(539,157)	-	100,000	-	50,000	-	50,000	-	50,000	-	-
Legal, Trustee	6	-	200,000	-	100,000	-	50,000	-	50,000	-	50,000	-	-
Payroll Escrow	7	(150,000)											
Sales Tax Escrow	8		(739,157)										
Expenses		50,000	90,000	50,000	116,950	132,000	300,000	50,000	75,000	132,000	50,000	50,000	75,000
Professional Fees	9	-	40,000	-	41,950	-	-	-	-	-	-	-	-
Rent	10					82,000				82,000			
Expenses	11	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Insurance	12						250,000						
Contingency	13				25,000				25,000				25,000
Retention/Other Fees		-	-	-	-	-	-	-	-	-	-	-	-
Retention	14												
BOD Fees	15												
Product		-	9,640	6,000	24,450	6,000	15,225	3,500	3,500	3,500	3,500	-	-
Production Costs	16	-	9,640	6,000	24,450	6,000	15,225	3,500	3,500	3,500	3,500	-	-
<b>CASH END</b>	17	3,414,859	3,591,193	3,535,193	3,130,308	3,021,066	2,475,977	2,508,752	2,266,193	2,202,376	1,955,634	1,913,934	1,844,585

This statement of projected cash flow of Spartan Bioscience Inc. is prepared in accordance with section 50.4 (2) of the Bankruptcy and Insolvency Act and should be read in conjunction with the accompanying notes and Trustee's report on cash flow statement dated April 12, 2021.

Ernst & Young Inc.  
Trustee



Per  
Greg Adams

Spartan Bioscience Inc.

Per   
Jennifer Ross-Carriere  
CEO

## SPARTAN BIOSCIENCE INC

## CASH FLOW FORECAST

For the Period April 06/21 - July 30/21

Cndn \$

Week Ending	NOTES	02-Jul	09-Jul	16-Jul	23-Jul	30-Jul	TOTAL
<b>DETAILS</b>							
<b>CASH OPEN</b>	1	1,844,585	728,083	692,250	362,716	312,716	3,396,318
<b>RECEIPTS</b>		28,333	14,167	-	-	-	534,900
Accounts Receivable Collections	2						19,800
Current Production	3	28,333	14,167	-	-	-	515,100
							-
<b>DISBURSEMENTS</b>		1,144,835	50,000	329,534	50,000	320,334	3,938,835
Resourcing		163,485	-	229,534	-	195,334	1,825,377
Payroll, deductions, benefits	4	163,485	-	197,685	-	163,485	1,547,739
Contract Staff	5	-	-	31,849	-	31,849	277,638
Restructuring Professional Fees		50,000	-	50,000	-	50,000	(289,157)
Legal, Trustee	6	50,000	-	50,000	-	50,000	600,000
Payroll Escrow	7						(150,000)
Sales Tax Escrow	8						(739,157)
Expenses		132,000	50,000	50,000	50,000	75,000	1,527,950
Professional Fees	9	-	-	-	-	-	81,950
Rent	10	82,000					246,000
Expenses	11	50,000	50,000	50,000	50,000	50,000	850,000
Insurance	12						250,000
Contingency	13					25,000	100,000
							-
Retention/Other Fees		799,350	-	-	-	-	799,350
Retention	14	704,350					704,350
BOD Fees	15	95,000					95,000
							-
Product		-	-	-	-	-	75,315
Production Costs	16	-	-	-	-	-	75,315
<b>CASH END</b>	17	728,083	692,250	362,716	312,716	(7,617)	(7,617)

## SPARTAN BIOSCIENCE INC.

### In the Matter of the Notice of Intention to Make a Proposal under the Bankruptcy and Insolvency Act of Spartan Bioscience Inc. ("Spartan" or the "Company")

#### Notes to the Unaudited Cash Flow Statement

##### Disclaimer:

In preparing this cash flow statement (the "**Cash Flow Forecast**"), Spartan has relied upon unaudited financial information and the Company has not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the business and additional assumptions discussed below. Since the Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Cash Flow Forecast period will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

##### Overview:

The Cash Flow Forecast has been prepared for the purpose of meeting the requirements of the Bankruptcy and Insolvency Act and reflects the estimated cash flows from Spartan's operations. The Company has prepared the Cash Flow Forecast based on Spartan's anticipated operating plan as it undertakes its sale and investment solicitation process. The Cash Flow Forecast is denominated in Canadian dollars with US dollars converted at an exchange rate of 1.27.

##### Assumptions:

1. **Cash Open:** This is the closing cash balance at April 5, 2021
2. **Accounts Receivable Collections:** Accounts receivable collections are forecast based on management's estimate of customer receipts. Receipts are based on the assumption that certain customers pay under existing terms (including HST where applicable) in the normal course of business for product invoiced and delivered prior to Apr 06/21.
3. **Current Production:** The Company will continue to build 2 legacy products to sell and deliver to current customers with payment received (including HST where applicable) on net 30-day terms.
4. **Payroll, Deductions, Benefits:** Payroll represents the gross payroll costs and source deduction remittances for all remaining employees and is forecast based on the current employee complement. Payroll is paid semi-monthly in arrears. On Apr 09, all compensation to Apr 06/21 was paid to employees placed on temporary leave in the amount of \$101,259. \$150,000 had been previously estimated and placed into escrow to cover this amount. (See item # 7). Benefits for all employees are paid in advance on a monthly basis.
5. **Contracted Staff:** This represents management's estimate of need of existing contract staff. The personnel on contract are paid in arrears on a semi-monthly basis.
6. **Legal, Trustee:** This represents managements estimate of Company's legal fees, Trustee fees and trustee legal fees associated with the restructuring.
7. **Payroll Escrow:** On Apr 09, all compensation to Apr 06/21 was paid to employees placed on temporary leave in the amount of \$101,259. \$150,000 previously estimated and placed into escrow to cover this amount, was returned from escrow.

8. **Sales Tax Escrow:** The Company placed \$1,500,000 in escrow for estimated net Sales tax liability. The Company has since completed HST calculations and anticipants filing for an HST refund of \$832,760 for the quarter ended March 31, 2021. The refund of \$832,760 is not factored into the Cash Flow due to the timing uncertainty of the refund. \$739,157 is anticipated to be released from escrow on the basis of the anticipated Q1 filing. The balance in escrow, being \$760,843 would remain in escrow pending filing of the Company's annual QST return in January 2022.
9. **Professional fees:** Professional fees planned in the normal course of business and relate to the filing of the Company's annual Corporate tax returns and SRED submission
10. **Rent:** Rental of 2 premises; manufacturing and non-manufacturing, based on current monthly rent rates paid in advance.
11. **Expenses:** General, administration, R&D and non-product specific manufacturing expenses are estimated based on planned operations during the period and assumed to be paid on a cash on delivery basis including HST where applicable.
12. **Insurance:** Insurance represents the estimated annual cost of property, general liability, Directors & Officers insurance for the period May 15/21 to May 15/22.
13. **Contingency:** This is management's estimate of fees and other costs associated with the restructuring process not otherwise included on a specific disbursement line.
14. **Retention:** This disbursement is based on the Company's need to retain certain employees and executives to execute the restructuring process. The plan is subject to Board of Director and Court approval.
15. **BOD Fees:** The Board of Directors fees are for the period Apr 06/21 to July 31/21
16. **Production Costs:** Personnel, material and shipping costs associated with building the products to drive revenue of \$515,100 (see # 3). Personnel costs are paid as noted in Note 4 and other costs are assumed to be paid on a cash on delivery basis.
17. **Cash End:** This is the ending cash balance for the period.

District of: Ontario  
Division of: 12 - Ottawa  
Court No. 33-2726552  
Estate No. 33-2726552

FORM 29  
Trustee's Report on Cash-Flow Statement  
(Paragraphs (50(6)(b) and 50.4(2)(b) of the Act)

The attached statement of projected cash flow of Spartan Bioscience Inc. as of the 12<sup>th</sup> day of April 2021, (see attached), has been prepared by the management of the insolvent persons for the purpose described in the notes attached, using the probable and hypothetical assumptions set out in the notes attached.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects,

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent persons or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in the notes attached, and readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Ottawa, in the Province of Ontario, this 12th day of April 2021.

Ernst & Young Inc.

A handwritten signature in black ink, appearing to read 'Greg Adams', written over a horizontal line.

Per:

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Greg Adams – Licensed Insolvency Trustee  
Suite 1200, 99 Bank Street  
Ottawa, ON K1P 6B9  
Phone: (613) 598-4350

District of: Ontario  
Division of: 12 - Ottawa  
Court No. 33-2726552  
Estate No. 33-2726552

FORM 30

Report on Cash-Flow Statement by the Person Making the Proposal  
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

Spartan Bioscience Inc. has developed the assumptions and prepared the attached statement of projected cash flow of the insolvent persons, as of the 12<sup>th</sup> day of April 2021 (see attached).

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in the notes attached, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in the notes attached.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in the notes attached, using a set of hypothetical and probable assumption set out in the notes attached. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Ottawa, in the Province of Ontario, this 12<sup>th</sup> day of April 2021.



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Spartan Bioscience Inc.

Jennifer Ross-Carriere, Interim CEO  
Name and title of signing officer

## **APPENDIX “B”**



## Sale and Investment Solicitation Process (“SISP”)

### INTRODUCTION

Spartan will be bringing a motion (“Motion”) to the Ontario Superior Court of Justice (“Court”) to obtain formal approval of this SISP on April 20, 2021, at 1:30 pm. If the Court requires any changes to the SISP these will be communicated as soon as possible and, if appropriate, a blackline showing any changes will be provided. Otherwise this note will be updated to confirm that the SISP has been approved.

On April 5, 2021, Spartan Bioscience Inc. (“Spartan”) filed a Notice of Intention to Make a Proposal (the “**NOI Filing**”) under the *Bankruptcy and Insolvency Act* (the “**NOI Proceedings**”)<sup>1</sup> with the Office of the Superintendent in Bankruptcy. Ernst & Young Inc. (the “**Proposal Trustee**”) is the proposal trustee of Spartan.

The NOI Filing was made with the intention of allowing Spartan to pursue all avenues of sale and/or refinancing of its business and property, in whole or in part, subject to prior approval of the Court before any material sale or refinancing.

In this regard, Spartan will conduct and implement the SISP described herein under the supervision of the Proposal Trustee. Under the SISP, all qualified interested parties will be provided with an opportunity to participate in the SISP. The SISP is intended to solicit interest in a restructuring and/or refinancing of the business of Spartan or a sale of the assets and/or the business of Spartan, which may include a merger, reorganization, recapitalization, primary equity issuance or other similar transaction (the “**Transaction**”).

The procedures in respect of the SISP contained herein (the “**SISP Procedures**”) and any subsequent order issued by the Court, if any, pertaining to the SISP Procedures shall exclusively govern the process for soliciting and selecting bids for the Transaction.

The SISP Procedures comprises of two phases (“**Phase 1**” and “**Phase 2**”, respectively).

### OPPORTUNITY

1. The SISP is intended to solicit interest in a Transaction in connection with Spartan’s business (the “**Business**”) whereby either: (a) Spartan is restructured and/or refinanced; or (b) substantially all of the assets of Spartan (collectively, the “**Property**”) are sold.
2. Except to the extent otherwise set forth in a definitive sale or investment agreement with a Successful Bidder or Back-Up Bidder (each as defined below), any sale of the Property or investment in Spartan will be on an “*as is, where is*” basis and without surviving representations or warranties of any kind, nature, or description by Spartan, or any of their respective agents, advisors or representatives, and, in the event of a sale, all of the right,

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<sup>1</sup> At the Motion, Spartan may seek to convert the NOI Proceedings into an application pursuant to the *Companies’ Creditors Arrangement Act* (“**CCAA**”). In such case references to “NOI Proceedings” shall mean “CCAA Proceedings” and references to “Proposal Trustee” shall mean “Monitor”.

title and interest of Spartan in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, and interests therein and thereon pursuant to a Court order, except as otherwise provided in such Court order.

## **TIMELINE**

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

<b>Milestone</b>	<b>Deadline</b>
Commencement of SISP	April 20, 2021
Distribution of the Notice and Teaser Letter	Commencing April 20, 2021
Phase 1 Bid Deadline	May 17, 2021
Phase 2 Bid Deadline	June 7, 2021
Selection of Winning Bid/Back Up Bid	June 11, 2021
Sale Approval Hearing	Week of June 21, 2021
Closing Date Deadline	June 30, 2021

Subject to the terms set out herein and any Order of the Court, the dates set out in the SISP may be extended by Spartan, with the approval of the Proposal Trustee.

## **SOLICITATION OF INTEREST**

4. As soon as reasonably practicable, but in any event by no later than April 24, 2021:
- (a) Spartan, with the assistance of the Proposal Trustee, will prepare a list of potential bidders, including: (i) parties that have previously approached Spartan or the Proposal Trustee indicating an interest in the opportunity, and (ii) local and international strategic and financial parties who Spartan and the Proposal Trustee believe may be interested in purchasing all or part of the Business and Property or investing in Spartan pursuant to the SISP (collectively, “**Known Potential Bidders**”);
  - (b) Spartan will arrange for a notice of the SISP (and such other relevant information which Spartan, in consultation with the Proposal Trustee consider appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition) and any other newspaper or journal as Spartan and the Proposal Trustee consider appropriate, if any; and
  - (c) Spartan, in consultation with the Proposal Trustee, 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 Spartan (an “NDA”).

5. Spartan, with the assistance of the Proposal Trustee, will publish the Notice and send the Teaser Letter and NDA to all Known Potential Bidders by no later than April 30, 2021, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to Spartan as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

## **INTERESTED PARTIES – PHASE 1: NON-BINDING LOIs**

### ***Delivery of Confidential Information Package***

6. Any party who wishes to participate in the SISP must provide to Spartan, unless Spartan confirms to such potential bidder that the below documents are already delivered to Spartan, the following:
  - (a) an NDA executed by it 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 a potential bidder has previously delivered an NDA and letter of this nature to Spartan and the NDA remains in effect, the potential bidder may not be required to deliver a new NDA or letter to Spartan, unless otherwise requested by Spartan; and
  - (b) such form of financial disclosure and credit quality support or enhancement that allows Spartan, in consultation with the Proposal Trustee, to make a reasonable determination as to the potential bidder’s financial and other capabilities to consummate a Transaction. Spartan, in consultation with the Proposal Trustee, may defer the request for this information until submission of an LOI (as defined in para. 14 below).
7. If Spartan, in consultation with the Proposal Trustee, determines, exercising their reasonable business judgement that a bidder: (i) has delivered the documents contemplated in the immediately preceding paragraph; 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 bidder shall be deemed to be a “**Phase 1 Qualified Bidder**”. For greater certainty, no bidder shall be deemed not to be a Phase 1 Qualified Bidder without the approval of the Proposal Trustee.
8. At any time during the SISP, Spartan, in consultation with the Proposal Trustee, may, in their reasonable business judgment eliminate a Phase 1 Qualified Bidder from the SISP, in which case such Phase 1 Qualified Bidder will be eliminated from the SISP and will no longer be a Phase 1 Qualified Bidder for the purposes of the SISP.
9. Spartan, with the assistance of the Proposal Trustee, will prepare and send to each Phase 1 Qualified Bidder a confidential information package providing additional information regarding Spartan and the potential Transaction (the “**Confidential Information Package**”).

10. Spartan, the Proposal Trustee, and their respective advisors make no representation or warranty as to the information contained in the Confidential Information Package 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 or Back-up Bidder (each as defined below) ultimately executed and delivered by Spartan.
11. Phase 1 Qualified 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 Spartan.

### ***Due Diligence***

12. Spartan, with the assistance of the Proposal Trustee, 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 materials and information relating to the Property and Business as they 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 Spartan, in consultation with the Proposal Trustee, in their reasonable business judgment may agree.
13. Spartan will designate a representative to coordinate all reasonable requests for additional information and due diligence access from a Phase 1 Qualified Bidder and the manner in which such requests must be communicated. None of Spartan and the Proposal Trustee will be obligated to furnish any information relating to the Property or Business to any person other than to a Phase 1 Qualified Bidder. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Phase 1 Qualified Bidders if Spartan, in consultation with the Proposal Trustee, determines such information to represent proprietary or sensitive competitive information.

### ***Non-Binding Letters of Intent from Phase 1 Qualified Bidders***

14. A Phase 1 Qualified Bidder that wishes to pursue the opportunity further must deliver a non-binding letter of interest (an “**LOI**”) to the Proposal Trustee at the email address specified in Schedule “1” hereto, so as to be received by them not later than 5:00 PM (local Ottawa time) on May 17, 2021 (the “**Phase 1 Bid Deadline**”).
15. Subject to paragraph 16, 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 Spartan (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 or contracts 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 Spartan in Canadian dollars;
  - (iii) the underlying assumptions regarding the pro forma capital structure;
  - (iv) a specific indication of the sources of capital and financial and other capability 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 Spartan, in consultation with the Proposal Trustee.
- 16. Spartan, with the approval of the Proposal Trustee, 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***

- 17. Following the Phase 1 Bid Deadline, Spartan, in consultation with the Proposal Trustee, will assess the Qualified LOIs. If it is determined by Spartan, in consultation with the Proposal Trustee, 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 Spartan may, in their reasonable business judgment and after approval of the Proposal Trustee, limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process) taking into account, among other things, the factors identified in paragraph 18 below and any material adverse impact on the operations and performance of Spartan. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISP. 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 Proposal Trustee. Within five (5) business days of the Phase 1 Bid Deadline, Spartan shall advise all parties who submitted an LOI on whether or not they have become a Phase 2 Qualified Bidder.
- 18. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, Spartan, with the approval of the Proposal Trustee, 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.
- 19. Upon the determination by Spartan, in consultation with the Proposal Trustee, of the manner in which to proceed to Phase 2 of the SISP, Spartan, with the approval of the Proposal Trustee, will prepare a bid process letter for Phase 2 (the “**Bid Process Letter**”), and the Bid Process Letter will be: (i) sent by the Proposal Trustee to all Phase 2 Qualified Bidders as soon as practically possible following selection as a Phase 2 Qualified Bidder; and (ii) posted by the Proposal Trustee on the website the Proposal Trustee maintains in respect of the restructuring proceedings.

20. 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, Spartan may, with the consent of the Proposal Trustee, at any time: (i) 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; (ii) file a proposal pursuant to the BIA; or (iii) bring a motion to establish further or other procedures for Phase 2.

## **PHASE 2: FORMAL OFFERS AND SELECTION OF SUCCESSFUL BIDDER**

21. Paragraphs 22 to paragraphs 33 below and the conduct of Phase 2 are subject to paragraphs 17 to 20 above, any adjustments made to Phase 2 in accordance with the Bid Process Letter, and any further Court order regarding the SISP
22. Phase 2 Qualified Bidders that wish to make a formal offer to purchase or make an investment in Spartan or its Property and Business shall submit a binding offer (a “**Phase 2 Bid**”) that complies with all of the following requirements to the Proposal Trustee at the addresses specified in Schedule “I” hereto (by email), so as to be received by them not later than 5:00 PM (local Ottawa Time) on June 7, 2021 (the “**Phase 2 Bid Deadline**”):
- (a) the bid shall comply with all of the requirements set forth in paragraph 15 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 Spartan or its Property or Business and is consistent with any necessary terms and conditions established by Spartan 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, or Back-up Bidder (as defined in para. 30 below), 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, including the proposed form of order approving the Transaction;
  - (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 Spartan and the Proposal Trustee to make a determination as to the Phase 2 Qualified Bidder’s financial and other capabilities to consummate the proposed transaction, including the proposed form of order approving the 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;

- (g) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, and its direct or indirect principals, or that is participating or benefiting from such bid;
  - (h) for a Sale Proposal, the bid includes a non-refundable cash deposit in the amount of not less than 10% of the Purchase Price;
  - (i) for an Investment Proposal, the bid includes a non-refundable cash deposit in the amount of not less than 10% of the total new investment contemplated in the bid;
  - (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 Spartan 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 Spartan, or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by Spartan;
  - (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 June 30, 2021.
23. Following the Phase 2 Bid Deadline, Spartan and the Proposal Trustee will assess the Phase 2 Bids received. Spartan, with the approval of the Proposal Trustee, 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 Proposal Trustee. Only Phase 2 Qualified Bidders whose bids have been designed as Qualified Bids are eligible to become the Successful Bidder(s).
24. Spartan, with the approval of the Proposal Trustee, 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.
25. The Proposal Trustee shall notify each Phase 2 Qualified Bidder in writing as to whether its Phase 2 Bid constituted a Qualified Bid within five (5) business days of the Phase 2 Bid Deadline, or at such later time as the Proposal Trustee deems appropriate.



26. If Spartan, in consultation with the Proposal Trustee, is not satisfied with the number or terms of the Qualified Bids, Spartan may, with the approval of the Proposal Trustee, extend the Phase 2 Bid Deadline, or Spartan may seek Court approval of an amendment to the SISP.
27. Spartan may, with the approval of the Proposal Trustee, aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

## **SELECTION OF SUCCESSFUL AND BACK-UP BIDDERS**

### ***Evaluation of Competing Bids***

28. A Qualified Bid will be evaluated upon many factors, including, without limitation, items such as:
  - (a) the Purchase Price and the net value provided by such Qualified Bid,
  - (b) the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transaction,
  - (c) the proposed transaction documents,
  - (d) factors affecting the speed, certainty and value of the transaction,
  - (e) the assets included or excluded from the bid,
  - (f) the likelihood and timing of consummating such Transactioneach as determined by Spartan, in consultation with the Proposal Trustee.

### ***Selection of Successful Bid and Back-Up Bid***

29. Spartan, in consultation with the Proposal Trustee, will: (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among Spartan, in consultation with the Proposal Trustee, and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such 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 Spartan, in consultation with the Proposal Trustee, shall be subject to approval by the Court.
30. Spartan, in consultation with the Proposal Trustee shall identify the Qualified Bid constituting the second highest or otherwise best bid (the "**Back-Up Bid**", and the Bidder making such Back-Up Bid being, the "**Back-Up Bidder**").
31. The determination of any Successful Bid or Back-Up Bid by Spartan, in consultation with the Proposal Trustee, shall be subject to approval by the Court.

32. Spartan may conditionally accept the Back-Up Bid, which acceptance will be conditional upon the failure of the Transaction contemplated by the Successful Bid to close. If a Successful Bidder fails to close the transaction contemplated by the Successful Bid(s) on or before June 30, 2021, for any reason, then Spartan will have the right to accept the Back-Up Bid and proceed with the transaction pursuant to the terms thereof, in which case the Back-Up Bid shall be considered the Successful Bid for the purposes of this SISP. The Back-Up Bid shall be closed on or before July 14, 2021.
33. Spartan shall have no obligation to determine a Successful Bid or any Back-Up Bid or enter into a Transaction and it reserves the right to, after consultation with the Proposal Trustee, reject any or all Bids.

### ***Sale Approval Motion Hearing***

34. At the hearing of the motion to approve any Transaction with a Successful Bidder or a Back-Up Bidder (the “**Sale Approval Hearing**”), Spartan shall seek, among other things, approval from the Court to consummate any Successful Bid or Back-Up Bid. All the Qualified Bids other than the Successful Bid or Back-Up Bid, if any, shall be deemed rejected by Spartan on and as of the date of approval of the Successful Bid by the Court.

### **DEPOSIT**

35. All deposits shall be held by the Proposal Trustee in a single interest-bearing account designated solely for such purpose. A deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Bidders not selected as either a Successful Bidder or a Back-Up Bidder shall be returned to such Bidders within three business days of Court approval of the Successful Bid. In the case of Back-Up Bid, the deposit and any interest earned thereon shall be retained by the Proposal Trustee until the Back-Up Bid expires in accordance with the terms hereof and shall be returned to the Back-Up Bidder within three business days thereafter or, if a Back-Up Bid becomes a Successful Bid, shall be dealt with in accordance with the definitive documents for the Back-Up Bid.

### **CONFIDENTIALITY AND ACCESS TO INFORMATION**

36. All discussions regarding a Transaction, Sale Proposal, Investment Proposal, Bid or Successful Bid should be directed to Spartan, and the Proposal Trustee (where necessary).
37. 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 Phase 1 Qualified Bidders, Phase 2 Qualified Bidders, LOIs, Phase 2 Bids, Qualified Bids, the details of any LOIs, bids or Qualified Bids submitted or the details of any confidential discussions or correspondence between Spartan, the Proposal Trustee and such other bidders or Qualified Bidders in connection with the SISP, except to the extent that Spartan and the Proposal Trustee with the consent of the applicable participants, are seeking to combine separate Bids into a single Bid.

38. Notwithstanding the foregoing, under no circumstances will Spartan or the Proposal Trustee share any material information concerning any of the bids with any person other than a confidential summary that may be required in connection with court approval: provided, however, that Spartan and the Proposal Trustee may disclose such information as they deem appropriate to the stakeholders of Spartan who are not participants in the SISP and who enter into appropriate confidentiality agreements with Spartan.

#### **SUPERVISION OF THE SISP**

39. The Proposal Trustee shall oversee, in all respects, the conduct of the SISP by Spartan and, without limitation to that supervisory role, the Proposal Trustee will participate in the SISP in the manner set out in this SISP Procedure and is entitled to receive all information in relation to the SISP.
40. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between Spartan, the Proposal Trustee and any Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, or any other party, other than as specifically set forth in a definitive agreement that may be signed with Spartan.
41. Without limiting the preceding paragraph, Spartan and the Proposal Trustee shall not have any liability whatsoever to any person or party, including without limitation any Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, the Successful Bidder, the Back-up Bidder, Spartan, or any other creditor or other stakeholder of Spartan, 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 Proposal Trustee. By submitting an NDA, an LOI or a Phase 2 Bid, each person shall be deemed to have agreed that it has no claim against the Proposal Trustee for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct by the Proposal Trustee.
42. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
43. The SISP is solely for the benefit of Spartan and the Proposal Trustee, and nothing contained in the SISP or any court order relating to the SISP shall create any rights in any other person or participant in the SISP (including, without limitation, rights as a third party beneficiary or otherwise).
44. Spartan, with the approval of the Proposal Trustee, shall have the right at any time to modify (including extending any one or more of the deadlines set out herein) or end the SISP (including, without limitation, pursuant to the Bid Process Letter) if, in their reasonable business judgment, such modification or termination will enhance the process or better achieve the objectives of the SISP.

## **Schedule “1”**

### **Addresses of Proposal Trustee**

#### **To the Proposal Trustee**

Ernst & Young Inc.  
99 Bank Street  
Suite 1200  
Ottawa, ON K1P 6B9

Attn.: Greg Adams  
Tel: 613-598-4350  
Email: [Greg.J.Adams@parthenon.ey.com](mailto:Greg.J.Adams@parthenon.ey.com)

IN THE MATTER OF A NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
SPARTAN BIOSCIENCE INC. OF THE CITY OF OTTAWA IN THE PROVINCE OF  
ONTARIO

Court File No. 33-2726552

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

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**FIRST REPORT OF THE PROPOSAL  
TRUSTEE**

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