

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SPARTAN BIOSCEIENCE INC. (the "Company")

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**MOTION RECORD**  
(Returnable August 13, 2021)

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Date: August 4, 2021

**BRAZEAU SELLER LLP**  
700-100 Queen Street  
Ottawa, ON K1P 1J9

**FRED SELLER**  
LSO#: 28868A  
Email: [fseller@brazeauseller.com](mailto:fseller@brazeauseller.com)

**ERIC DWYER**  
LSO# 79413V  
Email: [edwyer@brazeauseller.com](mailto:edwyer@brazeauseller.com)

Telephone: 613-237-4000  
Facsimile: 613-237-4001

Lawyers for BDC Capital Inc.

**TO: THE SERVICE LIST**

## SERVICE LIST

**AND TO: GOWLING WLG (CANADA) LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto, Ontario M5X 1G5

**E. Patrick Shea**  
Tel: 416-369-7399  
Fax: 416-863-7661  
[patrick.shea@gowlingwlq.com](mailto:patrick.shea@gowlingwlq.com)

**Thomas Gertner**  
Tel: 416-369-4618  
Fax: 416-862-7661  
[thomas.gertner@gowling.com](mailto:thomas.gertner@gowling.com)

*Lawyers for Casa-Dea Finance Limited*

**AND TO: DENTONS CANADA LLP**  
1420-99 Bank Street  
Ottawa, ON K1P 1H4  
Fax: 613-783-9690

**Kenneth Kraft**  
Tel: 416-863-4374  
Fax: 416-863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Robert Kennedy**  
Tel: 416-367-6756  
[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)

**Fraser Mackinnon Blair**  
Tel: 613-783-9647  
[fraser.mackinnon.blair@dentons.com](mailto:fraser.mackinnon.blair@dentons.com)

*Lawyers for Spartan Bioscience Inc.*

**AND TO: ERNST & YOUNG INC.**  
99 Bank Street, Suite 1200  
Ottawa, ON K1P 6B9

**Gregory Adams**  
Tel: 613-232-1511  
Fax: 613-232-5324  
[greg.j.adams@parthenon.ey.com](mailto:greg.j.adams@parthenon.ey.com)

*Proposal Trustee*

**AND TO: BRAZEAU SELLER LAW**  
700-100 Queen Street  
Ottawa, ON K1P 1J9

**Fred Seller**  
Tel: 613-907-8150  
Fax: 613-237-4001  
[fseller@brazeauseller.com](mailto:fseller@brazeauseller.com)

*Lawyers for Business Development Bank of Canada*

**AND TO: BUSINESS DEVELOPMENT BANK OF CANADA**  
50 O'Connor Street, Suite 1100  
Ottawa, ON K1P 6L2

Susan Rohac  
[susan.rohac@bdc.ca](mailto:susan.rohac@bdc.ca)

**AND TO: NORTON ROSE FULLBRIGHT LLP**  
45 O'Connor Street, Suite 1500  
Ottawa, ON K1P 1A4

**Matthew Halpin**  
Tel: 613-780-8654  
Fax: 613-230-5459  
[matthew.halpin@nortonrosefulbright.com](mailto:matthew.halpin@nortonrosefulbright.com)

**Evan Cobb**  
Tel: 416-216-1929  
[evan.cobb@nortonrosefulbright.com](mailto:evan.cobb@nortonrosefulbright.com)

**Alexander Schmitt**  
Tel: 416-216-2419  
[alexander.schmitt@nortonrosefulbright.com](mailto:alexander.schmitt@nortonrosefulbright.com)

*Lawyers for the Proposal Trustee*

**AND TO: CONWAY BAXTER WILSON LLP**  
400-411 Roosevelt Ave  
Ottawa, ON K2A 3X9

**Colin Baxter**  
Tel: 613-780-2012  
Fax: 613-688-0271  
[cbaxter@conwaylitigation.ca](mailto:cbaxter@conwaylitigation.ca)

**Kevin Caron**  
Tel: 613-691-0372  
[kcaron@conwaylitigation.ca](mailto:kcaron@conwaylitigation.ca)

*Lawyers for Champion Iron Mines Ltd.*

**AND TO: VINCENT DAGENAIS GIBSON LLP**  
20 rue Dalhousie Street, Suite 400  
Ottawa, ON K1N 7E9

**Charles Gibson**  
Tel: 613-241-2701 ext 223  
Fax: 613-241-2599  
[charles.gibson@vdg.ca](mailto:charles.gibson@vdg.ca)

*Lawyers for Certain Shareholders of Spartan Bioscience Inc.*

**AND TO: BANK OF MONTREAL/BANQUE DE MONTREAL**  
234 Simcoe, 2<sup>nd</sup> Floor  
Toronto, ON M5T 1R4

[rosa.sirignano@bmo.com](mailto:rosa.sirignano@bmo.com)

[ross.gilchrist@bmo.com](mailto:ross.gilchrist@bmo.com)

**AND TO: MILLER THOMSON LLP**  
One London Place  
255 Queens Avenue, Suite 2010  
London, ON N6A 5R8

**Tony Van Klink**  
Tel: 519-931-3509  
[tvanklink@millerthomson.com](mailto:tvanklink@millerthomson.com)

*Lawyers for the Bank of Montreal*

**AND TO: EASTERN ONTARIO COMMUNITY FUTURES DEVELOPMENT CORPORATIONS**  
251 Charlotte Street, Lower Level  
Peterborough, ON K9J 2W1

[info@cfeasternontario.ca](mailto:info@cfeasternontario.ca)

**AND TO: CHAITONS LLP**  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**Harvey Chaiton**  
Tel: 416-218-1129  
Fax: 416-222-8402  
[harvey@chaitons.com](mailto:harvey@chaitons.com)

*Lawyers for Casa-Dea Finance Limited*

**AND TO: LANGLOIS AVOCATS, S.E.N.C.R.L.**  
1250 René-Lévesque Blvd. West  
20<sup>th</sup> Floor  
Montréal, QC H3B 4W8

**Isabelle Desharnais**  
Tel: 514-842-7827  
[isabelle.desharnais@langlois.ca](mailto:isabelle.desharnais@langlois.ca)

**Frederique Duchesne**  
[frederique.duchesne@langlois.ca](mailto:frederique.duchesne@langlois.ca)

*Lawyers for CHU de Québec-Université Laval*

**AND TO: LENCZNER SLAGHT LLP**  
130 Adelaide Street West, Suite 2600  
Toronto, ON M5H 3P5

**Peter J. Osborne**  
Tel: 416-865-3094  
Fax: 416-805-2132  
[posborne@litigate.com](mailto:posborne@litigate.com)

*Lawyers for the Directors of Spartan Bioscience Inc.*

**AND TO: LAX O'SULLIVAN LISUS GOTTLIEB LLP**  
145 King Street West, Suite 2750  
Toronto, ON M5H 1J8

**Crawford G. Smith**  
Tel: 416-598-8646  
Fax: 416-598-3730  
[csmith@lolq.ca](mailto:csmith@lolq.ca)

**Fabian Suárez-Amaya**  
Tel: 416-956-0108  
[fsuarez-amaya@lolq.ca](mailto:fsuarez-amaya@lolq.ca)

*Lawyers for Amica Senior Lifestyles Trust*

**AND TO: ATTORNEY GENERAL FOR ONTARIO**  
Crown Law Office – Civil  
720 Bay Street, 8<sup>th</sup> Floor  
Toronto, ON M7A 2S9

**Shahana Kar**  
Tel: 416-571-2100  
Fax: 416-326-4181  
[shahana.kar@ontario.ca](mailto:shahana.kar@ontario.ca)

*Lawyers for Ontario Agency for Health Protection and Promotion*

**AND TO: TC ENERGY CORPORATION**  
Litigation & Employment Law  
TC Energy Tower  
450-1<sup>st</sup> Street S.W.  
Calgary, AB T2P 5H1

**Kimberly Setrakov**  
Tel: 403-920-6098  
Fax: 403-920-2304  
[kimberley\\_setrakov@tcenergy.com](mailto:kimberley_setrakov@tcenergy.com)

**Tricia Oshiro**  
Tel: 403-920-2535  
[tricia\\_oshiro@tcenergy.com](mailto:tricia_oshiro@tcenergy.com)

*Lawyers for TransCanada Keystone Pipeline Limited Partnership, TransCanada  
Pipelines Limited and Coastal GasLink Pipeline Limited*

## Email List

[thomas.gertner@gowling.com](mailto:thomas.gertner@gowling.com); [patrick.shea@gowlingwlq.com](mailto:patrick.shea@gowlingwlq.com); [Kenneth.kraft@dentons.com](mailto:Kenneth.kraft@dentons.com);  
[Robert.kennedy@dentons.com](mailto:Robert.kennedy@dentons.com); [fraser.mackinnon.blair@dentons.com](mailto:fraser.mackinnon.blair@dentons.com);  
[greg.j.adams@parthenon.ey.com](mailto:greg.j.adams@parthenon.ey.com); [matthew.halpin@nortonrosefulbright.com](mailto:matthew.halpin@nortonrosefulbright.com);  
[evan.cobb@nortonrosefulbright.com](mailto:evan.cobb@nortonrosefulbright.com); [alexander.schmitt@nortonrosefulbright.com](mailto:alexander.schmitt@nortonrosefulbright.com);  
[cbaxter@conwaylitigation.ca](mailto:cbaxter@conwaylitigation.ca); [kcaron@conwaylitigation.ca](mailto:kcaron@conwaylitigation.ca); [Charles.gibson@vdg.ca](mailto:Charles.gibson@vdg.ca);  
[fseller@brazeauseller.com](mailto:fseller@brazeauseller.com); [susan.rohac@bdc.ca](mailto:susan.rohac@bdc.ca); [harvey@chaitons.com](mailto:harvey@chaitons.com);  
[isabelle.desharnais@langlois.ca](mailto:isabelle.desharnais@langlois.ca); [Frederique.duchesne@langlois.ca](mailto:Frederique.duchesne@langlois.ca); [info@cfeasternontario.ca](mailto:info@cfeasternontario.ca);  
[ross.gilchrist@bmo.com](mailto:ross.gilchrist@bmo.com); [rosa.sirignano@bmo.com](mailto:rosa.sirignano@bmo.com); [tvanklink@millerthomson.com](mailto:tvanklink@millerthomson.com); [csmith@lolg.ca](mailto:csmith@lolg.ca);  
[fsuarez-amaya@lolg.ca](mailto:fsuarez-amaya@lolg.ca); [shahana.kar@ontario.ca](mailto:shahana.kar@ontario.ca); [Kimberly\\_setrakov@tcenergy.com](mailto:Kimberly_setrakov@tcenergy.com);  
[tricia\\_oshiro@tcenergy.com](mailto:tricia_oshiro@tcenergy.com); [posborne@litigate.ca](mailto:posborne@litigate.ca)

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**AFFIDAVIT OF SUSAN ROHAC**

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I, Susan Rohac, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Vice President of BDC Capital Inc. Cleantech Practice ("**BDC**"). As such, I have knowledge of the matters herein deposed. Where I do not have personal knowledge, I have stated the source of that knowledge and that I verily believe it to be true.
2. I am swearing this Affidavit in response to an affidavit sworn by Darrell Edgett ("**Mr. Edgett**") on July 30, 2021 (the "**Edgett Affidavit**") on behalf of Casa-Dea Finance Limited ("**CDFL**") in support of its motion for *nunc pro tunc* leave from the stay of proceedings under s.69 of the *Bankruptcy and Insolvency Act* (the "**BIA**"), and continued by the Court in the Initial Order dated June 21, 2021 made under the *Companies' Creditor Arrangement Act* (the "**CCAA**"), to commence an action against Spartan Bioscience Inc. ("**Spartan**").
3. CDFL has brought this motion because it failed to commence collection proceedings against Spartan, as required pursuant to the terms of the Priority Agreement dated November 23, 2020 between BDC, CDFL and Spartan (the "**CDFL/BDC Priority Agreement**"), and as a result, its

security interest in the assets, property and undertakings of Spartan is now subordinated and postponed to the security interest in favour of BDC. CDFL now seeks leave of the Court to do what it could have done at any point since the filing of the Notice of Intention to Make a Proposal by Spartan on April 5, 2021 (the “**NOI**”). In any event, CDFL has made it clear that even if leave is granted *nunc pro tunc*, it has no intention whatsoever to carry on **collection proceedings** against Spartan, notwithstanding that CDFL is allegedly claiming that it has in fact commenced collection proceedings for the purposes of the CDFL/BDC Priority Agreement.

4. If leave is granted *nunc pro tunc*, CDFL intends not to pursue collection proceedings, and instead bid its security at face value for all of the assets of Spartan (the “**Credit Bid**”), which will foreclose against the interests of all other creditors, including BDC.

<b>PART 1: BDC AND CDFL SECURITY</b>
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5. The entire background details of the insolvency proceedings involving Spartan have been summarized in the various Reports and Affidavits filed in these proceedings. The facts relevant to this motion are provided below.

### **1.1 BDC Loan and Security**

6. On October 9, 2019, Spartan executed a letter of offer of financing with BDC (the “**BDC Offer**”), wherein BDC loaned to Spartan, the principal sum of \$9,000,000.00 (CAD) (the “**BDC Loan**”). A copy of the BDC Offer is attached hereto as **Exhibit “A”**.
7. BDC and Spartan also executed a General Security Agreement dated October 24, 2019, that provided BDC with a first security position over all of Spartan’s assets, property and undertakings (the “**BDC Security**”). A copy of the BDC Security is attached hereto as **Exhibit “B”**.<sup>1</sup>

### **1.2 CDFL Loan and Security**

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<sup>1</sup> As Mr. Edgett notes at paragraph 10 of the Edgett Affidavit, that BDC also holds security over a life insurance policy with respect to Paul Lem, which is not relevant in this litigation.

8. On November 25, 2020, Spartan entered into a Credit Facility Agreement with CDFL (the “**CDFL Bridge Loan Agreement**”), whereby CDFL loaned Spartan the principal sum of \$7,000,000.00 (CAD) to Spartan (the “**CDFL Bridge Loan**”). A copy of the CDFL Bridge Loan Agreement is attached hereto as **Exhibit “C”**.
9. The CDFL Bridge Loan was intended to be a short-term loan to provide short-term working capital to Spartan. The CDFL Bridge Loan was due six (6) months from the date of advancement, subject to there being an earlier event of default or transaction involving Spartan that triggered the early repayment of the CDFL Bridge Loan.
10. The CDFL Bridge Loan was secured by a security interest against all of Spartan’s assets, property and undertakings pursuant to a Security Agreement dated November 25, 2020, between Spartan and CDFL (the “**CDFL Security**”). A copy of the CDFL Security is attached hereto as **Exhibit “D”**.
11. I understand that CDFL advanced funds to Spartan on November 26, 2020. Therefore, the CDFL Bridge Loan was presumptively due on May 26, 2021.

### ***1.3 CDFL/BDC Priority Agreement***

12. As a condition of the CDFL Bridge Loan, BDC agreed to execute the CDFL/BDC Priority Agreement whereby BDC agreed to temporarily subordinate the BDC Security to the CDFL Security (save an except with respect to accruing interest owing during the term of the CDFL Bridge Loan). A copy of the CDFL/BDC Priority Agreement is attached hereto as **Exhibit “E”**.
13. The CDFL/BDC Priority Agreement provided for the postponement and subordination of the BDC Security to the CDFL Security for the intended six (6) month term of the CDFL Bridge Loan. Article 3.01 of the CDFL/BDC Priority Agreement provides:

## ARTICLE 3 - PRIORITIES

3.01 Subject to the terms and conditions of this Agreement, the BDC Security and the Lender Security shall have the following priorities as against one another:

- (a) Save and except for the Life Insurance Policy, the BDC Security is hereby postponed and subordinated to the security constituted by the Lender Security, to a maximum of \$7,000,000, for a period (the "**Postponement Period**") commencing on the date of the first disbursement of the Bridge Loan and ending on the earlier of: (i) the receipt of evidence by BDC of the Borrower satisfying all obligations, principal, interest and fees in relation to the Bridge Loan; or (ii) the three (3) month anniversary following the date the first of either BDC or the Lender making demand upon the Borrower (with written notice to the other party), *provided that* such demand is made within five (5) Business Days of the Bridge Loan Maturity Date; or within five (5) Business Days of an Event of Default (as such term is defined in the BDC Offer); and
- (b) Following the Postponement Period, the Lender Security is then postponed and subordinated to the security constituted by the BDC Security to the extent of the Borrower's indebtedness to BDC from time to time, together with all accrued interest thereon and all costs, charges and expenses incurred by BDC in connection therewith unless prior to expiry of the Postponement Period, the Lender has commenced collection proceedings against the Borrower.

14. According to Article 3.01(b) of the CDFL/BDC Priority Agreement, following the expiry of the Postponement Period (as defined), the CDFL Security would be postponed and subordinated to the BDC Security. The only way for CDFL to extend the Postponement Period and maintain its priority against BDC, was for CDFL to commence collection proceedings against Spartan prior to the expiry of the Postponement Period.

<b>PART 2: LEGAL PROCEEDINGS</b>
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### **2.1 Spartan NOI**

15. The BDC Loan was current up to and until Spartan's filing of the NOI with the Office of the Superintendent of Bankruptcy on April 5, 2021. Once the NOI was filed, all proceedings against Spartan were immediately stayed. A copy of the NOI is attached hereto as **Exhibit "F"**.

16. The filing of the NOI constituted an Event of Default under Schedule 'A', Section IV, paragraph 6 of the BDC Offer. Therefore, according to Article 3.01(a) of the CDFL/BDC Priority Agreement, the Postponement Period would end on the three (3) month anniversary of CDFL making a demand upon Spartan, provided that the demand occurred within five (5) business days of the Event of Default.

17. On or around April 8, 2021, CDFL, through counsel, delivered a demand for immediate repayment of Spartan's aggregate indebtedness under the CDFL Bridge Loan Agreement, as well as a Notice of Intention to Enforce Security pursuant to s.244(1) of the *BIA* (the "**CDFL 244 Notice**"), and purported to issue a Statement of Claim against Spartan (the "**CDFL Action**"). A copy of the demand for repayment, CDFL 244 Notice, and the CDFL Action are attached hereto as **Exhibit "G"**.
18. Therefore, in accordance with Article 3.01(b) of the CDFL/BDC Priority Agreement, CDFL had three (3) months to commence "collection proceedings" against Spartan or else the CDFL Security would be postponed and subordinated to the BDC Security.
19. While Spartan initially filed the NOI pursuant to the *BIA* (the "**BIA Proceeding**") it then brought an application for continuation under the *CCAA* upon which this Court granted an Initial Order on June 21, 2021, continuing the BIA Proceeding under the *CCAA* (the "**CCAA Proceeding**"). A copy of the Initial Order dated June 21, 2021, is attached hereto as **Exhibit "H"**.
20. Paragraph 16 of the Initial Order continued the stay of proceedings against Spartan that arose immediately upon its filing of the NOI, which was further extended by Order (Stay Extension) dated June 30, 2021, of this Honourable Court further extending the stay of proceedings against Spartan until August 13, 2021. A copy of the Order (Stay Extension) dated June 30, 2021, is attached hereto as **Exhibit "I"**.
21. I have been advised by my legal counsel and do verily believe, that CDFL, through its legal representation, attended all court proceedings relating to the BIA Proceeding and the CCAA Proceeding and never requested leave of the Court to lift the stay to enable CDFL to commence collection proceedings against Spartan, but instead, supported the extension of the stay on each occasion, most recently on July 28, 2021.

## **2.2 Alleged commencement of proceedings**

22. As acknowledged by Mr. Edgett in paragraph 15 the Edgett Affidavit, CDFL “commenced collection proceedings” by delivering to Spartan a “notice” pursuant to section 244 of the BIA on April 9, 2021 and by issuing a Statement of Claim on or about April 8, 2021, the latter of which is two (2) days after Spartan filed its NOI and therefore after the stay of proceedings was in effect. Mr. Edgett offers no reason in the Edgett Affidavit as to why leave of the court to issue or proceed with the CDFL Action was not sought until now. Clearly, the reason is that CDFL is now hoping that this Honourable Court will grant CDFL an unfair advantage over BDC as well as all other creditors retroactively.
23. Mr. Edgett in paragraph 12 of the Edgett Affidavit makes a point of stating that the term “collection proceedings” is not defined in the CDFL/BDC Priority Agreement, however it was and remains clear to me that the term “collection proceedings” was intended by the parties to mean actions taken to collect the debt owing. This is a distinct concept from a foreclosure proceeding, in which the creditor takes title to the secured assets **in lieu of** collecting the debt owing. Mr. Edgett admits that the proceeding to be pursued by CDFL (i.e. the Credit Bid) does not seek to collect the debt owing under the CDFL Bridge Loan, but instead, the purpose of seeking leave *nunc pro tunc* is to enable CDFL to seek approval of its Credit Bid, which will have the effect of foreclosing on the assets of Spartan.
24. Mr. Edgett states in paragraph 16 in the Edgett Affidavit that “the purpose of CDFL taking the steps that it did...was to extend the Postponement Period under the CDFL/BDC Priority Agreement **and not to recover a claim against Spartan**” [emphasis added].
25. CDFL’s initial intention was to become the successful bidder under the Sales and Investment Solicitation Process (the “**SISP**”), approved by this Honourable Court in the Order dated April 20, 2021, and conducted by the Monitor. A copy of the Order dated April 20, 2021, is attached hereto as **Exhibit “J”**.

26. CDFL was the “Successful Bid” under the SISF, the details of which were outlined in the Factum of the Applicant dated June 18, 2021, and the supporting Affidavit of Ms. Ross-Carriere dated June 18, 2021 (“**Fourth Ross-Carriere Affidavit**”) in the Company’s application for continuation under the CCAA.

27. At paragraph 7 of the Fourth Ross-Carriere Affidavit, Ms. Ross-Carriere outlines the key details of the “Successful Bid” (“**CDFL Proposal**”) as follows:

10. The primary elements of CDFL’s proposal are set out below:

- (a) the proposal is supported by an investor group that includes two current shareholders of Spartan;
- (b) the proposal provides for a recapitalization of the Company’s share structure, which will involve:
  - (i) a new capital investment in the Company of up to \$20 million in the form of new equity representing 66.7% of the equity of the restructured Company;
  - (ii) a conversion of existing common and preferred shares of the Company at a prescribed ratio and the cancellation of existing options and warrants. As a result, existing shareholders would retain a 25% equity stake in the restructured Company; and,
  - (iii) the creation of a new options pool for key employees, advisors and directors equating to 8.3% of the restructured equity of the Company;

- (c) the proposal involves repayment to CDFL of a portion of its existing secured debt;
- (d) for the Company's unsecured creditors, the proposal provides:
  - (i) for the Company's small vendors who so elect, cash settlements of their claims up to an aggregate maximum amount of \$250,000; and,
  - (ii) for the balance of the Company's unsecured creditors, up to 100% of their creditor claims paid out of future net income of the Company for a period of 5 years or in the alternative, such creditors shall be entitled to apply their claims against a portion of the purchase price of future COVID-19 test orders;
- (e) existing shareholders would retain a 25% stake in the restructured Company.

28. The CDFL Proposal also contemplated that the secured indebtedness of the Company's other secured creditors, including BDC, would continue.

### **2.3 CDFL's Credit Bid**

29. Only after it was determined by the Monitor that CDFL was the successful bidder, did CDFL alter its plans to indicate that what it put forward as the CDFL Proposal, was no longer viable as determined by its investors. On or around July 6, 2021, I was informed by our legal counsel that CDFL no longer intended to proceed with the CDFL Proposal, but instead intended to bid its security at face value to acquire all the assets of Spartan in the Credit Bid. It was at this point that CDFL determined that it was in CDFL's best interest to pursue the Credit Bid, and it was only after CDFL was informed by

BDC that the CDFL Security is now subordinated to the BDC Security, that CDFL is seeking leave *nunc pro tunc*.

30. While Mr. Edgett is technically correct at paragraph 17 of the Edgett Affidavit that BDC was aware of CDFL's purported collection proceedings – there was no issue for BDC to contest until July 6, 2021, when BDC was informed by our legal counsel that CDFL no longer intended to honour or proceed with the CDFL Proposal but instead was going to pursue the Credit Bid. Prior to being informed of CDFL's change in plans, BDC was content to forego enforcing its priority and support the CDFL Proposal. CDFL's successful bid, which provided for a \$20 Million Dollar investment in Spartan, the continuation of operations in Canada, a return for shareholders, and the preservation of the BDC Security was acceptable to BDC.
31. There was no reason to take issue with any attempted steps taken by CDFL during the stay period, since they were ineffectual, and it was not in BDC's best interest at the time to do so. BDC nevertheless always acted in good faith and supported the SISF process for the reasons stated herein.
32. The terms of the Credit Bid are not acceptable to BDC, since it will result in BDC likely receiving only its accrued interest since the commencement of the CDFL Bridge Loan and nothing more on BDC's outstanding secured indebtedness of \$9,037,334,63. As far as BDC is concerned, CDFL has fundamentally undermined the Court approved SISF by providing the Successful Bid (i.e. the CDFL Proposal), and then once it secured that position, taking the opportunity to change its mind and instead tell the other creditors including BDC, that notwithstanding the due diligence conducted by CDFL in preparing and delivering the CDFL Proposal, that the CDFL Proposal was no longer viable and therefore the promised \$20 Million investment was not being made. Instead, CDFL, after being made aware that it was successful bidder, changed its mind and intends to take all of Spartan's assets in exchange for its existing debt.

### PART 3: CONCLUSIONS

33. At the time of the negotiation and execution of the CDFL/BDC Priority Agreement, Spartan was estimated to have a value well over \$200,000,000.00 (CAD) following the COVID test opportunity, and the parties were under the mutual understanding that the value of the assets of Spartan far exceeded the amounts owing under both the BDC Loan and the CDFL Bridge Loan. There was little concern at the time of entering into the CDFL/BDC Priority Agreement that there would be insufficient assets available to satisfy each of the BDC Loan and the CDFL Bridge Loan.
34. As such, BDC agreed to the terms of the CDFL/BDC Priority Agreement on the basis that, even if CDFL maintained its priority by bringing “collection proceedings”, recovery by BDC would still be expected even beyond CDFL’s enforcement of any judgment that it obtained.
35. BDC did not contemplate, and never would have agreed to, a situation where CDFL would be able to maintain priority by commencing a proceeding, not to **collect** the debt, but to foreclose on Spartan’s assets, leaving no possibility of collection by BDC.
36. BDC agreed to postpone its security to facilitate Spartan’s receipt of funds that would help it take advantage of opportunities in the market. However, BDC never intended to permit CDFL to orchestrate a situation whereby CDFL could maintain priority beyond the Postponement Period in any circumstances other than where it was collecting on its debt. Mr. Edgett is a shareholder of Spartan, as is his brother Steven Edgett who is also part of Spartan’s senior management. Both of Mr. Edgett and his brother Steven Edgett are actively pursuing the Credit Bid in a manner that BDC believes is not at arms’ length. BDC would never have agreed to postpone and subordinate its security interest if there was a chance that CDFL could take over the company, and not “collect” its debt.
37. Mr. Edgett attempts to frame this motion as a last-minute attempt by BDC to frustrate CDFL’s purchase of Spartan via the Credit Bid, when in fact, it is CDFL that has altered the rules and is making a last-minute attempt to take over Spartan’s assets to the detriment of all other creditors and

shareholders, when by the very terms of the CDFL/BDC Priority Agreement, CDFL is not in a position to do so.

38. Once Spartan filed the NOI, it was impossible for CDFL to maintain priority under the terms of the CDFL/BDC Priority Agreement without leave of the Court, and it would be unjust and result in prejudice to BDC should CDFL be able to retroactively commence alleged “collection proceedings” that it does not and clearly never intended to pursue, while it is at the same time moving to foreclose on the assets of Spartan contrary to the specific wording of the CDFL/BDC Priority Agreement and after becoming the successful bidder under the SISP process.

39. I am swearing this affidavit in response to the Edgett Affidavit and for no other or improper purpose.

**SWORN REMOTELY** by Susan Rohac as stated as being in the City of Ottawa in the Province of Ontario, before me at the City of Ottawa on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely

}

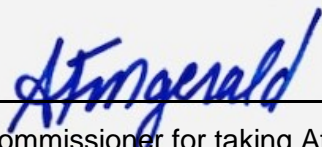


Commissioner for Taking Affidavits  
(or as may be)

**SUSAN ROHAC**

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**

This is **Exhibit 'A'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**



October 9, 2019

Spartan Bioscience Inc.  
500-2934 Baseline Rd.  
Nepean, ON  
K2H 1B2

Attention of: Blaine Fitzgerald

**Re: Letter of Offer of financing no. 168494-01 granted to Spartan Bioscience Inc.**

Dear Mr. Fitzgerald,

On the basis of the preliminary information obtained from the Borrower and subject to the acceptance of the present letter of offer of financing, as amended from time to time (the "Letter of Offer"), BDC Capital Inc. ("BDC Capital"), a wholly owned subsidiary of Business Development Bank of Canada (the "Bank") is prepared to grant the following financing (the "Financing").

**FINANCING PURPOSE**

Capital Expenditures	\$4,628,000
Research & Development	\$14,218,000
Sales and Marketing	\$4,398,000
Working Capital	\$4,856,000
	<hr/>
	<b>\$28,100,000</b>

**FUNDING**

BDC Capital	\$9,000,000
2019 Equity Raise	\$6,000,000
Strategic Innovation Fund	\$13,100,000
	<hr/>
	<b>\$28,100,000</b>

No change to the Financing purpose or funding may be made without BDC Capital's prior written consent. The proceeds of the Financing may only be used for this Financing purpose.

The Letter of Offer is open for acceptance until October 30, 2019 (the "Acceptance Date"). Unless the Letter of Offer executed by the Financing Parties is received by BDC Capital no later than the Acceptance Date, the Letter of Offer shall automatically become null and void.

**BORROWER:** Spartan Bioscience Inc. (the “Borrower”)

**FINANCING AMOUNT:** \$9,000,000, in Canadian currency.

**INTEREST RATE:** The Financing and all other amounts owed by the Financing Parties pursuant to the Financing Documents for which an applicable rate is not otherwise provided for herein shall bear interest at the following rate:

**Fixed Rate**

6.00% per year, being BDC Capital’s Base Rate on the date hereof of 5.60% per year plus a variance (the “Variance”) of 0.40% per year.

The Interest Expiration Date for this fixed interest rate plan is October 15, 2025.

**INTEREST CALCULATION:** Interest shall be calculated daily on the outstanding principal, commencing on the date of the first disbursement, both before and after maturity, default and judgment.

Arrears of interest or interest on outstanding principal arrears shall bear interest at the higher of: i) the rate applicable to the Financing, or ii) BDC Capital’s Base Rate at the relevant time plus 5%. Interest on any overdue Fixed or Variable Component of the Additional Return and other amounts owing by the Financing Parties pursuant to the Financing Documents shall bear interest at the higher of: i) the rate applicable to the Financing, or ii) BDC Capital’s Base Rate at the relevant time plus 5%, with the exception of the management fees of the Financing and cancellation fees that will not bear interest. In all cases, interest on arrears shall be calculated daily and compounded monthly.

**MATURITY DATE:** June 15, 2025 or the date on which the last principal payment hereunder is scheduled to be made, which ever date comes last, as amended from time to time (the “Maturity Date”).

**REPAYMENT:** **Instalments and Balloon Payment**  
Principal of the Financing shall be payable by way of consecutive monthly instalments commencing on November 15, 2020 and continuing up to and including the Maturity Date and by way of one balloon payment of \$4,545,000, payable on the Maturity Date. The amounts of the principal instalments are as follows:

Instalments Nos.	Amount of Instalment
1-55	\$81,000
56	\$4,545,000

Accrued interest is payable monthly on the 15<sup>th</sup> day of the month (the “Payment Date”) commencing on the next occurring Payment Date following the first advance on the Financing.

On the Maturity Date, all other amounts owing pursuant to the Financing Documents will become due and payable.

**PREPAYMENT:** The Borrower may prepay at any time all or part of the outstanding principal provided that the Borrower pays to BDC Capital:

- (i) the full or partial amount of the Financing, as applicable,
- (ii) all interest, any Fixed Component of the Additional Return and any other fees

- (iii) then due, as applicable, and  
the Prepayment Bonus.

Partial prepayments shall be applied regressively on the then last maturing instalments of principal.

The occurrence of any event of default listed in Schedule A – SECTION VI resulting in BDC Capital demanding payment of the Financing prior to the Maturity Date will be deemed to be a prepayment, and the Borrower will pay to BDC Capital:

- (i) the outstanding balance of the Financing,
- (ii) all interest, any Fixed Component of the Additional Return and any other fees then due, as applicable, and
- (iii) the Prepayment Bonus.

**Notwithstanding any repayment, prepayment or deemed prepayment of the Financing, each Variable Component of the Additional Return, as defined hereafter, survives and remains payable, as if the Financing had not been repaid, prepaid or deemed prepaid. All obligations related to such Variable Components of the Additional Return as well as any security granted in connection therewith shall remain in full force and effect until all such obligations are fully satisfied.**

**ADDITIONAL RETURN COMPONENTS: VARIABLE COMPONENT OF THE ADDITIONAL RETURN**

The Borrower expressly recognizes that the variable components of the additional return set forth in this section (each a “Variable Component of the Additional Return”) and the Borrower’s obligations to pay any such Variable Component of the Additional Return will survive and remain fully payable and enforceable until the later of (i) Maturity Date, notwithstanding any repayment, prepayment or deemed prepayment prior to the Maturity Date, or (ii) the date on which the Financing is fully repaid.

The Borrower expressly understands that it is the intent of BDC Capital that these Variable Components of the Additional Return survive until the Maturity Date, that they are part of the expected return of the Financing to appropriately compensate BDC Capital for the value creation and risk taken by BDC Capital in completing the Financing:

In addition to the other payments herein set forth, the Borrower will also pay to BDC Capital royalties on the following terms and conditions:

- a) If only the first tranche of \$6,000,000 is disbursed:
  - i) 1.35% of the Annual Gross Sales of the Borrower up to \$50 million in Annual Gross Sales
  - ii) 0.35% of the Annual Gross Sales of the Borrower between \$50 million and up to \$100 million;
  - iii) 0.00% of the Annual Gross Sales of the Borrower over \$100 million;for each year (the “Royalties”).
- b) If both the first tranche of \$6,000,000 and the second tranche of \$3,000,000 are disbursed:
  - i) 2.00% of the Annual Gross Sales of the Borrower up to \$50 million in Annual Gross Sales;
  - ii) 0.50% of the Annual Gross Sales of the Borrower between \$50 million and up to \$100 million;
  - iii) 0.00% of the Annual Gross Sales of the Borrower over \$100 million;for each year (the “Royalties”).

For clarity, as an example, should both tranches be disbursed and Annual Gross Sales of the Borrower are \$130 million, the royalty amount would be calculated as:

$$\$50 \text{ million} * 2.00\% + \$50 \text{ million} * 0.50\% + \$30 \text{ million} * 0.00\% = \$1,250,000$$

The payments will be collected annually on May 15th, following the receipt of the Borrower's audited financial statements for each fiscal year ending December 31<sup>st</sup> and such Annual Payments (as defined below) will continue up to May 15th, 2025, the Maturity Date or the date on which the Financing is fully repaid, whichever date comes last. The first annual payment will be made on May 15th, 2021 for the fiscal year ending on December 2020 (each an "Annual Payment"). For each year, the amount of Royalties will be based on the audited financial statements of the Borrower of such year. In the event of a partial year-end, the Royalties shall be calculated on a twelve-month *pro rata* basis.

Should the Borrower fail to deliver its audited financial statements after the end of its financial year within the delays scheduled under this Letter of Offer, Royalties will be determined and collected by BDC Capital, subject to adjustment, until such statements are delivered by the Borrower. If the Borrower subsequently remits its audited financial statements to BDC Capital, BDC Capital shall readjust the Royalties. This readjustment shall be effected at BDC Capital's discretion by either a repayment by BDC Capital to the Borrower or applied, in case of a default, in accordance with this Letter of Offer or, in cases of shortfall, by an additional payment by the Borrower to BDC Capital, which shall be collected utilizing the pre-authorized payment system within a period of thirty (30) days following the date BDC Capital established same.

In the year the Financing matures, BDC Capital will calculate its Royalties on a *pro rata* basis on the financial statements for the last fiscal year prior to the Maturity Date.

**SECURITY:**

As collateral security for the fulfilment of all present and future obligations of the Borrower, each Financing Party, as applicable, shall provide BDC Capital with the following security or guarantees (collectively the "Security"), namely:

- a) a General Security Agreement, granting a general and continuing security interest in all of the Borrower's present and after acquired personal property and, without limiting the foregoing, on all present and future assets of the Borrower related to intellectual property of the Borrower including, without limitation, patents, trademarks, domain names, source codes, licences and any other forms of intellectual property including those already known (the "Intellectual Property"). This security interest shall rank in first position with respect to the Intellectual Property but subordinated in rank to any other security granted: i) on claims, receivables and inventory in favour of the financial institution financing the Borrower's line of credit for its daily operations, ii) previously to financial institutions but except Intellectual Property and iii) on specific assets in connection with the financing of equipment needed by the Borrower in the normal course of its business;
- b) Assignment to BDC Capital of a Life insurance policy owned by the Borrower on the life of Paul Lem in the coverage amount of \$5,000,000 with BDC Capital also named as beneficiary thereof. Such assignment may be delivered to BDC Capital no later than 30 days following the disbursement of the Financing;

- c) Any other security or such other documents as BDC Capital may reasonably request, including in order to register and/or to perfect the Security to be granted to BDC Capital as provided hereunder.

All security documents shall be in form and substance satisfactory to BDC Capital and prepared by BDC Capital's legal counsel.

**CONDITIONS  
PRECEDENT TO  
DISBURSEMENT:**

Any obligation to make any advance under the Letter of Offer is subject to the following conditions being fulfilled to the entire satisfaction of BDC Capital:

Receipt by BDC Capital of:

- The Security in form and substance satisfactory to BDC Capital, registered as required to perfect and maintain the validity and rank of the Security, and such certificates, authorizations, resolutions and legal opinions as BDC Capital may reasonably require, including legal opinions on the existence and corporate capacity of the Financing Parties as well as on the validity and enforceability of the Security;
- Written evidence, including evidence of payment, attesting that the Financing Parties have obtained all the other sources of financing, as applicable, on terms acceptable to BDC Capital, acting reasonably;
- Financial and other information relating to each Financing Party and their businesses as BDC Capital may reasonably require, including, without limiting the foregoing, for any disbursement occurring more than sixty (60) days after year end, the Borrower will provide BDC Capital with audited annual financial statements and the certificate of conformity relating to the operating line of credit of the Borrower provided to the banker or the short-term lender.

Completion to the satisfaction of BDC Capital of the following events:

- Legal due diligence of the Financing Parties.

The Financing will be disbursed in two tranches, the first being in the amount of \$6,000,000 and the second in the amount of \$3,000,000. Prior to the disbursement of each tranche, specific conditions precedent must be completed to the satisfaction of BDC Capital as set out below.

Prior to the first disbursement of \$6,000,000 the Borrower shall provide evidence of \$6,000,000 in equity funds having been raised with terms and conditions satisfactory to BDC Capital. Furthermore, all investors shall pass BDC Capital Know Your Client and Anti-Money Laundering verifications;

Prior to the second disbursement of \$3,000,000:

- a) the Borrower shall provide financial statements no older than 60 days from the date of disbursement and no earlier than March 1, 2020, which shows both Revenues and a Gross Margin of over 50% of the budget from the forecasts provided on August 12th, 2019 to BDC Capital titled "2019-2021 estimate 190808";
- b) the Borrower shall provide evidence that the Strategic Innovation Fund has approved a contribution of \$13,100,000 in favour of the Borrower with terms and conditions satisfactory to BDC Capital;
- c) the Borrower shall pay an additional study fee of \$40,000;

- d) the Borrower shall modify its Board of Directors in order to have a majority independent composition to be determined at the sole and absolute discretion of BDC Capital.

Furthermore, without limiting the foregoing and prior to the disbursement of any tranche:

No Material Adverse Change in the financial situation of the Financing Parties or in the risk evaluation shall have occurred as at the date of any disbursement of the Financing and the Borrower shall provide updated in-house financial statements never older than 60 days which compare favourably with budgets provided and which show no Material Adverse Change in the financial situation of the Borrower since the last audited financial statements submitted to BDC Capital and the internal financial statements submitted to BDC Capital at the time of authorization.

All the representations and warranties made by the Borrower and its representatives shall be true and exact as at the date of any disbursement of the Financing and a certificate to that effect must be signed by the Borrower and its representatives prior to any such disbursement.

The Borrower shall have transferred in favour of BDC Capital all the rights which the Borrower holds in any all-risk insurance, including fire insurance, policies affecting its assets, BDC Capital being designated by the Borrower as loss payee on such policies for the full amount of the Financing.

The Financing Parties shall not be (i) in default pursuant to the terms of any other contract, agreement or obligation entered into or executed in favour of BDC Capital nor (ii) in default under any other agreement with any third party for the granting of a loan or other financial assistance.

**UNDERLYING  
CONDITIONS:**

So long as any amount owing pursuant to the Financing Documents remains unpaid, the following conditions shall be met:

- a) Requested documents:
  - (i) the Borrower shall remit to BDC Capital its annual audited financial statements within 120 days after the end of their respective financial year jointly with the auditor's opinion on the EBITDA;
  - (ii) the Borrower shall remit to BDC Capital its internal financial statements, on a monthly basis, within 30 days after the end of each month;
  - (iii) The monthly internal financial statements remitted to BDC Capital shall have a comparative section with the results of the corresponding period of the last financial year;
  - (iv) the Borrower shall remit further to any change in the enterprise or on demand to BDC Capital (i) a corporate ownership chart, (ii) an organizational chart and (iii) an updated list of employees reporting to the President and CEO.
- b) the Borrower must provide BDC Capital, as quickly as possible, with the financial statements and reports and any other financial information that BDC Capital may reasonably require from time to time;
- c) the Borrower shall ensure that no inter-company transactions between related businesses, other than in the normal course of business, are made without BDC

Capital's prior written consent;

- d) In addition, so long as the Fixed Charge Coverage Ratio remains below 1.25:1, the Borrower agrees to maintain the remuneration program in favor of Paul Markell, Paul Lem, Blaine Fitzgerald, Sean Tomalty and Steve Edgett (including salaries, dividends, bonuses and other advantages but excluding share compensation) at a level no higher than \$800,000/year increasing no more than 5% annually;
- e) BDC Capital will be provided the authorization, subject to Borrower's review and agreement to language prior to release, to make public announcements regarding the Financing in addition to reporting detail of the Financing to the Government of Canada;
- f) So long as any amount of the Financing is outstanding, the Borrower shall provide to BDC Capital observer status on the board of directors to be utilized, or not, by BDC Capital at its sole and absolute discretion.

In addition, so long as any amount owing under or pursuant to this Letter of Offer or any other Financing Document remains unpaid, the financial ratios mentioned below must be met at all time by each of the Borrower, on a consolidated basis, if applicable:

- a) So long as any amount of the Financing is outstanding, and until an equity raise of greater than \$25,000,000 is completed, the cash flows of the Borrower must remain greater than:
  - Negative \$1,500,000 per quarter for the first 2 quarters (quarter ending December 31, 2019 and quarter ending March 31, 2020);
  - Negative \$1,000,000 per quarter for the following 2 quarters (quarter ending June 30, 2020 and quarter ending September 30, 2020); and,
  - Negative \$500,000 per quarter thereafter (quarter ending December 31, 2020 and onwards).

Cash Flows shall be defined as equal to: EBITDA; less Capital Expenditures; plus capitalized contributions from the Strategic Innovation Fund; and, plus new equity injections (excluding BDC Capital Financing) that do not meet the \$25,000,000 threshold.

Subsequent to an equity raise greater than \$25,000,000, the Borrower shall have to maintain a Term Debt to Tangible Equity ratio of no greater than 1.00:1.

The above mentioned ratios shall be calculated on the basis of the financial statements of the Borrower.

Internal Note: From the quarter ending December 31, 2019 to quarter ending September 30, 2020 the covenant shall be calculated on a cumulative basis so that any "unused" negative Cash Flows would roll into the next period. In other words, cumulative negative Cash Flows would not exceed:

\$1.5M from October 1, 2019 to December 31, 2019

\$3.0M from October 1, 2019 to March 31, 2020

\$4.0M from October 1, 2019 to June 30, 2020

\$5.0M from October 1, 2019 to September 30, 2020.

Following September 30, 2020, the cumulative calculation will end and the

Borrower will be required to maintain Cash Flows greater than negative \$500K/quarter.

The above mentioned ratios shall be calculated on the basis of the financial statements of the Borrower.

**DISBURSEMENT:** Unless otherwise authorized and except for refinancing of BDC Capital loans, funds will be disbursed to BDC Capital's legal counsel who will confirm to BDC Capital the execution, delivery and registration of the security. The latter may, if they have provided their final invoicing concurrently with the above confirmation, pay it from the disbursed funds. Any subsequent fees or disbursement shall be collected directly from the Borrower.

BDC Capital may cancel any portion of the Financing which has not been disbursed after six months from October 8, 2019 (the "Authorization Date").

**FEES:** **Cancellation Fee**  
If no part of the Financing has been disbursed by October 8, 2020 (the "Lapsing Date"), the Borrower shall pay BDC Capital a cancellation fee of 3% of the amount of the Financing, provided, however, that BDC Capital shall have the right to extend the Lapsing Date in its sole and entire discretion without notice to or consent from the Borrower. For greater certainty and in any event, BDC Capital will not charge a cancellation fee on any portion of the Financing cancelled by BDC Capital prior to the Lapsing Date.

The cancellation fee is payable on demand and is liquidated damages, not a penalty, and represents a reasonable estimate of BDC Capital's damages should the Financing be cancelled or allowed to lapse in whole or in part.

**Standby Fee**  
Commencing 12 months after the Authorization Date, the Borrower shall pay BDC Capital a non-refundable standby fee calculated at a rate of 1.5% per annum on the portion of the Financing which has not been advanced or cancelled. This fee shall be calculated daily and be payable in arrears commencing on the next occurring Payment Date and on each Payment Date thereafter.

**Financing Management Fee**  
The Borrower shall pay BDC Capital a non-refundable management fee of \$360 per month. This management fee is payable on the date of the first Payment Date following the initial advance of the Financing and thereafter on each monthly anniversary of such first advance, until the Maturity Date.

**Legal Fees and Expenses**  
The Borrower shall pay all legal fees and expenses of BDC Capital incurred in connection with the Financing and the Financing Documents including the enforcement of the Financing and the Financing Documents. All legal fees and expenses of BDC Capital in connection with any amendment or waiver related to the foregoing shall also be for the account of the Borrower.

The Borrower's obligation to indemnify BDC Capital under this Section continues before and after default and notwithstanding repayment of the Financing or discharge of any part or all of the Security.

**REPRESENTATIONS AND WARRANTIES:** The Borrower makes the representations and warranties in Schedule A – Section III. These representations and warranties shall survive the execution of the Letter of Offer and shall continue in force and effect until the full payment and performance of all obligations of the Financing Parties pursuant to the Financing Documents.

**COVENANTS:** So long as any amount owing pursuant to the Financing Documents remains unpaid, each Borrower shall perform the covenants set forth in Schedule “A” – Sections IV and V.

Without limiting the above, the Borrower will notify the BDC Capital of its intent to use IFRS and acknowledges, by undertaking to sign the resulting amended forms or contracts, that there may be modifications required to the calculation of EBITDA, Excess Available Funds, required ratios and to other pertinent calculations to ensure the spirit of the underlying conditions is maintained.

**100 DAY POST CLOSE** The Borrower agrees to have BDC Capital and BDC Advisory Services meet with management and conduct a post-close update. The intent is to validate if the growth is on plan, identify any challenges and see if BDC Capital can provide any additional support.

**EVENTS OF DEFAULT:** The occurrence of any of the events listed in Schedule A – SECTION VI constitutes an event of default under the Letter of Offer. If a default occurs, any obligation of BDC Capital to make any advance, shall, at BDC Capital’s option, terminate and BDC Capital may, at its option, demand immediate payment of the Financing and enforce any security, the whole without any prejudice to the covenants of the Financing Parties to pay the Royalties, the Bonus on Sale, the Bonus Equity or the Prepayment Bonus, as applicable, if a portion of the Financing has been disbursed before the occurrence of the default justifying the application of this paragraph.

**CONFLICTS:** The Financing Documents constitute the entire agreement between BDC Capital and the Financing Parties. To the extent that any provision of the Financing Documents is inconsistent with or in conflict with the provisions of the Letter of Offer, the provisions of the Letter of Offer shall govern.

**INDEMNITY:** The Borrower shall indemnify and hold BDC Capital harmless against any and all claims, damages, losses, liabilities and expenses incurred, suffered or sustained by BDC Capital by reason of or relating directly or indirectly to the Financing Documents save and except any such claim, damage, loss, liability and expense resulting from the gross negligence or wilful misconduct of BDC Capital.

**SCHEDULES:** All Schedules have been inserted after the signature page and form an integral part of the Letter of Offer.

**DEFINITIONS:** In the Letter of Offer, capitalized terms have the meanings described in Schedule “A”- Section I or Section II or are defined elsewhere in the text of the Letter of Offer.

**GOVERNING LAW:** The Letter of Offer shall be governed by and construed in accordance with the laws of the province of Ontario and the laws of Canada applicable therein. Any claim or suit for any reason whatsoever under this Letter of Offer shall be brought in the judicial district of Ottawa, province of Ontario, Canada, at the exclusion of any other judicial district which may have jurisdiction over such dispute as prescribed by law.

**SUCCESSORS AND  
ASSIGNS:**

The Letter of Offer shall be binding on and enure to the benefit of each Financing Party and BDC Capital and their respective successors and assigns. No Financing Party shall have the right to assign, in whole or in part, its rights and obligations under or pursuant to the Financing Documents without BDC Capital's prior written consent.

**ACCEPTANCE**

The Letter of Offer and any modification of it may be executed and delivered by original signature, fax, or any other electronic means of communication acceptable to BDC Capital and in any number of counterparts, each of which is deemed to be an original and all of which taken together shall constitute one and the same Letter of Offer.

Should you have any questions regarding the Letter of Offer, do not hesitate to communicate with the undersigned.



Zoltan Tompa  
Director, Cleantech Practice  
BDC Capital  
☎: (613) 216-3116  
✉: (613) 943-9866  
📧: [Zoltan.Tompa@bdc.ca](mailto:Zoltan.Tompa@bdc.ca)



Susan Rohac  
Vice President, Cleantech Practice  
BDC Capital  
☎: (613) 995-9598  
✉: (613) 943-9866  
📧: [Susan.Rohac@bdc.ca](mailto:Susan.Rohac@bdc.ca)

CONSENT AND ACCEPTANCE

Each Financing Party hereby accepts the foregoing terms and conditions set forth above and in all attached Schedules.

Signed this 9<sup>th</sup> day of October 2019.

**Spartan Bioscience Inc.**

 \_\_\_\_\_, Authorized Signing Officer

Name: Paul Corn  
*{Please print name of signing party}*

## SCHEDULE A

### SECTION I DEFINITIONS

**"Annual Gross Sales"** means comprehensively (during a given financial year) the total amount of the actual selling price of the totality of the goods sold and the services rendered by a business carried on by all the companies whose annual gross sales are used for the purposes of this calculation (the "seller") regardless of the place where the goods and services are sold, notably the following amounts:

- (i) the amounts received by the seller in consideration of the sale of goods, articles and merchandise;
- (ii) the amounts received by the seller in consideration of services rendered;
- (iii) the amounts received by the seller in consideration of the sale or leasing of any property (including intellectual property) of the seller or other persons or the granting of a licence in respect of any such property;
- (iv) all the amounts received and receivable, whatever they may be; and
- (v) all the proceeds, if applicable, from insurance against operating losses and the insurance proceeds received in respect of any business of the seller

in each case, regardless of whether these sales or these amounts received are certified by a cheque, cash, a credit, a charge account, instruments or otherwise, without any deduction permitted for bank charges, bad debt accounts, remuneration of a collection agency or bad debts, but does not include:

- (i) the amount of retail sales taxes or goods and services taxes imposed by any governmental authority directly on sales and collected from customers at the point of sale by the seller acting as a representative of such authority, provided that the amount of these taxes is added to the selling price, that it is not part of the indicated price of the article or the service and that it is actually paid by the seller to such authority;
- (ii) the refunds granted in consideration of merchandise sold to the seller, to the extent that the selling price of such merchandise has previously been included in the annual gross sales; and
- (iii) any refund on merchandise obtained from suppliers and manufacturers.

**"ASPE"** means the accounting standards for private enterprises, Part II CPA Canada Handbook.

**"Available Funds Coverage Ratio"** – is calculated by dividing the Available Funds by the current portion of the long-term debt.

**"BDC Capital's Base Rate"** - means the annual rate of interest announced by the Bank through its offices from time to time as its base rate applicable to each of BDC Capital's fixed

interest rate plans then in effect for determining the fixed interest rates on Canadian dollar loans.

**"BDC Capital's Floating Base Rate"** - means the annual rate of interest announced by the Bank through its offices from time to time as its floating rate then in effect for determining the floating interest rates on Canadian dollar loans. The interest rate applicable to the Financing shall vary automatically without notice to the Financing Parties upon each change in BDC Capital's Floating Base Rate.

**"Change of Control"** – means any operation or series of successive and subsequent transactions pursuant to which the Control of a Person is transferred from one Person to another or required by a Person, or any binding undertaking to proceed with any such operations.

**"Control"** – means the power to, directly or indirectly, direct or cause the direction of the management and business or affairs of a Person, whether through ownership of voting securities, by contract or otherwise, including, but without limiting the foregoing, in the case of a corporation the holding, directly or indirectly of more than fifty per cent (50%) of the voting shares of such corporation.

**"Corresponding Fixed Interest Rate Plan"** means, at any time in respect of a prepayment, the fixed interest rate plan then being offered by BDC Capital to its clients equal to the number of years, rounded to the nearest year (minimum of one year), from the date such prepayment is received to the earlier of (i) the next scheduled Interest Adjustment Date, or (ii) the Maturity Date.

**"EBITDA"** – has the meaning set forth in Schedule B hereof.

**"Financing"** – shall have the meaning indicated in the preamble, or, as the context may require, at any time the unpaid principal balance of the Financing.

**"Financing Documents"** – means, collectively, the application for financing, the Letter of Offer, the security contemplated by the Letter of Offer and all other documents, instruments and agreements delivered in connection with the foregoing.

**"Financing Party"** – means either the Borrower or any of the Guarantors and **"Financing Parties"** means collectively each of the Borrower or Guarantors.

**"Fixed Charge Coverage Ratio"** – is calculated as the trailing twelve-month EBITDA divided by the sum of Interest Expense and forward 12 month debt and lease payments.

**"Fixed Component of the Additional Return"** – means and shall refer to any additional return component described and

contained in the Fixed Component of the Additional Return sub-section of the present Letter of Offer.

**"Gross Margin"** – means Revenues less cost of goods sold, within the meaning ascribed by ASPE or IFRS, as applicable.

**"IFRS"** - means the International Financial Reporting Standards issued by the International Accounting Standards Board and adopted by the Accounting Standards Board as Canadian GAAP for publicly accountable enterprises and the ones which opt to adopt such standards.

**"Interest Adjustment Date"**- means, in respect of any fixed interest rate plan, the day after the Interest Expiration Date of such fixed interest rate plan.

**"Interest Expiration Date"**- means the date on which a fixed interest rate plan expires.

**"Material Adverse Change"** – means (i) a material adverse change in, or a material adverse effect upon, the financial condition, operations, assets, business, properties or prospects of any Financing Party, (ii) a material impairment of the ability of any Financing Party to perform any of its obligations under any Financing Document, or (iii) a material adverse effect upon any substantial portion of the assets subject to security in favour of BDC Capital or upon the legality, validity, binding effect, rank or enforceability of any Financing Document.

**Memorandum of Understanding** means the memorandum of understanding in the form attached as Schedule B to be executed by BDC Capital, the Borrower.

**"Person"** – includes any individual, natural person, sole proprietorship, partnership, limited partnership, unincorporated association, syndicate or organization, any trust, body corporate, government agency, and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative and any other form of organization or entity whatsoever.

**"Revenues"** – has the meaning ascribed by ASPE or IFRS, as applicable.

**"Tangible Equity"** – means (i) the share capital (except for preferred shares that are included in long-term debt, except if they are subordinated); plus (ii) retained earnings; plus (iii) subordinated loans or advances from the shareholders in favor of BDC Capital; minus (iv) loans or advances to the shareholders, directors, related or non-related businesses other than in the normal course of business; minus (v) non-business assets and minus (vi) the Financing.

**"Term Debt"** – means the sum of the (i) Financing; plus (ii) the long-term debt plus (iii) the capital leases including the current portion to be paid over the next 12 months; plus (iv) the book value of preferred shares subject to a formal

redemption agreement at the option of the holder or that would set out precise amounts and dates, if any.

**"Term Debt to Tangible Equity Ratio"** – means the ratio of the Term Debt over the Tangible Equity.

**"Variable Component of the Additional Return"** – as the meaning ascribed to it in the Variable Component of the Additional Return sub-section of the Letter of Offer.

**"Working Capital"** – means the total current assets minus (i) the total current liabilities (within the meaning ascribed to them by ASPE, applied consistently) less (ii) future income tax receivables and less (iii) the account receivables due from related parties or outside the ordinary course of business and plus the current portion of the long-term debt due over the next twelve (12) months.

**"Working Capital Ratio"** – is calculated by dividing total current assets ((within the meaning ascribed to them by ASPE, applied consistently) less future income tax receivable, less account receivable due from related parties or outside the ordinary course of business by the total current liabilities excluding the current portion of the long-term debt due over the next twelve (12) months.

## **SECTION II PREPAYMENT DEFINITIONS**

**"Prepayment Indemnity"** – means the sum of the Present Values calculated for each Payment Date from the date of prepayment until the Maturity Date of the Financing.

**"Interest Differential Charge"** – means the sum of the Present Values calculated for each Payment Date from the date of prepayment until the Maturity Date of the difference between BDC Capital's Base Rate on this Financing and BDC Capital's Base Rate for the Corresponding Fixed Interest Rate Plan, which is applicable only if BDC Capital's Base Rate on this Financing is greater than BDC Capital's Base Rate at the time of a prepayment.

**"Prepayment Bonus"** – means the sum of the Interest Differential Charge and the Prepayment Indemnity.

**"Present Values"** – for the purpose of determining the Interest Differential Charge and the Prepayment Indemnity will be computed at a discount rate ("DR") equal to (i) BDC Capital's Base Rate for the Corresponding Fixed Interest Rate Plan as the discount rate in the case of a Financing subject to a fixed interest rate, or (ii) BDC Capital Floating Base Rate as the discount rate in the case of a Financing subject to a floating interest rate and the manner of such computation will be according to the following formula:

$$\frac{CF}{\{1 + (DR / 12)\}^t}$$

Where:

- ▶ "CF" is the sum of: (i) the Variance (if positive) multiplied by the principal prepayment amount, (ii) the difference between BDC Capital's Base Rate on this Financing and BDC Capital's Base Rate for the Corresponding Fixed Interest Rate Plan (if positive and if the Financing is subject to Fixed Interest Rate Plan) multiplied by the principal prepayment amount, (iii) the financing management fees and (iv) if applicable, any Fixed Component of the Additional Return which would otherwise have been outstanding at the Payment Date until the Maturity Date;
- ▶ "DR" is the applicable discount rate; and
- ▶ "t" is the number of monthly periods between the prepayment date and the Maturity Date.

**SECTION III  
REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants to BDC Capital that:

1. It is a partnership, trust or corporation, as the case may be, duly constituted, validly existing and duly registered or qualified to carry on business in each jurisdiction where it is required by applicable laws to be so registered or qualified.
2. The execution, delivery and performance of its obligations under the Letter of Offer and the other Financing Documents to which it is a party have been duly authorized and constitute legal, valid and binding obligations enforceable in accordance with their respective terms.
3. It is not in violation of any applicable law, which violation could lead to a Material Adverse Change.
4. No Material Adverse Change exists and there are no circumstances or events that constitute or would constitute, with the lapse of time, the giving of notice or otherwise, a Material Adverse Change.
5. It is not in default under the Letter of Offer or any other Financing Document.
6. All information provided by it to BDC Capital is complete and accurate and does not omit any material fact and, without limiting the generality of the foregoing, all financial statements delivered by it to BDC Capital fairly present its financial condition as of the date of such financial statements and the results of its operations for the period covered by such financial statements, all in accordance with ASPE.
7. There is no pending or threatened claim, action, prosecution or proceeding of any kind including but

not limited to non-compliance with environmental law or arising from the presence or release of any contaminant against it or its assets before any court or administrative agency which, if adversely determined, could lead to a Material Adverse Change.

8. In respect of properties and assets charged pursuant to the Financing Documents, it has good and marketable title, free and clear of any encumbrances, except for what has been disclosed herein or has been accepted in writing by BDC Capital.
9. It is the rightful owner of all its intellectual property with all right, title and interest in and to all of its intellectual property.

The foregoing representations and warranties shall remain in full force and true until the Financing is repaid in full.

**SECTION IV  
COVENANTS**

The Borrower shall:

1. Perform its obligations and covenants under the Financing Documents.
2. Maintain in full force and effect and enforceable the Security contemplated by this Letter of Offer.
3. Notify BDC Capital immediately of the occurrence of any default under the Letter of Offer or any other Financing Documents.
4. Comply with all applicable laws and regulations.
5. Keep all its assets insured for physical damages and losses on an "All-Risks" basis for their full replacement value and cause all such insurance policies to name BDC Capital as loss payee as its interests may appear. The policies shall also name BDC Capital as mortgagee and include a standard mortgage clause in respect of buildings over which BDC Capital holds security and, as further security, assign or hypothecate all insurance proceeds to BDC Capital; and

If requested by BDC Capital, maintain adequate general liability insurance and environmental insurance or any other type of insurance it may reasonably require to protect it against any losses or claims arising from pollution or contamination incidents and to provide certified copies of such policies.

6. Notify BDC Capital immediately of any loss or damage to its property.

7. Without limiting the generality of paragraph 4 above, in relation to its business operations and the assets and projects of its business, operate in conformity with all environmental laws and regulations; make certain that its assets are and will remain free of environmental damage; inform BDC Capital immediately upon becoming aware of any environmental issue and promptly provide BDC Capital with copies of all communications with environmental authorities and all environmental assessments; pay the cost of any external environmental consultant engaged by BDC Capital to effect an environmental audit and the cost of any environmental rehabilitation or removal necessary to protect, preserve or remediate the assets, including any fine or penalty BDC Capital is obligated to incur by reason of any statute, order or directive by a competent authority.
8. Promptly pay all government remittances, assessments and taxes including real estate taxes and provide BDC Capital with proof of payments as BDC Capital may request from time to time.
9. Promptly furnish to BDC Capital such information, reports, certificates and other documents concerning any Financing Party as BDC Capital may reasonably request from time to time.
10. Not engage in, or permit its premises to be used by a tenant or other person, for any activity which BDC Capital, from time to time, deems ineligible, including without limitation any of the following ineligible activities:
  - a) businesses that are sexually exploitive or that are inconsistent with generally accepted community standard of conduct and propriety, including those that feature sexually explicit entertainment, products or services; businesses that are engaged in or associated with illegal activities; businesses trading in countries that are proscribed by the Federal Government;
  - b) businesses that operate as stand-alone nightclubs, bars, lounges, cabarets, casinos, discotheques, video arcades, pool and billiard halls, and similar operations;
  - c) businesses that promote nudism and naturism.

BDC Capital's finding that there is an ineligible activity will be final and binding between the parties and shall not be subject to review. The prohibition set out in this paragraph 10 shall also apply to any entity that Controls, is Controlled by, or that is under the common control with, any Financing Party.

11. In the event that one or several related corporations are incorporated or acquired, including all new subsidiaries and sister companies of the Borrower, these new entities shall ratify and become a party to this Letter of Offer as co-borrower or guarantor at the sole discretion of BDC Capital. BDC Capital may require that these new entities grant in favour of BDC Capital security which shall be registered on their assets to guarantee their respective obligations and the obligations and the Financing pursuant to this Letter of Offer.

**SECTION V**  
**NEGATIVE COVENANTS**

Without the prior written consent of BDC Capital, the Borrower shall not:

1. Change the nature of its business.
2. Amalgamate, merge, acquire or otherwise combine its business, or create an affiliated company ("affiliate" having the meaning given to it in the Canada Business Corporations Act), or sell or otherwise transfer a substantial part of its business or any substantial part of its assets, or grant any operating license.
3. Permit any of its shareholders to sell or transfer their shares in the capital stock of such Financing Party save and except shares listed on a recognized stock exchange acceptable to BDC Capital.
4. Permit any Change of Control of such Financing Party or change the capital structure of such Financing Party by contractual or other means.
5. Permit any change in the shareholding of such Financing Party, except for options issued to employees under an approved stock option plan.
6. Allow a loan to be sought or extended, an investment to be made, a guarantee to be given, and no asset securing the Financing shall be pledge or hypothecated to another creditor, whether done for the benefit of the Borrower or for the benefit of a third party.
7. Declare a dividend on, or redeem or repay any obligation in respect of any shares in its capital. In addition, any advance or transfer of funds in any form whatsoever shall be made to the ultimate shareholders and/or to the corporations they own.
8. Make any modifications to the end date of its fiscal year, its accounting standards and/or policies.

**SECTION VI**  
**EVENTS OF DEFAULT**

1. Any Financing Party fails to pay any amount owing under or pursuant to the Financing Documents.
2. Any Financing Party fails to comply with or to perform any provision of the Letter of Offer or any other Financing Documents.
3. Any Financing Party is in default under any other agreement with BDC Capital or any third party for the granting of a loan or other financial assistance and such default remains unremedied after any cure period provided in such other agreement.
4. Any representation or warranty made by any Financing Party herein or in any other Financing Document is breached, false or misleading in any material respect, or becomes at any time false.
5. Any schedule, certificate, financial statement, report, notice or other writing furnished by any Financing Party to BDC Capital in connection with the Financing is false or misleading in any material respect on the date as of which the facts therein set forth are stated or certified.
6. Any Financing Party becomes insolvent or generally fails to pay, or admits in writing its inability or refusal to pay its debts as they become due; or any Financing Party applies for, consents to, or acquiesces in the appointment of a trustee, receiver or other custodian for such Financing Party or any property thereof, or makes a general assignment for the benefit of creditors; or, in the absence of such application, consent or acquiescence, a trustee, receiver or other custodian is appointed for any Financing Party or for a substantial part of the property of such Financing Party; or any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is commenced in respect of any Financing Party; or any Financing Party takes any action to authorize, or in furtherance of, any of the foregoing.
7. The Borrower ceases or threatens to cease to carry on all or a substantial part of its business.
8. The occurrence of a Change of Control of the Borrower from the date of the application of financing.
9. Any Financing Party is in violation of any applicable law relating to terrorism or money laundering, including the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada).
10. The occurrence, in the opinion of BDC Capital, of a Material Adverse Change.

**SECTION VII**  
**GENERAL TERMS AND CONDITIONS**

Each Financing Party agrees to the following additional provisions:

**Interest Cap**

If the aggregate amount of charges payable as interest, additional interest, interest on arrears, or any other charges paid or payable in connection with the Financing (collectively the "Charges") at any time whatsoever would constitute the application of an effective annual rate of interest in excess of the limit permitted by any applicable law, then the Charges shall be reduced so that the charges paid or payable shall not exceed the maximum permissible under such law. Any excess which has been paid will be refunded by BDC Capital within ten business days following BDC Capital's determination of the amount to be refunded.

**Other Available Interest Rate Plans**

If applicable, the Borrower having selected a floating interest rate plan may select BDC Capital available fixed interest rate plan. The expiry date of the selected plan shall occur after the initial Maturity Date or subsequently amended Maturity Date of the Financing. If the Borrower so selects any fixed rate plan before the Acceptance Date, it shall be based on BDC Capital's Base Rate in effect on the Authorization Date. If the selection is made after the Acceptance Date, the Borrower will have to pay to BDC Capital applicable fee and the interest rate shall be based on BDC Capital's Base Rate then in effect. The new rate shall become effective on the fourth day following receipt of the request by BDC Capital.

However, in the event of a period of increased interest rate volatility, which will be determined by a fluctuation of greater than 0.5% during the same transaction day of the yield to maturity of the five-year Canada bond benchmark, BDC Capital reserves the right to suspend the borrower's right to switch from a floating interest rate plan to a fixed interest rate plan.

**Interest Adjustment Date**

If the Financing is not paid in full by the Interest Adjustment Date, BDC Capital will set a new interest rate plan based on the revised Interest Adjustment Date of the Financing at BDC Capital's Base Rate then in effect adjusted by the Variance and shall then notify the Borrower.

In the event BDC Capital should demand repayment of the Financing by reason of an event of default, any fixed interest rate applicable at the time of demand shall continue to apply to the Financing until full repayment and shall not be adjusted at the next Interest Adjustment Date.

**Pre-Authorized Payment System**

All payments provided for in the Letter of Offer must be made by pre-authorized debits from the Borrower's bank

account. The Borrower shall sign all documentation required to that effect and provide a sample cheque marked void.

**Application of Payments**

All payments will be applied in the following order:

1. any Prepayment Bonus (including the monthly interest and Interest Differential Charge);
2. protective disbursements;
3. standby fees (arrear and current);
4. arrears, in the following order: transaction fees, administration fees, management fees, Royalties, bonuses or other premiums, interest and principal;
5. current balances, in the following order: transaction fees, management fees, Royalties, bonuses or other premiums, interest and principal;
6. cancellation fees; and
7. other amounts due and payable under the Financing Documents.

Other than regular payments of principal and interest, BDC Capital may apply any other monies received by it, before or after default, to any debt the Borrower may owe BDC Capital under or pursuant to the Letter of Offer or any other agreement and BDC Capital may change those applications from time to time in its sole discretion.

**Consent to Disclosure and Exchange of Information**

Each Financing Party authorizes BDC Capital, at any time and from time to time, (i) to obtain financial, compliance, account

status and any other information about a Financing Party and its respective business from its accountants, its auditors, any financial institution, creditor, credit reporting or rating agency, credit bureau, governmental department, body or utility, and (ii) to disclose and exchange information with any financial institution relating to, in connection with or arising from the business of any Financing Party which BDC Capital may currently have or subsequently obtain.

Each Financing Party recognizes that in accordance with prudent business practices to « know your client » and in accordance with its internal policies, BDC Capital may be required to obtain, verify, maintain information regarding the Financing Parties, their directors, their officers duly authorized to sign, their shareholders or other persons who exercise control over each Financing Party. Each Financing Party agrees to provide without delay all information, including supporting documents and other evidence that BDC Capital, or a potential assignee or another company with an interest in BDC Capital, acting reasonably, could ask to comply with internal policies or legislation in the fight against the laundering of proceeds of crime or financing of terrorist activities that apply to them.

**Notices**

Notices must be in writing and may be given in person, or by letter sent by fax, mail, courier or electronically; if to a Financing Party, at its address above or such other addresses as the Financing Party may advise BDC Capital in writing, or if to BDC Capital, at BDC Capital's address above.

## SCHEDULE B

### Memorandum of Understanding Re: EBITDA and Excess Available Funds calculations

This memorandum is used to define the basis of the EBITDA that will be used for calculating the Cash Flows and the Fixed Charge Coverage Ratio, as set out in financing #168494-01 authorized on October 8, 2019 by BDC Capital in favor of the Borrower.

#### DEFINITIONS:

"EBITDA": means with respect to the **Borrower**, net Income before:

- interest (long term and short term);
- income taxes;
- depreciation and /or impairment and/or impairment of assets;
- management fees, royalties and charges of financial institutions;
- gains or losses from the disposal of assets;
- gains or losses on debt write-offs or to related persons;
- expenses related to stock-based compensation;
- any expenses related to the assessment of capital stock such as, without limiting the foregoing the adjustment of the redemption value of preferred shares;
- any return on preferred shares to be submitted to the income statement;
- any other entry outside the ordinary course of business with no impact on cash flow, including without limiting the generality of the foregoing, any impact of the transition to new accounting standards.

In addition, without limiting the foregoing, any increase in unbudgeted and unjustified fees which would intentionally reduce EBITDA or Excess Available Funds will be added thereto and the calculation adjusted.

Finally, the Borrower commits itself to:

1. To produce its audited financial statements annually according the ASPE and to maintain the same accounting principles as those used in the latest annual audited financial statements dated June 3, 2019 for the Borrower's fiscal year ended December 31, 2018.
2. To produce an annual confirmation of the EBITDA calculations by the external auditors starting with the 2019 financial year.
3. To obtain BDC Capital's written permission before creating any new entity and allow the EBITDA and the Excess Available Funds of such new entity, if positive, to be added to the present calculations.

IN WITNESS WHEREOF, the parties signed at Ottawa, this 9<sup>th</sup> day of October 2019



Zoltan Tompa  
Director, Cleantech Practice  
BDC Capital

☎: (613) 216-3116

☎: (613) 943-9866

✉: [Zoltan.Tompa@bdc.ca](mailto:Zoltan.Tompa@bdc.ca)



Susan Rohac  
Vice President, Cleantech Practice  
BDC Capital

☎: (613) 995-9598

☎: (613) 943-9866

✉: [Susan.Rohac@bdc.ca](mailto:Susan.Rohac@bdc.ca)

IN WITNESS WHEREOF, the parties signed at Ottawa, this October 9<sup>th</sup> 2019

The Borrower agrees to the present memorandum:

**Spartan Bioscience Inc.**

, Authorized Signing Officer

Name: Paul Lem  
*[Please print name of signing party]*

This is **Exhibit 'B'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**



## GENERAL SECURITY AGREEMENT

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THIS AGREEMENT dated the 24th day of October, 2019.

**BETWEEN:**

**SPARTAN BIOSCIENCE INC.** with a registered office at 2934 Baseline Road, Suite 500, Ottawa, ON, K2H 1B2

(the "Debtor")

**AND:**

**BDC CAPITAL INC.**, with a business centre at Sun Life Financial Centre, 50 O'Connor Street, Suite 1100, Ottawa, ON, K1P 5E1

("BDC")

**1. SECURITY INTEREST**

(You, as the Debtor, will grant to BDC a charge, referred to as a security interest, over all personal property now held or in the future held or acquired by you. You will also grant a charge, referred to as a floating charge, over your complete undertaking. These charges are the security BDC will hold in consideration of lending you funds or providing the credit facility to you.)

1.1 For consideration the Debtor hereby:

- (a) mortgages and charges as a fixed and specific charge, and assigns and transfers to BDC, and grants to BDC a general and continuing security interest in all of the Debtor's present and after acquired personal property including, without limitation:
  - (i) all office, trade, manufacturing and all other equipment and all goods, including, without limitation, machinery, tools, fixtures, computers, furniture, furnishings, chattels, motor vehicles and other tangible personal property that is not Inventory, and all parts, components, attachments, accessories, accessions, replacements, substitutions, additions and improvements to any of the above (all of which is collectively called the "Equipment");
  - (ii) all inventory, including, without limitation, goods acquired or held for sale or lease or furnished or to be furnished under contracts of rental or service, all raw materials, work in process, finished goods, returned goods, repossessed goods, all livestock and their young after conception, all crops and timber, and all packaging materials, supplies and containers relating to or used or consumed in connection with any of the foregoing (all of which is collectively called the "Inventory");
  - (iii) all debts, accounts, claims, demands, moneys and choses in action which now are, or which may at any time be, due or owing to or owned by the Debtor and all books, records, documents, papers and electronically recorded data recording, evidencing or relating to the debts, accounts, claims, demands, moneys and choses in action (all of which is collectively called the "Accounts");

- (iv) all documents of title, chattel paper, instruments, securities and money, and all other personal property, of the Debtor that is not Equipment, Inventory or Accounts;
  - (v) all patents, trade-marks, copyrights, industrial designs, plant breeder's rights, integrated circuit topographies, trade-names, goodwill, confidential information, trade secrets and know-how, including without limitation, environmental technology and bio-technology, software and any registrations and applications for registration of the foregoing and all other intellectual and industrial property of the Debtor (all of which is collectively called the "Intellectual Property");
  - (vi) all the Debtor's contractual rights, licenses and all other choses in action of every kind which now are, or which may at any time be due or owing to or owned by the Debtor, and all other intangible property of the Debtor, that is not Accounts, chattel paper, instruments, documents of title, Intellectual Property, securities or money;
  - (vii) the personal property described in Schedule "A" attached to this Agreement and all additions thereto and replacements thereof; and
  - (viii) all proceeds of every nature and kind arising from the personal property referred to in this Security Agreement;
- (b) grants to BDC a general and continuing security interest and charges by way of a floating charge:
- (i) all of the undertaking and assets of the Debtor, of every nature or kind and wherever situate, whether presently owned or hereafter acquired, and all their proceeds, other than its assets and undertakings that are otherwise validly and effectively subject to the charges and security interests in favour of BDC created pursuant to this Clause 1.1.

1.2 The security interests, mortgages, transfers, assignments, charges, grants and conveyances created pursuant to Clause 1.1 shall be collectively called the "Security Interests", and the property subject to the Security Interests and all property, assets and undertaking charged, assigned or transferred or secured by any instruments supplemental to or in implementation of this Security Agreement are collectively called the "Collateral".

1.3 The schedules, including definitions, form part of this Security Agreement.

## 2. EXCEPTIONS

(With few exceptions, all of your personal property is subject to the security interests and charges described in Clause 1.1. Only the last day of any lease term and possibly your consumer goods are excepted. Corporations do not hold consumer goods.)

2.1 The last day of the term created by any lease or agreement is excepted out of any charge or the Security Interests but the Debtor shall stand possessed of the reversion and shall remain upon trust to assign and dispose of it to any third party as BDC shall direct.

2.2 All the Debtor's consumer goods are excepted out of the Security Interests.

## 3. ATTACHMENT

(Value or consideration has flowed between you and BDC and the Security Interests in your personal property are complete once you sign this Security Agreement.)

The Debtor agrees that the Security Interests attach upon the signing of this Security Agreement (or in the case of after acquired property, upon the date of acquisition), that value has been given, and that the Debtor has (or in the case of after acquired property, will have upon the date of acquisition) rights in the Collateral and the Debtor confirms that there has been no agreement between the Debtor and BDC to postpone the time for attachment of the Security Interests and that it is the Debtor's understanding that BDC intends the Security Interests to attach at the same time.

#### **4. PURCHASE MONEY SECURITY INTEREST**

(To the extent that BDC helps you acquire an interest in any personal property, you grant a special security interest to BDC over that personal property. The special security interest is known as a "Purchase Money Security Interest".)

The Debtor acknowledges and agrees that the Security Interests constitute and are intended to create Purchase Money Security Interests in Collateral to the extent that moneys advanced by BDC, including all future advances and re-advances, are used or are to be used, in whole or in part, to purchase or otherwise to acquire rights in Collateral.

#### **5. OBLIGATIONS SECURED**

(The Security Interests and charges you have granted to BDC secure all indebtedness and all obligations to BDC.)

This Security Agreement is in addition to and not in substitution for any other security interest or charge now or in the future held by BDC from the Debtor or from any other person and shall be general and continuing security for the payment and performance of all indebtedness, liabilities and obligations of the Debtor to BDC (including interest thereon), whether incurred prior to, at the time of or after the signing of this Security Agreement including extensions and renewals, and all other liabilities of the Debtor to BDC, present and future, absolute or contingent, joint or several, direct or indirect, matured or not, extended or renewed, wherever and however incurred, including all advances on current or running account, future advances and re-advances of any loans or credit by BDC and the Debtor's obligation and liability under any contract or guarantee now or in the future in existence whereby the Debtor guarantees payment of the debts, liabilities and/or obligations of a third party to BDC, and for the performance of all obligations of the Debtor to BDC, whether or not contained in this Security Agreement (all of which indebtedness, liabilities and obligations are collectively called the "Obligations").

#### **6. REPRESENTATIONS AND WARRANTIES**

(You state that you are able to legally grant this Security Agreement to BDC, it will be binding and the Collateral is not subject to any encumbrances that have not been approved by BDC. You own the Collateral and nothing prevents you from granting the Security Interests and charges in favour of BDC. BDC will rely on all of the following representations and warranties.)

##### **6.1 The Debtor represents and warrants to BDC that:**

- (a) if a corporation, it is a corporation incorporated and organized and validly existing and in good standing under the laws of the jurisdiction of its incorporation; it has the corporate power to own or lease its property and to carry on the business conducted by it; it is qualified as a corporation to carry on the business conducted by it and to own or lease its property and is in good standing under the laws of each jurisdiction in which the nature of its business or the property owned or leased by it makes such qualification necessary; and the execution, delivery and performance of this Security Agreement are within its corporate powers, have been authorized and do not contravene, violate or conflict with any law or the terms and provisions of its constating documents or its by-laws or any shareholders agreement or any other agreement, indenture or undertaking to which the Debtor is a party or by which it is bound;
- (b) if it is a corporation, its name as set forth on page 1 of this Security Agreement is its full, true and correct name as stated in its constating documents and if such name is in English, it does not have or use a French language form of its name or a combined English language and French language form of its name and vice versa, and the Debtor has provided a written memorandum to BDC accurately setting forth all prior names under which the Debtor has operated;
- (c) if it is a partnership, its name as set forth on page 1 is its full, true and correct, and where required or voluntarily registered its registered, name; it is a partnership validly created and organized and validly existing under the laws of the jurisdiction of its creation; it has the power to carry on the business conducted by it; it is qualified as a partnership to carry on the business conducted by it and is in good standing under the laws of each jurisdiction in which the nature of its business makes such qualification necessary; and the execution, delivery and performance of this Agreement are within its powers, have been authorized, and do not contravene, violate or conflict with any law or the terms of its

partnership agreement or any other agreement, indenture or undertaking to which the Debtor is a party or by which it is bound, and a complete list of the names, addresses and (if individuals) the dates of birth of the partners of the partnership are set forth on a Schedule attached to this Security Agreement;

- (d) if the Debtor is an individual, that individual's full name and address provided to BDC are the individual's full and correct name and address and the individual's date of birth as described on the individual's birth certificate a true copy of which has been provided to BDC or, if no birth certificate issued from any jurisdiction in Canada exists, as described on the documents provided to BDC is the individual's correct birth date;
- (e) there is no litigation or governmental proceedings commenced or pending against or affecting the Collateral or the Debtor, in which a decision adverse to the Debtor would constitute or result in a material adverse change in the business, operations, properties or assets or in the condition, financial or otherwise, of the Debtor; and the Debtor agrees to promptly notify BDC of any such future litigation or governmental proceeding;
- (f) it does not have any information or knowledge of any facts relating to its business, operations, property or assets or to its condition, financial or otherwise, which it has not disclosed to BDC in writing and which, if known to BDC, might reasonably be expected to deter BDC from extending credit or advancing funds to the Debtor;
- (g) it has good title and lawfully owns and possesses all presently held Collateral, free from all security interests, charges, encumbrances, liens and claims, save only the Security Interests and the charges or security interests consented to in writing by BDC, and it has not granted any licenses in or of its Intellectual Property other than as disclosed and consented to by BDC;
- (h) to the extent that any of the Collateral includes serial numbered goods and motor vehicles which require serial number registration by virtue of the Act and its regulations including motor vehicles, trailers, manufactured homes, mobile homes, boats, outboard motors for boats or aircraft, the Debtor has given the full and correct serial numbers and any Ministry of Transport designation marks or other relevant licensing authority marks of all such Collateral to BDC;
- (i) the Collateral is and/or will be located at the place(s) described in Schedule "A" and will not be removed from such location(s) without the prior written consent of BDC;
- (j) this Security Agreement is granted in accordance with resolutions of the directors (and of the shareholders as applicable) of the Debtor, if the Debtor is a corporation, or, if the Debtor is a partnership, of the partners of the Debtor, and all other requirements have been fulfilled to authorize and make the execution and delivery of this Security Agreement, and the performance of the Debtor's obligations valid and there is no restriction contained in the constating documents of the Debtor or in any shareholders agreement or partnership agreement which restricts the powers of the authorized signatories of the Debtor to borrow money or give security; and
- (k) the Debtor's place(s) of business and chief executive office have been correctly provided to BDC

## **7. COVENANTS OF THE DEBTOR**

(The Security Interests and the Collateral must be protected while the Security Agreement remains in effect. These covenants are your promises to BDC describing how BDC's Security Interests will be attended to. You will also covenant to maintain accurate books and records and allow BDC's inspection. Your promises are found in the Security Agreement and Schedules.)

7.1 The Debtor covenants with BDC that while this Security Agreement remains in effect the Debtor will:

- (a) promptly pay and satisfy the Obligations as they become due or are demanded;
- (b) defend the title to the Collateral for BDC's benefit, against the claims and demands of all persons;

- (c) fully and effectually maintain and ensure that the Security Interests are and continue to be valid and effective;
- (d) maintain the Collateral in good condition and repair and provide adequate storage facilities to protect the Collateral and not permit the value of the Collateral to be impaired;
- (e) observe and conform to all valid requirements of any governmental authority relative to any of the Collateral and all covenants, terms and conditions upon or under which the Collateral is held;
- (f) forthwith pay and satisfy:
  - (i) all taxes, assessments, rates, duties, levies, government fees, claims and dues lawfully levied, assessed or imposed upon it or the Collateral when due, unless the Debtor shall in good faith contest its obligations so to pay and shall furnish to BDC such security as BDC may require;
  - (ii) all security interests, charges, encumbrances, liens and claims which rank or could rank in priority to, or on an equal basis with, any of the Security Interests; and
  - (iii) all fees from time to time chargeable by BDC arising out of any term of the commitment letter between BDC and the Debtor including, without limitation, inspection, administration and returned cheque handling fees;
- (g) forthwith pay and satisfy all costs, charges, expenses and legal fees and disbursements (on a solicitor and its own client basis) which may be incurred by BDC in connection with granting loans or credit to the Debtor, including for:
  - (i) inspecting the Collateral;
  - (ii) negotiating, preparing, perfecting, registering or renewing the registration of this Security Agreement and the Security Interests, any Financing or Financing Change Statement, any modification or amending agreement and other documents relating to the Debtor's obligations, whether or not relating to this Security Agreement;
  - (iii) complying with any disclosure requirements under the Act;
  - (iv) investigating title to the Collateral;
  - (v) taking, recovering, keeping possession and disposing of the Collateral;
  - (vi) maintaining the Collateral in good repair, storing the Collateral and preparing the Collateral for disposition;
  - (vii) any inspection, appraisal, investigation or environmental audit of the Collateral and the cost of any environmental rehabilitation, treatment, removal or repair necessary to protect, preserve or remedy the Collateral including any fine or penalty BDC becomes obligated to pay by reason of any statute, order or direction of competent authority;
  - (viii) all other actions and proceedings taken to preserve the Collateral, enforce this Security Agreement and of any other security interest held by BDC as security for the Obligations, protect BDC from liability in connection with the Security Interests or assist BDC in its loan and credit granting or realization of the Security Interest, including any actions under Bankruptcy and Insolvency Act (Canada) and all remuneration of any Receiver (as defined in Article 15 hereof) or appointed pursuant to Bankruptcy and Insolvency Act (Canada);
  - (ix) any sums BDC pays as fines, or as clean up costs because of contamination of or from your

assets. Further, you will indemnify BDC and its employees and agents from any liability or costs incurred including legal defense costs. Your obligation under this paragraph continues even after the Obligations are repaid and this agreement is terminated.

- (h) at BDC's request, execute and deliver further documents and instruments and do all acts as BDC in its absolute discretion requires to confirm, register and perfect, and maintain the registration and perfection of, the Security Interests;
- (i) notify BDC promptly of:
  - (i) any change in the information contained in this Security Agreement relating to the Debtor, its business or the Collateral, including, without limitation, any change of name or address (including any change of trade name, proprietor or partner) and any change in the present location of any Collateral;
  - (ii) the details of any material acquisition of Collateral, including the acquisition of any motor vehicles, trailers, manufactured homes, boats or aircraft;
  - (iii) any material loss or damage to the Collateral;
  - (iv) any material default by any account debtor in the payment or other performance of its obligations to the Debtor respecting any Accounts;
  - (v) any claims against the Debtor including claims in respect of the Intellectual Property or of any actions taken by the Debtor to defend the registration of or the validity of or any infringement of the Intellectual Property;
  - (vi) the return to or repossession by the Debtor of Collateral that was disposed of by the Debtor; and
  - (vii) all additional places of business and any changes in its place(s) of business or chief executive office;
- (j) prevent the Collateral, other than Inventory sold, leased, or otherwise disposed of as permitted by this Security Agreement, from being or becoming an accession to property not covered by this Security Agreement;
- (k) carry on and conduct its business and undertaking in a proper and businesslike manner so as to preserve and protect the Collateral and the earnings, income, rents, issues and profits of the Collateral, including maintenance of proper and accurate books of account and records;
- (l) permit BDC and its representatives, at all reasonable times, access to the Collateral including all of the Debtor's property, assets and undertakings and to all its books of account and records for the purpose of inspection and the taking of extracts and copies, whether at the Debtor's premises or otherwise, and the Debtor will render all assistance necessary;
- (m) observe and perform all its obligations under:
  - (i) leases, licences, undertakings, and any other agreements to which it is a party;
  - (ii) any statute or regulation, federal, provincial, territorial, or municipal, to which it is subject;
- (n) deliver to BDC from time to time promptly upon request:
  - (i) any documents of title, instruments, securities and chattel paper constituting, representing or relating to the Collateral;

- (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral to allow BDC to inspect, audit or copy them;
- (iii) all financial statements prepared by or for the Debtor regarding the Debtor's business;
- (iv) such information concerning the Collateral, the Debtor and the Debtor's business and affairs as BDC may reasonably require;
- (o) with respect to the Intellectual Property, take all necessary steps and initiate all necessary proceedings, to maintain the registration or recording of the Intellectual Property, to defend the Intellectual Property from infringement and to prevent any licensed or permitted user from doing anything that may invalidate or otherwise impair the Intellectual Property;
- (p) with respect to copyright forming part of the Intellectual Property, provide to BDC waivers of the moral rights thereto executed by all contributors or authors of the copyrighted work;
- (q) receive and hold in trust on behalf of and for the benefit of BDC all proceeds from the sale or other disposition of any Collateral;
- (r) consent to BDC contacting and making enquiries of the Debtor's lessors, as well as municipal or other government officials or assessors; and
- (s) observe and perform the additional covenants and agreements set out in any schedules to this Security Agreement, including Schedule B, if any.

7.2 Any amounts required to be paid to BDC by the Debtor under this Clause 7 shall be immediately payable with interest at the highest rate borne by any of the Obligations until all amounts have been paid.

7.3 This Security Agreement shall remain in effect until it has been terminated by BDC by notice of termination to the Debtor and all registrations relating to the Security Agreement have been discharged.

## 8. INSURANCE

(It is your obligation to thoroughly insure the Collateral in order to protect your interests and those of BDC. You will follow the specific requirements of the insurance coverage described in this Clause.)

8.1 The Debtor covenants that while this Security Agreement is in effect the Debtor shall:

- (a) maintain or cause to be maintained insurance on the Collateral with a reputable insurer, of kinds, for amounts and payable to such person or persons, all as BDC may require, and in particular maintain insurance on the Collateral to its full insurable value against loss or damage by fire and all other risks of damage, including an extended coverage endorsement and in the case of motor vehicles, insurance against theft;
- (b) cause the insurance policy or policies required by this Security Agreement to be assigned to BDC, including a standard mortgage clause or a mortgage endorsement, as BDC may require;
- (c) pay all premiums respecting such insurance, and deliver all policies to BDC, if it so requires.

8.2 If proceeds of any required insurance becomes payable, BDC may, in its absolute discretion, apply these proceeds to the Obligations as BDC sees fit or release any insurance proceeds to the Debtor to repair, replace or rebuild, but any release of insurance proceeds to the Debtor shall not operate as a payment on account of the Obligations or in any way affect this Security Agreement or the Security Interests.

8.3 The Debtor will forthwith, on the happening of loss or damage to the Collateral, notify BDC and furnish to

BDC at the Debtor's expense any necessary proof and do any necessary act to enable BDC to obtain payment of the insurance proceeds, but nothing shall limit BDC's right to submit to the insurer a proof of loss on its own behalf.

8.4 The Debtor hereby authorizes and directs the insurer under any required policy of insurance to include the name of BDC as loss payee on any policy of insurance and on any cheque or draft which may be issued respecting a claim settlement under and by virtue of such insurance, and the production by BDC to any insurer of a notarial or certified copy of this Security Agreement (notarized or certified by a notary public or solicitor) shall be the insurer's complete authority for so doing.

8.5 If the Debtor fails to maintain insurance as required, BDC may, but shall not be obliged to, maintain or effect such insurance coverage, or so much insurance coverage as BDC may wish to maintain.

## 9. OTHER PROHIBITIONS

(You agree to not encumber your property so as to interfere with the security interests or charges granted to BDC and you will not dispose of any of the Collateral except inventory disposed of in the ordinary course of your business.)

Without the prior written consent of BDC the Debtor will not:

- (a) create or permit to exist any security interest in, charge, encumbrance or lien over, or claim against any of its property, assets, undertakings including without limitation the Collateral which ranks or could in any event rank in priority to or on an equal basis with any of the Security Interests created by this Security Agreement;
- (b) grant, sell, or otherwise assign any of its chattel paper or any of the Collateral except only Inventory that is disposed of in accordance with Clause 10.2; or
- (c) where the Debtor is a corporation
  - (i) repay or reduce any shareholders loans or other debts due to its shareholders; or
  - (ii) change its name, merge with or amalgamate with any other entity;

## 10. RESTRICTIONS ON SALE OR DISPOSAL OF COLLATERAL

(You will preserve and protect all of the Collateral and not dispose of it without the consent of BDC. Any sales or other disposition will result in you holding the proceeds in trust for BDC. Your responsibilities towards the Collateral and any trust proceeds are important to BDC.)

10.1 Except as provided by this Security Agreement, without BDC's prior written consent the Debtor will not:

- (a) sell, lease, license or otherwise dispose of the Collateral;
- (b) release, surrender or abandon possession of the Collateral; or
- (c) move or transfer the Collateral from the jurisdictions in which the Security Interests have been perfected.

10.2 Provided that the Debtor is not in default under this Security Agreement, the Debtor may lease, sell, license, consign or otherwise deal with items of Inventory only in the ordinary course of its business and for the purposes of carrying on its business.

10.3 Any disposition of any Collateral, excepting sales of Inventory in the ordinary course, shall result in the Debtor holding the proceeds in trust for and on behalf of BDC and subject to BDC's exclusive direction and control. Nothing restricts BDC's rights to attach, seize or otherwise enforce its Security Interests in any Collateral sold or disposed, unless it is sold or disposed with BDC's prior written consent.

## 11. PERFORMANCE OF OBLIGATIONS

(If you do not strictly do all those things that you have agreed to do in this Security Agreement, BDC may perform those obligations but you will be required to pay for them.)

If the Debtor fails to perform its covenants and agreements under this Security Agreement, BDC may, but shall not be obliged to, perform any or all of such covenants and agreements without prejudice to any other rights and remedies of BDC, and any payments made and any costs, charges, expenses and legal fees and disbursements (on a solicitor and its own client basis) incurred by BDC shall be immediately payable by the Debtor to BDC with interest at the highest rate borne by any of the Obligations and shall be secured by the Security Interests, until all such amounts have been paid.

## 12. ACCOUNTS

(Any dealing with the Collateral that results in an account being created, or proceeds arising, is of particular importance to BDC. The account, or proceeds, acts in substitution for the Collateral that has been sold, usually inventory. You will protect the account or proceeds in favour of BDC.)

Notwithstanding any other provision of this Security Agreement, BDC may collect, realize, sell or otherwise deal with all or a portion of the Accounts in such manner, upon such terms and conditions and at any time, whether before or after default, as may seem to it advisable, and without notice to the Debtor, except in the case of disposition after default and then subject to the applicable provisions of the Act, if any. All forms of payment received by the Debtor in payment of any Account, or as proceeds, shall be subject to the Security Interests and shall be received and held by the Debtor in trust for BDC.

## 13. APPROPRIATION OF PAYMENTS

(BDC has the right to determine how funds it receives will be applied in relation to your loan facility.)

Any and all payments made respecting the Obligations and monies realized from any Security Interests (including monies collected in accordance with or realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as BDC sees fit, and BDC may at any time change any appropriation as BDC sees fit.

## 14. DEFAULT

(You must comply with the payment and other obligations that you have made in favour of BDC. You must also strictly satisfy the covenants and agreements that you have made in this Security Agreement. Failure to do so will be considered a default and BDC will consider its legal remedies and possibly pursue them. This Clause defines the defaults and outlines your obligations.)

14.1 Unless waived by BDC, the Debtor shall be in default under this Security Agreement and shall be deemed to be in default under all other agreements between the Debtor and BDC in any of the following events:

- (a) the Debtor defaults, or threatens to default, in payments when due of any of the Obligations; or
- (b) the Debtor is in breach of, or threatens to breach, any term, condition, obligation or covenant made by it to or with BDC, or any representation or warranty of the Debtor to BDC is untrue or ceases to be accurate, whether or not contained in this Security Agreement; or
- (c) the Debtor or a guarantor of the Debtor declares itself to be insolvent or admits in writing its inability to pay its debts generally as they become due, or makes an assignment for the benefit of its creditors, is declared bankrupt, makes a proposal or otherwise takes advantage of any provisions for relief under Bankruptcy and Insolvency Act (Canada), the Companies Creditors' Arrangement Act (Canada) or similar legislation in any jurisdiction, or makes an authorized assignment; or
- (d) a receiver, manager, receiver and manager or receiver-manager of all or a part of the Collateral is appointed; or
- (e) an order is made or a resolution is passed for the winding up of the Debtor or a guarantor of the Debtor; or

- (f) the Debtor or a guarantor of the Debtor ceases or threatens to cease to carry on all or a substantial part of its business or makes or threatens to make a sale of all or substantially all of its assets; or
- (g) distress or execution is levied or issued against all or any part of the Collateral; or
- (h) if the Debtor is a corporation and any member or shareholder:
  - (i) commences an action against the Debtor; or
  - (ii) gives a notice of dissent to the Debtor in accordance with the provisions of any governing legislation; or
- (i) if the Debtor is a corporation and its voting control changes without BDC's prior written consent; or
- (j) the Debtor uses any monies advanced to it by BDC for any purpose other than as agreed upon by BDC; or
- (k) without BDC's prior written consent, the Debtor creates or permits to exist any security interest, charge, encumbrance, lien or claim against any of the Collateral which ranks or could in any event rank in priority to or on an equal basis with any of the Security Interests; or
- (l) the holder of any other security interest, charge, encumbrance, lien or claim against any of the Collateral does anything to enforce or realize on such security interest, charge, encumbrance, lien or claim; or
- (m) the Debtor enters into an amalgamation, a merger or other similar arrangement with any other person without BDC's prior written consent or, if the Debtor is a corporation, it is continued or registered in a different jurisdiction without BDC's prior written consent; or
- (n) BDC in good faith and on commercially reasonable grounds believes that the prospect of payment or performance of any of the Obligations is impaired or that any of the Collateral is or is about to be placed in jeopardy or removed from the jurisdiction in which this Security Agreement has been registered; or
- (o) the lessor under any lease to the Debtor of any real or personal property takes any steps to or threatens to terminate such lease or otherwise exercise any of its remedies under such lease as a result of any default by the Debtor; or
- (p) the Debtor causes or allows hazardous materials to be brought upon any lands or premises occupied by the Debtor or to be incorporated into any of its assets, or the Debtor causes, permits, or fails to remedy any environmental contamination upon, in or under any of its lands or assets, or fails to comply with any abatement or remediation order given by a responsible authority; or
- (q) any permit, license, certification, quota or order granted to or held by the Debtor is cancelled, revoked or reduced, as the case may be, or any order against the Debtor is enforced, preventing the business of the Debtor from being carried on for more than 5 days or materially adversely changing the condition (financial or otherwise) of the Debtor's business; or
- (r) if an individual, the Debtor dies or is declared incompetent by a court of competent jurisdiction.

## 15. ENFORCEMENT

(If a default occurs, BDC has numerous remedies and legal rights, including enforcement of the Security Agreement according to this Clause. You also have rights, provided by the *Personal Property Security Act* and the common law in your jurisdiction.)

15.1 Upon any default under this Security Agreement BDC may declare any or all of the Obligations whether or not payable on demand to become immediately due and payable and the Security Interests will immediately become

enforceable. To enforce and realize on the Security Interests BDC may take any action permitted by law or in equity as it may deem expedient and in particular, without limitation, BDC may do any of the following:

- (a) appoint by instrument a receiver, manager, receiver and manager or receiver-manager (the "Receiver") of all or any part of the Collateral, with or without bond as BDC may determine, and in its absolute discretion remove such Receiver and appoint another in its stead;
- (b) enter upon any of the Debtor's premises at any time and take possession of the Collateral with power to exclude the Debtor, its agents and its servants, without becoming liable as a mortgagee in possession;
- (c) preserve, protect and maintain the Collateral and make such replacements and repairs and additions to the Collateral as BDC deems advisable;
- (d) dispose of all or part of the Collateral, whether by public or private sale or lease or otherwise, in such manner, at such price as can be reasonably obtained and on such terms as to credit and with such conditions of sale and stipulations as to title or conveyance or evidence of title or otherwise as to BDC may seem reasonable, provided that if any sale, lease or other disposition is on credit the Debtor will not be entitled to be credited with the proceeds of any such sale, lease or other disposition until the monies are actually received;
- (e) register assignments of the Intellectual Property, and use sell, assign, license or sub-license any of the Intellectual Property; and
- (f) exercise all of the rights and remedies of a secured party under the Act and any other applicable laws.

15.2 A Receiver appointed pursuant to this Security Agreement insofar as responsibility for its actions is concerned shall be the agent of the Debtor and not of BDC and, to the extent permitted by law or to such lesser extent permitted by its appointment, shall have all the powers of BDC under this Security Agreement, and in addition shall have power to:

- (a) carry on the Debtor's business and for such purpose from time to time to borrow money either secured or unsecured, and if secured by granting a security interest on the Collateral, such security interest may rank before or on an equal basis with or behind any of the Security Interests and if it does not so specify such security interest shall rank in priority to the Security Interests; and
- (b) make an assignment for the benefit of the Debtor's creditors or a proposal on behalf of the Debtor under Bankruptcy *and Insolvency Act* (Canada); and
- (c) commence, continue or defend proceedings in the name of the Receiver or in the name of the Debtor for the purpose of protecting, seizing, collecting, realizing or obtaining possession of or payment for the Collateral; and
- (d) make any arrangement or compromise that the Receiver deems expedient.

15.3 Subject to the claims, if any, of the creditors of the Debtor ranking in priority to this Security Agreement, all amounts realized from the disposition of the Collateral pursuant to this Security Agreement will be applied as BDC, in its absolute discretion and to the full extent permitted by law, may direct as follows:

- (a) in payment of all costs, charges and expenses (including legal fees and disbursements on a solicitor and its own client basis) incurred by BDC respecting or incidental to:
  - (i) the exercise by BDC of the rights and powers granted to it by this Security Agreement; and
  - (ii) the appointment of the Receiver and the exercise by the Receiver of the powers granted to it by

this Security Agreement, including the Receiver's reasonable remuneration and all outgoings properly payable by the Receiver;

- (b) in or toward payment to BDC of all principal and other monies (except interest) due in respect of the Obligations;
- (c) in or toward payment to BDC of all interest remaining unpaid respecting the Obligations; and
- (d) in payment to those parties entitled thereto under the Act.

## **16. GENERAL PROVISIONS PROTECTING BDC**

(You have granted this Security Agreement to BDC in consideration by BDC advancing funds or providing credit or a credit facility to you. BDC will not be responsible for debts or liabilities that may arise except to the extent that it agrees to be responsible or liable in this Security Agreement. If enforcement becomes necessary, BDC will act in good faith and in a commercially reasonable manner.)

16.1 To the full extent permitted by law, BDC shall not be liable for any debts contracted by it during enforcement of this Security Agreement, for damages to persons or property or for salaries or non-fulfilment of contracts during any period when BDC shall manage the Collateral upon entry or seizure, nor shall BDC be liable to account as a mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or for any default or omission for which a mortgagee in possession may be liable. BDC shall not be bound to do, observe or perform or to see to the observance or performance by the Debtor of any obligations or covenants imposed upon the Debtor nor shall BDC, in the case of securities, instruments or chattel paper, be obliged to preserve rights against other persons, nor shall BDC be obliged to keep any of the Collateral identifiable. To the full extent permitted by law, the Debtor waives any provision of law permitted to be waived by it which imposes greater obligations upon BDC than described above.

16.2 Neither BDC nor any Receiver appointed by it shall be liable or accountable for any failure to seize, collect, realize, sell or obtain payments for the Collateral nor shall they be bound to institute proceedings for the purposes of seizing, collecting, realizing or obtaining payment or possession of the Collateral or the preserving of any right of BDC, the Debtor or any other party respecting the Collateral. BDC shall also not be liable for any misconduct, negligence, misfeasance by BDC, the Receiver or any employee or agent of BDC or the Receiver, or for the exercise of the rights and remedies conferred upon BDC or the Receiver by this Security Agreement.

16.3 BDC or any Receiver appointed by it may grant extensions of time and other indulgences, take and give securities, accept compromises, grant releases and discharges, release any part of the Collateral to third parties and otherwise deal with the debtors of the Debtor, co-obligants, guarantors and others and with the Collateral and other securities as BDC may see fit without liability to BDC and without prejudice to BDC's rights respecting the Obligations or BDC's right to hold and realize the Collateral.

16.4 BDC in its sole discretion may realize upon any other security provided by the Debtor in any order or concurrently with the realization under this Security Agreement whether such security is held by it at the date of this Security Agreement or is provided at any time in the future. No realization or exercise of any power or right under this Security Agreement or under any other security shall prejudice any further realization or exercise until all Obligations have been fully paid and satisfied.

16.5 Any right of BDC and any obligation of the Debtor arising under any other agreements between BDC and the Debtor shall survive the signing, registration and advancement of any money under this Security Agreement, and no merger respecting any such right or obligation shall occur by reason of this Security Agreement. The obligation, if any, of the Debtor to pay legal fees, a commitment fee, a standby fee or administration fees, under the terms of BDC's commitment letter with the Debtor shall survive the signing and registration of this Security Agreement and BDC's advancement of any money to the Debtor and any legal fees, commitment fees, standby fees or administration fees owing by the Debtor shall be secured by the Collateral.

16.6 In the event that BDC registers a notice of assignment of Intellectual Property the Debtor shall be responsible for and shall indemnify BDC against all maintenance and renewal costs in respect thereof, and any costs of initiating or defending litigation, together with all costs, liabilities and damages related thereto.

16.7 Notwithstanding any taking of possession of the Collateral, or any other action which BDC or the Receiver may take, the Debtor now covenants and agrees with BDC that if the money realized upon any disposition of the Collateral is insufficient to pay and satisfy the whole of the Obligations due to BDC at the time of such disposition, the Debtor shall immediately pay to BDC an amount equal to the deficiency between the amount of the Obligations and the sum of money realized upon the disposition of the Collateral, and the Debtor agrees that BDC may bring action against the Debtor for payment of the deficiency, notwithstanding any defects or irregularities of BDC or the Receiver in enforcing its rights under this Security Agreement.

**17. APPOINTMENT OF ATTORNEY**

(You appoint BDC your attorney for specific matters.)

The Debtor hereby irrevocably appoints BDC or the Receiver, as the case may be, with full power of substitution, as the attorney of the Debtor for and in the name of the Debtor to do, make, sign, endorse or execute under seal or otherwise all deeds, documents, transfers, cheques, instruments, demands, assignments, assurances or consents that the Debtor is obliged to sign, endorse or execute and generally to use the name of the Debtor and to do everything necessary or incidental to the exercise of all or any of the powers conferred on BDC, or the Receiver, as the case may be, pursuant to this Security Agreement. This grant and authority shall continue and survive any mental infirmity or legal incapacity of the Debtor subsequent to the execution hereof.

**18. CONSOLIDATION**

(Should you wish to redeem the Security Interest, BDC may require you to also pay other obligations to it before discharging its Security Interests.)

For the purposes of the laws of all jurisdictions in Canada, the doctrine of consolidation applies to this Security Agreement.

**19. NO OBLIGATION TO ADVANCE**

(BDC determines, in the end, whether any advances or further advances under the loan facility will be made.)

Neither the preparation and execution of this Security Agreement nor the perfection of the Security Interests or the advance of any monies by BDC shall bind BDC to make any advance or loan or further advance or loan, or extend any time for payment of any indebtedness or liability of the Debtor to BDC.

**20. WAIVER**

(Indulgences granted by BDC should not be taken for granted.)

BDC may permit the Debtor to remedy any default without waiving the default so remedied. BDC may from time to time and at any time partially or completely waive any right, benefit or default under this Security Agreement but such waiver shall not be a bar to or a waiver of any such right, benefit or default thereafter, or of any other right, benefit or default under this Security Agreement. No waiver shall be effective unless it is in writing and signed by BDC. No delay or omission on the part of BDC in exercising any right shall operate as a waiver of such right or any other right.

**21. NOTICE**

(This Clause describes how the various notices referred to in this Security Agreement may be given.)

Notice may be given to either party by prepaid mail, electronic mail or delivered to the party for whom it is intended, at the principal address or email address, as the case may be, of such party provided in this Security Agreement or at such other address as may be given in writing by one party to the other, and any notice if mailed shall be deemed to have been given at the expiration of three business days after mailing, if sent by electronic mail, on that which such notice is sent, and if delivered, on delivery.

**22. EXTENSIONS**

(Your duties and responsibilities to BDC remain in place regardless of any concerns you may have about the loan facility or BDC's actions.)

BDC may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges, refrain from perfecting or maintaining perfection of security interests, and otherwise deal with the Debtor, the Debtor's account debtors, sureties and others and with the Collateral and other security interests as BDC may see fit without prejudice to the Debtor's liability or BDC's right to hold and realize on the Security Interests.

**23. NO MERGER**

(Except as agreed upon in the Security Agreement or another contract specifically discussing this point, this Security Agreement is an independent obligation on your part.)

This Security Agreement shall not create any merger or discharge of any of the Obligations, or any assignment, transfer, guarantee, lien, contract, promissory note, bill of exchange or security interest of any form held or which may be held by BDC now or in the future from the Debtor or from any other person. The taking of a judgment respecting any of the Obligations will not operate as a merger of any of the covenants contained in this Security Agreement.

**24. RIGHTS CUMULATIVE**

(This Agreement describes some rights and remedies of BDC. BDC also is entitled to rely on all other rights and remedies available to it in law and in any other agreements it has entered into with you.)

BDC's rights and remedies set out in this Security Agreement, and in any other security agreement held by BDC from the Debtor or any other person to secure payment and performance of the Obligations, are cumulative and no right or remedy contained in this Security Agreement or any other security agreements is intended to be exclusive but each will be in addition to every other right or remedy now or hereafter existing at law, in equity or by statute, or pursuant to any other agreement between the Debtor and BDC that may be in effect from time to time.

**25. ASSIGNMENT**

(Should BDC assign or transfer or otherwise deal with this Security Agreement on its own behalf, you agree that the Security Agreement shall remain binding and effective upon you.)

BDC may, without notice to the Debtor, at any time assign or transfer, or grant a security interest in, all or any of the Obligations, this Security Agreement and the Security Interests. The Debtor agrees that the assignee, transferee or secured party, as the case may be, shall have all of BDC's rights and remedies under this Security Agreement and the Debtor will not assert as a defence, counterclaim, right of set-off or otherwise any claim which it now has or may acquire in the future against BDC in respect of any claim made or any action commenced by such assignee, transferee or secured party, as the case may be, and will pay the assigned Obligations to the assignee, transferee or secured party, as the case may be, as the said Obligations become due.

**26. SATISFACTION AND DISCHARGE**

(Until this Security Agreement is terminated and any registrations relating to it are discharged, the Security Agreement will remain effective even though the indebtedness to BDC may have been paid.)

Any partial payment or satisfaction of the Obligations, or any ceasing by the Debtor to be indebted to BDC shall not be a redemption or discharge of this Security Agreement. The Debtor shall be entitled to a release and discharge of this Security Agreement upon full payment and satisfaction of all Obligations, and upon written request by the Debtor and, subject to applicable law, payment to BDC of an administrative fee to be fixed by BDC and payment of all costs, charges, expenses and legal fees and disbursements (on a solicitor and his own client basis) incurred by BDC in connection with the Obligations and such release and discharge. The Debtor shall, subject to applicable law, pay an administrative fee, to be fixed by BDC, for the preparation or execution of any full or partial release or discharge by BDC of any security it holds, of the Debtor, or of any guarantor or covenantor with respect to any Obligations.

## 27. ENVIRONMENT

The Debtor represents and agrees that:

- (a) it operates and will continue to operate in conformity with all applicable environmental laws, regulations, standards, codes, ordinances and other requirements of any jurisdiction in which it carries on business and will ensure its staff is trained as required for that purpose;
- (b) it has an environmental emergency response plan and all officers and employees are familiar with that plan and their duties under it;
- (c) it possesses and will maintain all environmental licences, permits and other governmental approvals as may be necessary to conduct its business and maintain the Collateral;
- (d) there has been no complaint, prosecution, investigation or proceeding, environmental or otherwise, respecting the Debtor's business or assets including without limitation the Collateral;
- (f) it will advise BDC immediately upon becoming aware of any environmental problems relating to its business or the Collateral;
- (g) it will provide BDC with copies of all communications with environmental officials and all environmental studies or assessments prepared for the Debtor and it consents to BDC contacting and making enquiries of environmental officials or assessors;
- (h) it will from time to time when requested by BDC provide to BDC evidence of its full compliance with the Debtor's obligations in this Clause 27.

## 28. ENUREMENT

This Security Agreement shall enure to the benefit of BDC and its successors and assigns, and shall be binding upon the Debtors and its heirs, executors, administrators, successors and any assigns permitted by BDC, as the case may be.

## 29. INTERPRETATION

29.1 In this Security Agreement:

- (a) "Collateral" has the meaning set out in Clause 1 and any reference to the Collateral shall, unless the context otherwise requires, be deemed to be a reference to the Collateral in whole or in part;
- (b) "the Act" means the *Personal Property Security Act* of the province in which the business centre of BDC is located, as described on page 1 of this Security Agreement, and all regulations under the Act, as amended from time to time.

29.2 Words and expressions used in this Security Agreement that have been defined in the Act shall be interpreted in accordance with their respective meanings given in the Act unless otherwise defined in this Security Agreement or unless the context otherwise requires.

29.3 The invalidity or unenforceability of the whole or any part of any clause of this Security Agreement shall not affect the validity or enforceability of any other clause or the remainder of such clause of this Security Agreement.

29.4 The headings used in this Security Agreement have been inserted for convenience of reference only and shall not define, limit, alter or enlarge the meaning of any provision of this Security Agreement.

29.5 This Security Agreement shall be governed by the laws of the province referred to in subclause 29.1(b). For

enforcement purposes, the Debtor hereby attorns to the jurisdiction of the courts and laws of any province, state, territory or country in which BDC enforces its rights and remedies hereunder.

**30. COPY OF AGREEMENT AND FINANCING STATEMENT**

The Debtor:

- (a) acknowledges receiving a copy of this Security Agreement; and
- (b) if the Act so permits, waives all rights to receive from BDC a copy of any financing statement or financing change statement filed, or any verification statement or other document received at any time respecting this Security Agreement.

**31. TIME**

Time shall in all respects be of the essence.

**32. INDEPENDENT ADVICE**

The Debtor acknowledges having received, or having had the opportunity to receive, independent legal and accounting advice respecting this Security Agreement and its effect.

**33. PARENTHETICAL COMMENTS**

The Debtor acknowledges and agrees that the comments in parentheses are intended to provide a brief but not thorough indication of the intent of the legal provisions that follow in each subsequent clause, and do not form part of this Security Agreement.

**34. THE COMMITMENT LETTER**

BDC has extended an offer of financing or a commitment letter to the Debtor relating to the loan facilities secured by this Security Agreement. The Debtor acknowledges and agrees that in the event of any discrepancy between any term of this Security Agreement and any term of the commitment letter, the terms of the commitment letter shall apply and take precedence over the terms of this Security Agreement.

**IN WITNESS WHEREOF** the Debtor has hereunto set his hand and seal or has affixed its corporate seal duly attested by the hand(s) of its proper officer(s) in that behalf, on the day and year first above written.

*[The remainder of this page is intentionally left blank. Signature page to follow.]*

**IN WITNESS WHEREOF** the Debtor has hereunto set his hand and seal or has affixed its corporate seal duly attested by the hand(s) of its proper officer(s) in that behalf, on the day and year first above written.

**SPARTAN BIOSCIENCE INC.**



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Per: Paul G Markell  
Title: Chief Operating Officer and Secretary

I have authority to bind the Corporation.

## SCHEDULE "A"

Subclause 1.1(a):

1. the following specific items, even though they may be included within the descriptions of Collateral (insert description by item or kind):

2. the following serial numbered goods:

**Serial No.** (re motor vehicles & trailers, etc.)

**Year**

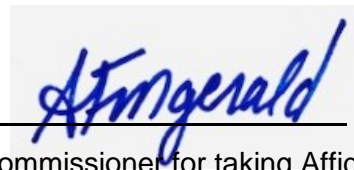
**Make and Model**

3. Location(s) of the Collateral:

2934 Baseline Road, Suite 500, Ottawa, ON K2H 1B2

340 Legget Drive, Suite 180, Ottawa, ON K2K 1Y6

This is **Exhibit 'C'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**

## CREDIT FACILITY AGREEMENT

Dated: November 25, 2020

Casa-Dea Finance Limited (the “**Lender**”) hereby offers Spartan Bioscience Inc. (the “**Borrower**”), a corporation incorporated under the laws of Canada, a credit facility of Seven Million Dollars (\$7,000,000), (the “**Commitment**”) to be advanced on the terms and conditions set forth in this credit facility agreement, as it may be amended from time to time (this “**Credit Facility Agreement**”). All currency amounts in this Credit Facility Agreement are denominated in Canadian dollars.

- Lender Commitments:** The Lender agrees to loan to the Borrower the aggregate commitment amount specified above (the “**Principal Sum**”) subject to the terms and conditions contained in this Credit Facility Agreement.
- Advances:** The Lender agrees to advance its Commitment to the Borrower in a single instalment (the “**Advance**”) on provision of the security and Loan Documents and satisfaction of the conditions herein contained.
- Interest:** Interest will begin to accrue on the day the Advance is made by the Lender, at the rate of 12% per annum, based on a 365 day year, compounded and calculated at the end of each fiscal quarter of the Borrower. Interest will be due and payable on and as of the Maturity Date (as defined below) in accordance with the terms of this Credit Facility Agreement. The Principal Sum and interest accrued thereon at any time is referred to in this Credit Facility Agreement as the “**Aggregate Indebtedness**”.
- Fees:**
- *Commitment Fee.* The Borrower shall pay the Lender an amount equal to 1% of the Commitment (Seventy Thousand Dollars (\$70,000.00) to be deducted and remitted from the Advance.
  - *Financing Fee.* If the Lender subscribes for Financing Securities pursuant to the exercise of the Option and pays to the Borrower the subscription price therefor, the Borrower shall, on and subject to the closing of the Next Equity Financing, pay to the Lender in cash or other immediately available funds a financing fee (the “**Financing Fee**”) equal to 10% of the aggregate subscription price paid for the Financing Securities by the Lender. The terms “Financing Securities”, “Option” and “Next Equity Financing” shall have the meanings ascribed to such terms in Exhibit C. The Financing Fee shall be subject to Harmonized Sales Tax (HST). The Lender is registered for HST and its registration number is [ ]. The Lender agrees to correctly invoice, charge, collect and remit the required amount of HST in respect of the Financing Fee.
- Use of Proceeds:** The Borrower will use the Principal Sum for working capital and general corporate purposes and to fund operations of the Borrower, which, for certainty, does not include using such proceeds for retirement of the Existing

Debt or any other indebtedness of the Borrower (other than ordinary course accounts payable).

**Maturity Date:** The Aggregate Indebtedness will mature on the first to occur of: (a) the occurrence of an Event of Default (as defined below) and the subsequent written demand (or deemed demand) for repayment by the Lender; (b) immediately prior to the closing of a Sale Transaction (as defined below); (c) six (6) months from the date of this Credit Facility Agreement (the applicable date in (a), (b), or (c) being the “**Maturity Date**”). On the Maturity Date, the outstanding Aggregate Indebtedness will become immediately due and payable, unless the Lender approves an extension to the Maturity Date.

**Prepayment:** The Aggregate Indebtedness may be prepaid on not less than 60 days prior written notice, and interest will be payable as if the Advance had fully matured, meaning that notwithstanding prepayment, interest calculated on the Principal Sum for a full six month period shall be payable together with the prepayment of the Principal Sum.

**Option:** On the funding of the Advance, the Borrower shall grant the Lender an option to purchase securities of the Borrower in the form annexed hereto as Exhibit C.

**Sale Transactions:** Any Aggregate Indebtedness will mature immediately prior to the closing of the Sale Transaction and will be repaid or deducted from the proceeds of the Sale Transaction. A “**Sale Transaction**” means: (a) a sale or exclusive license of all or substantially all of the assets of the Borrower; (b) any merger, amalgamation or similar transaction involving the Borrower; or (c) any sale of securities of the Borrower (but not, for greater certainty, including an issuance of securities from treasury) in which the holders of the Borrower’s voting securities prior to such transaction will hold, after such transaction, less than 50% of the combined voting power of the continuing or surviving entity.

**Security:** As security for the performance of its obligations under this Credit Facility Agreement, the Borrower will grant to the Lender a first in priority security interest (the “**Security**”) over all of its presently existing or hereafter acquired or arising assets or properties including its Intellectual Property (the “**Collateral**”) pursuant to the terms of a security agreement in the form attached hereto as Exhibit A (a “**Security Agreement**”).

Upon (a) payment and fulfillment by the Borrower of the Aggregate Indebtedness owed to the Lender (through either set-off or repayment in cash), the Lender will, upon request in writing by the Borrower and at the Borrower’s expense, discharge its respective Security Agreement, provided that the Lender is, at the time of receiving such request from the Borrower, under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Borrower, the payment of which is secured, directly or indirectly, by such Security Agreement.

**Existing Debt and Subordination:**

The existing lenders of the Borrower (the “**Existing Debt**”) will enter into a Subordination Agreement substantially in the form attached hereto as Exhibit B or as agreed upon by the Lender and such existing lender (the “**Subordination Agreement**”) in favour of the Lender providing that the Aggregate Indebtedness will be senior in all respects to the Existing Debt. The Borrower will concurrently deliver to the Lender all reports (including financial reports) and notices that it provides to the holders of the Existing Debt. Subject to execution thereof by the holders of the Existing Debt, the Borrower expressly consents to the provisions of the Subordination Agreement and undertakes not to make any payment in respect of the Existing Debt other than in accordance with the Subordination Agreement, except with the prior written approval of the Lender.

**Conditions Precedent to Entering into this Credit Facility Agreement:**

The obligation of the Lender to enter into this Credit Facility Agreement and the making of the Advance will be subject to the following conditions precedent:

1. The Lender will have received the Security Agreement originally executed by the Borrower, and the security interests granted to the Lender pursuant to the Security Agreement, will constitute valid and perfected security interests in the assets of the Borrower described therein filed in all applicable jurisdictions.
2. The holders of the Existing Debt will have executed and delivered the Subordination Agreement(s).
3. The Borrower will have obtained all consents and approvals from its directors, shareholders, creditors or other third parties required to consummate the transactions contemplated by the Loan Documents (as defined below) and will have delivered copies of such consents and approvals to the Lender.
4. The Lender will be satisfied, in its sole discretion, with the results of his, her or its due diligence investigations on all such issues and areas as he, she or it may determine.
5. The Lender will have received all necessary approvals to enter into this Credit Facility Agreement and consummate the transactions contemplated hereby.
6. All representations and warranties of the Borrower under this Credit Facility Agreement and the Loan Documents will continue to be true and correct in all material respects as if made on and as of the date of the Advance.
7. The Borrower’s solicitors shall have provided a legal opinion as to incorporation, execution and enforceability in form and substance satisfactory to the Lender.

8. The Borrower shall provide a certificate of a senior officer as to incumbency; non-restriction, and due authorization with certified authorizing resolution(s);
9. The Borrower shall provide a letter addressed to the Lender from Bank of Montreal of no security interest other than the specific collateral set out in its PPSA registration against the Borrower and not to shelter future security under such registration.
10. The Borrower will be in compliance with all covenants in this Credit Facility Agreement and the Loan Documents.

**Representations and Warranties of the Borrower:**

The Borrower hereby represents and warrants, as of the date of this Credit Facility Agreement and as of the date of Advance, as follows:

11. The Borrower is a corporation duly incorporated and validly existing under the laws of Canada, with the corporate power to own or lease its property and to carry on the business conducted by it, and is qualified as a corporation to carry on the business conducted by it and to own and lease its property in each jurisdiction where the failure to be so qualified would have a material adverse effect on the Borrower.
12. The execution, delivery and performance of this Credit Facility Agreement and the Security Agreement (collectively, the "**Loan Documents**") are within the Borrower's powers, have been duly authorized, and are not in conflict with, nor constitute a breach of any provision contained in, the Borrower's articles of incorporation and by-laws, each as amended to date, nor will the execution, delivery and performance of the Loan Documents breach any provision of, or constitute an event of default under, any agreement to which the Borrower is a party or by which it is bound as of the date hereof.
13. The Borrower has obtained all consents or approvals from its directors, shareholders, creditors and other third parties required to consummate the transactions contemplated by the Loan Documents.
14. There are no material actions or proceedings pending or, to the best of the Borrower's knowledge, threatened by or against the Borrower before any court, administrative agency, arbitrator, regulatory tribunal or other adjudicate body of competent jurisdictions.
15. There are no judgments or executions against the Borrower.
16. The unaudited, internally-prepared annual financial statements of the Borrower as at December 31, 2019 and the unaudited, internally-prepared interim financial statements of the Borrower for the nine-month period ending September 30, 2020 delivered to the

Lender are true, correct and complete in all material respects, except in the case of the interim financial statements for note disclosure and year-end adjustments.

17. Other than to lenders who have executed and delivered Subordination Agreements in favour of the Lender or as authorized by the Permitted Encumbrances, the Borrower has not granted any security over its assets to any person or entity.
18. There are no finder's fees or similar remuneration payable to any third party in relation to the transactions contemplated by this Credit Facility Agreement.
19. To the best of its knowledge, the Borrower is not in breach of any by-laws, statutes, regulations, rules or order enacted or promulgated by any government authority relating in any way to the Security or the operations of the Borrower's business or both, and there are no restrictions or other agreements affecting the Security.
20. All tax returns and reports of the Borrower required by law to be filed have been accurately prepared and duly filed and all taxes, assessments, contributions, fees and other governmental charges (other than those presently payable without penalty and interest or those currently being contested in good faith) levied against the Borrower or any of its properties or its assets or income which are due and payable, have been paid.
21. The Borrower has not (a) made any assignment for the benefit of creditors, (b) had any receiving order made against it under the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3; or (c) had any petition for such an order been served upon it, nor are there any proceedings in effect under the provisions of the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11 or the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36.
22. The Borrower is not subject to any claims by its employees, arising from salary or benefits, which would rank *pari passu* with, or prior to, the Security, all such salary benefits being paid to date.
23. The Borrower has withheld from each payment to any of its officers, directors and employees the amount of all taxes, including, but not limited to income tax and other deductions required to be withheld therefrom and has paid the same to the proper tax or other receiving officers within the time required under any applicable tax legislation.
24. The Loan Documents are legally binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to applicable bankruptcy, reorganization, insolvency,

moratorium or similar laws affecting creditors' rights generally and to equitable principles of general application.

25. The Borrower owns, possesses and has a good and marketable title to its property, assets and undertaking free and clear of any and all charges, liens and security interests other than the Permitted Encumbrances.
26. The Borrower possesses all licences, franchises, permits, registrations, patents, patent applications, trademarks, trademark applications, trade names, trade name rights, service marks, service mark rights, copyrights, inventions and other forms of intellectual property (collectively "Intellectual Property") which are material to the conduct of its businesses as now conducted; and it owns and possesses or has the right to use such Intellectual Property and, to the best of its knowledge, is not in violation of any valid rights of others with respect thereto. Without limitation such Intellectual Property includes the invention, trade secrets, formulas, software, moral rights and applications with respect to its DNA analyzer known as the Spartan Cube and its COVID 19 medical device and systems.
27. The Borrower maintains all insurance coverages as would be retained by a prudent owner and operator of a business similar to that to the Borrower.
28. As of the date of this Credit Facility Agreement the Borrower has no liabilities other than:
  - (i) liabilities disclosed on, reflected in or provided for in its financial statements delivered to the Lender;
  - (ii) liabilities incurred in the ordinary course of business since the date of its said financial statements; and
  - (iii) liabilities disclosed or referred to in this Credit Facility Agreement.
29. Following the Advance under this Credit Facility Agreement, the Borrower will be solvent and is able to pay its debts as they come due.

**Representations and Warranties of the Lender:**

The Lender represents, warrants and certifies to the Borrower as follows, as of the date of the Advance made by the Lender:

1. The Lender is making the Advance as principal for its own account. The Lender has no present intention of selling or otherwise disposing of, or granting any participation in, this Credit Facility Agreement or any Security Agreement, and has not entered into any contract, undertaking, agreement or arrangement with any person to do so.

2. The Lender is incorporated under the laws of the Province of Ontario and has its registered office address in Ontario.

**Positive Covenants  
of the Borrower:**

So long as any portion of the Indebtedness remains outstanding, the Borrower will:

1. pay all principal, interest and other amounts payable by it to the Lender pursuant to this Credit Facility Agreement and each of the other Loan Documents promptly when due;
2. promptly deliver to the Lender copies of all annual financial statements, quarterly and monthly unaudited financial reports, annual budgets and business plans and the information, documents and other reports that the Borrower is required to deliver to the holders of the Preferred Shares of the Borrower and to its lenders (and at the same times);
3. advise the Lender in writing immediately upon the occurrence of an Event of Default; and
4. use the proceeds of the Advance only for the purpose(s) set forth under the heading "Use of Proceeds" above,

provided that, in each case, the Lender may waive performance of any of the covenants set forth above.

**Negative Covenants  
of the Borrower /  
Protective Provisions**

The Borrower hereby covenants and agrees with the Lender that it will not, without the prior written consent of the Lender, undertake any of the following actions:

1. declare, make, pay or commit to any form of distribution or reduction of the profits of the Borrower or of its capital, including, without limitation, (a) any dividend (including stock dividends) or other distribution on any present or future shares in the capital of the Borrower or any subsidiary, (b) the purchase, redemption or retirement or acquisition any of its shares, or any option, warrant or other right to acquire any such shares, or the application or reservation of any of its assets therefor (other than repurchases of shares from former employees, officers, directors, consultants or other persons who performed services for the Borrower or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or then-current fair market value), (c) any bonuses to shareholders, (d) any payment on account of loans made to shareholders of the Borrower or (e) any bonuses or management fees;
2. incur or create any further or additional indebtedness, unless otherwise permitted by this Credit Facility Agreement, including,

without limitation, incurring subsequent debt with any subsequent lender or subsequent lenders;

3. pledge, mortgage or permit the creation of any security interest, claim or lien against any of its assets, other than Permitted Encumbrances. For the purposes of this Credit Facility Agreement and the Security Agreement, "**Permitted Encumbrances**" means (i) any purchase money security interests granted by the Borrower or arising in the ordinary course of the Borrower's business; (ii) any and all liens, charges, mortgages, security interests, hypothecs and other encumbrances which affect all or any portion of the Collateral given to the Borrower's commercial banks, Royal Bank of Canada and Bank of Montreal subsequent in priority to the Security Agreement other than the existing registration as of the date hereof in favour of Bank of Montreal, (iii) any security interest granted pursuant to subsequent debt; or (iv) otherwise disclosed to and consented to writing by the Lender;
4. incur any expenditures or annualized expense obligations in an amount greater than \$500,000, unless such expenditures have been approved by the Borrower's board of directors;
5. sell, transfer, assign, or otherwise dispose of any Collateral or any group of property and assets forming part of the Collateral if the aggregate consideration for such sale, transfer, assignment or other disposition exceeds \$500,000, other than in the ordinary course of business and for the purpose of carrying on such business;
6. guarantee the debts of any person;
7. change its name;
8. sell, transfer, assign, lease, license or otherwise dispose of the Borrower's assets or any interest therein, or attempt, offer or contract to do so, other than in the ordinary course of the Borrower's business and as would not have a material adverse effect on the Borrower and its ability to pay the Aggregate Indebtedness, release, surrender or abandon possession of any material part of the Borrower's assets or move or transfer any material part of the Borrower's assets from the locations set forth in the Security Agreement;
9. pay any amount to officers or directors of the Borrower in their capacities as officers or directors by way of salary, bonus, commission, directors' fees or otherwise in excess of the scale of such payments to such officers or directors now being made by the Borrower;

10. lend money to or invest money in any person, by way of loan, acquisition of shares, acquisition of debt obligations or in any other way whatsoever;
11. create or acquire any subsidiary, or dispose of any interest in any subsidiary; or
12. merge or amalgamate with any other corporation.

**Events of Default:**

The occurrence of any of the events set forth below will constitute an event of default under this Credit Facility Agreement (each an “**Event of Default**”):

1. if the Borrower (a) ceases or threatens to cease to carry on business, (b) commits or threatens to commit any act of bankruptcy, (c) becomes insolvent, (d) makes an assignment or proposal in bankruptcy, (e) makes a sale of all or substantially all of its assets or (f) has a bankruptcy petition is filed against or presented to it;
2. if the Borrower fails to pay any Indebtedness when due;
3. if the Borrower fails to observe or perform any covenant, agreement or undertaking given by the Borrower to the Lender under the Loan Documents;
4. if the Borrower seeks relief or consents to the filing of a petition against it under any law which involves any compromise of any creditor’s rights against the Borrower;
5. if an execution or any other process of any court becomes enforceable against the Borrower or if a distress or analogous process is levied upon the property of the Borrower or any part thereof, provided such execution, court process, distress or analogous process is in response to one or more awards against the Borrower which exceed \$500,000 in the aggregate;
6. if the Borrower permits any sum admitted as due by the Borrower (or is not disputed to be due by the Borrower) and which forms or is capable of being made a charge upon any of the collateral secured by the Security Agreement with equal priority to or senior to any of the charges created by the Security Agreement to remain unpaid for 30 days after proceedings have been taken to enforce the same;
7. if any material licences, permits or approvals required by any law, regulation or governmental policy or any governmental agency or commission for the operation by the Borrower of its business will be withdrawn or cancelled;

8. if any representation or warranty in any of the Loan Documents made by the Borrower or any of its officers, employees or agents will be false or inaccurate in any material respect;
9. if the Borrower is dissolved or the Borrower's existence is otherwise terminated or any action is taken by the Borrower to effect such termination or dissolution;
10. if any substantial portion of the Borrower's assets is attached, seized, subjected to a writ or distress warrant, levied upon or comes into the possession of any trustee, receiver or person acting in a similar capacity;
11. if the Borrower is enjoined, restrained or in any way prevented by court order from continuing to conduct all or any material part of its affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of the Borrower's assets by any government agency;
12. if there is a material default or other failure to perform under any agreement to which the Borrower is a party or by which the Borrower is bound (including, for certainty, the occurrence of any "Event of Default" as such term is defined in the Existing Debt) that results in a right by a third party or parties, whether or not exercised, to accelerate the maturity of any indebtedness;
13. if an event has occurred that has had, or is likely to have, an adverse effect on the ability of the Borrower to repay the Aggregate Indebtedness when due, or any part thereof, or otherwise fulfil its obligation under the Loan Documents; or
14. if any material misrepresentation, misstatement or omission existed at the time made in any warranty or representation set forth in the Loan Documents.

Upon the occurrence of an Event of Default, the Lender may declare the Aggregate Indebtedness to be immediately due and payable by written demand, which right will be in addition to any other rights or remedies in this Credit Facility Agreement or the other Loan Documents or at law or in equity and will be subject to the waiver rights of the Lender described below. Upon such written demand, the Aggregate Indebtedness will become immediately due and payable without presentation, demand, protest or further notice of any kind, all of which are hereby waived by the Borrower. The Aggregate Indebtedness will continue to bear interest at the rate provided under the caption "Interest" from the date of such declaration until payment is received by the Lender, such subsequent interest to be payable in the same manner as the Aggregate Indebtedness.

Notwithstanding the foregoing:

- (a) in the case of an Event of Default described in paragraph 1 above, the Lender will be deemed to have made such declaration immediately upon the occurrence of such Event of Default;
- (b) the Aggregate Indebtedness will not become due and payable by reason only of the occurrence of an Event of Default if such Event of Default is remedied within five business days (or in the case of an event set out in paragraph 2 above, two business days) from the date the Borrower became aware of such default or should reasonably have become aware of such default, or does not otherwise continue for at least five business days (or in the case of an event set out in paragraph 2 above, two business days) from such date; and
- (c) the Lender may, in writing (and not otherwise), waive any breach by the Borrower of any of the provisions contained in the Loan Documents or any default by the Borrower (including an Event of Default) in the observance or performance of any provision of the Loan Documents, provided always that no waiver will extend to or be taken in any manner whatsoever to affect any subsequent breach or default, whether of the same or a different nature, or the rights resulting therefrom.

If an Event of Default has occurred and is continuing and if the Borrower has failed to perform any of its covenants or agreements in the Loan Documents, one or more persons designated by the Lender, may, but will be under no obligation to, perform any such covenants or agreements in any manner without thereby waiving any rights of the Lender to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Lender in respect of the foregoing will be an obligation and will be secured by the Loan Documents.

**Remedies Cumulative** For greater certainty, it is expressly understood that the respective rights and remedies of the Lender hereunder or under any other Loan Document or instrument executed pursuant to this Credit Facility Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity.

**Indemnification:** The Borrower will defend, indemnify and hold harmless the Lender and its respective directors, officers, employees, shareholders, partners, heirs, executors, administrators, legal personal representatives, successors and assigns, as applicable (collectively, the "**Indemnitees**"), against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (b) all losses or expenses in any way suffered, incurred, or paid by the Indemnitees as a result of or in any way arising out of, following,

or consequential to the transactions between the Lender and the Borrower under the Loan Documents (including without limitation reasonable legal fees and expenses), except to the extent such losses or expenses are caused by the gross negligence or wilful misconduct of any of the Indemnitees.

**Permitted  
Encumbrances:**

The inclusion of any reference to Permitted Encumbrances in this Credit Facility Agreement or any Loan Document is not intended to subordinate any encumbrance created by any of the Loan Documents to any Permitted Encumbrance, unless expressly set out in a subordination agreement or otherwise by operation of applicable law.

**Maximum Rate of  
Interest:**

Notwithstanding any provision herein to the contrary, in no event will the aggregate "interest" (as defined in Section 347 of the *Criminal Code of Canada* or any successor provision thereto ("**Section 347**")) payable by the Borrower under this Credit Facility Agreement exceed the maximum effective annual rate of interest on the "credit advanced" (as defined in Section 347) permitted under Section 347. If any payment, collection or demand pursuant to this Credit Facility Agreement in respect of "interest" (as defined in Section 347) would exceed the maximum permitted amount under Section 347, the amount so payable will be reduced to the maximum which could be payable without contravening the provision of Section 347. In the event that any amount paid to the Lender is determined to be contrary to the provisions of Section 347, such payment, collection or demand will be deemed to have been made by mutual mistake of the Lender and the Borrower, as it is not the intent of the parties to provide for an "interest" (as defined in Section 347) exceeding the maximum effective annual rate permitted by such laws, and the amount of such payment or collection will be refunded to the Borrower only to the extent of the amount which is greater than the maximum effective annual rate permitted by Section 347. For purposes of determining compliance with Section 347, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term commencing on the date of this Credit Facility Agreement and ending on the Maturity Date, and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Lender, and reasonably acceptable to the Borrower, will be prima facie evidence for the purposes of such determination.

**Amendments/Waivers:**

This Credit Facility Agreement and any of the Loan Documents may be amended or modified, and any obligation or condition set forth herein may be waived, by an instrument in writing duly executed by the Borrower and the Lender.

**Entire Agreement /  
Paramourncy:**

This Credit Facility Agreement and the other Loan Documents represent the entire agreement of the parties with respect to the subject matter set forth in this Credit Facility Agreement, and supersede all prior negotiations, agreements, undertakings, declarations, commitments, representations, written or oral, in respect of such subject matter.

To the extent of any conflict or inconsistency between the provisions of this Credit Facility Agreement and the provisions of any of the Loan Documents, the provisions of this Credit Facility Agreement will govern to the extent of the conflict or inconsistency.

**Notice:**

Any notice or demand to be given in connection with this Credit Facility Agreement must be in writing and may be given by delivering, mailing or sending (by email or other electronic means) such notice to a party to the Credit Facility Agreement at the address set forth on such party's signature page. The Borrower may change its address for notice by providing notice of such change to the Lender in the manner specified above. The Lender may change its address for notice by providing notice of such change to the Borrower. Notices will be deemed to be delivered: (a) upon delivery (if delivered personally or by courier); (b) after five business days (if delivered by regular mail); or (c) upon transmission (if sent via email), provided that notices transmitted by email after 5 pm on any business day will be deemed to have been delivered on the next business day.

**Expenses:**

The Borrower will pay the reasonable and documented legal fees (including all applicable taxes and disbursements) of counsel to the Lender incurred in connection with the preparation, review and settlement of this Credit Facility Agreement, the other Loan Documents and other legal documentation prepared in connection therewith to a maximum amount of \$12,500, inclusive of applicable taxes and disbursements. Such fees and disbursements may be deducted out of the Advance on behalf of the Borrower.

**Assignment:**

The Lender has the right to assign any or all of its rights and obligations under the terms of the Loan Documents. Any assignment will be subject to the following conditions: (a) the transferee will agree in writing to be bound by the terms of the Loan Documents; (b) the Lender will provide written notice of such assignment to the Borrower; and (c) the Lender will bear any costs or expenses associated with such assignment. The Borrower may not assign any of its rights and obligations under the terms of the Loan Documents without the prior written consent of the Lender.

**Enurement:**

This Credit Facility Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

- Severability:** If any provision of this Credit Facility Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof, and the remaining part of such provision and all other provisions hereof will continue in full force and effect.
- Governing Law:** This Credit Facility Agreement is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law, rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each of the Lender and the Borrower irrevocably submits to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto. The laws of the Province of Ontario govern the execution of this Credit Facility Agreement, regardless of where this Credit Facility Agreement was signed.
- No Set-Off:** The obligations of the Borrower to make all payments of principal and interest and all other amounts hereunder will be absolute and unconditional and will not be affected by any circumstances, including, without limitation, any set-off, compensation, counter-claim, recoupment, defence or other right which the Borrower may have against the Lender or anyone else for any reason whatsoever.
- Termination of Credit Facility Agreement:** This Credit Facility Agreement will terminate and be of no further force or effect upon the repayment of the Aggregate Indebtedness in accordance with the terms of the Loan Documents save and except those terms contemplated to survive termination including without limitation the obligation to pay the Financing Fee.
- Execution and Delivery:** This Credit Facility Agreement and the other Loan Documents may be signed electronically, including through DocuSign and similar electronic signature applications. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Credit Facility Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.

***[Signature pages follow]***

IN WITNESS WHEREOF the parties hereto have executed this Credit Facility Agreement with effect as of the date first written above.

By the Borrower:

**SPARTAN BIOSCIENCE INC.**

By:   
Name: Rick Clements  
Title: Chief Financial Officer

Address for Notice:

2934 Baseline Road, Suite 500

Ottawa, Ontario


K2H 1B2

Email: legal@spartanbio.com

By the Lender:

**CASA-DEA FINANCE LIMITED**

By:

  
Name: Darrell Edgett  
Title: V.P.

Address for Notice:

150 North Murray Street  
Trenton, ON  
K8V 6R8

Email: darrell@decacables.com

Commitment: \$7,000,000

**EXHIBIT A**  
**TO THE CREDIT FACILITY AGREEMENT**

**FORM OF SECURITY AGREEMENT**

TO: **Casa-Dea Finance Limited** (the “**Secured Party**”)

FROM: **Spartan Bioscience Inc.** (the “**Borrower**”)

DATE: \_\_\_\_\_, 2020

1. **Obligations Secured.** The Borrower hereby enters into this Security Agreement for good and valuable consideration and as security for the payment of all present and future indebtedness of the Borrower to the Secured Party and interest accrued thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, matured or unmatured, joint or several, of the Borrower to the Secured Party, whether as principal or surety, including, without limiting the generality of the foregoing, pursuant to the Credit Facility Agreement dated as of the date hereof between the Borrower and the Secured Party (the “**Credit Facility Agreement**”, and all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the “**Obligations**”).
2. **Definitions and Interpretation.** Except as otherwise defined in this general security agreement (this “**Security Agreement**”), capitalized terms have the respective meanings set forth in the Credit Facility Agreement. To the extent the Collateral (defined below) is located in the Province of Ontario, this Security Agreement will be read and interpreted in accordance with the provisions of the *Personal Property Security Act* (Ontario) (“**PPSA**”).
3. **Grant of Mortgages, Charges and Security Interests**

As continuing security for the payment and performance of all Obligations, the Borrower hereby pledges, assigns, mortgages, charges and hypothecates to the Secured Party and grants to the Secured Party a security interest in the following (the “**Security Interest**” and all present and future property, assets and undertaking of the Borrower so pledged, assigned, mortgaged, charged and hypothecated, the “**Collateral**”):

- (a) all of its present and future equipment, including, without limiting the generality of the foregoing, all of its fixtures, plant, machinery, tools and furniture, books, records, documents, and vehicles of any nature, kind or description, now or hereafter owned or acquired and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating to the foregoing;
- (b) all of its present and future inventory, including, without limiting the generality of the foregoing, all of its raw materials, materials used or consumed in its business, work-in-progress, finished goods, goods used for packing and goods acquired or held for sale or lease or that have been leased or furnished or that are to be furnished under contracts of rental or service, and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing;

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- (c) all of its present and future accounts and intangibles, including, without limiting the generality of the foregoing, all of its book debts, accounts and other amounts receivable, contract rights and choses in action of every kind or nature including insurance rights arising from or out of the assets referred to in Sections 3(a) and 3(b) hereof, goodwill, chattel paper, instruments of title, investments, money and securities;
- (d) all of its present and future Investment Property (as such term is defined in the PPSA) and Financial Assets (as such term is defined in the *Securities Transfer Act, 2006* (Ontario), as amended from time to time and any legislation substituted therefor and any amendments thereto) of the Borrower, including all substitutions for any Investment Property or Financial Assets and dividends and income derived therefrom or payable in connection therewith ("**Investment Collateral**");
- (e) all of its present and future intellectual property (whether registered or unregistered) comprising without limitation all computer programs, application software, hardware/software maintenance support agreements and all documentation related thereto, licenses of software, copyrights, patents and inventions, trade-marks, trade names, business names, trade styles and other business identifiers, industrial designs, integrated circuit topographies, trade secrets and other confidential information and all know-how obtained, developed or used by the Borrower or contemplated at any time for use by the Borrower (the "**Intellectual Property Collateral**");
- (f) its business and undertaking and all of its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, both present and future (other than property and assets hereby validly assigned or subjected to a specific mortgage, charge or security interest by Sections 3(a), 3(b), 3(c), 3(d) and 3(e) hereof and the exceptions hereinafter contained), which security is granted as and by way of a floating charge;
- (g) proceeds arising from any of the property, assets and undertaking of the Borrower referred to in this Section 3; and
- (h) all additions to and replacements of the assets referred to in this Section 3.

#### 4. **Limited Exceptions to Grant of Security Interest**

- (a) Despite any other provision of this Security Agreement, the last day of any term reserved by any lease of real property, oral or written, or any agreement therefor, now held or hereafter acquired by the Borrower, and whether falling within the general or particular description of the Collateral, is hereby and will be excepted out of the Security Interest, but the Borrower will stand possessed of the reversion of one day remaining in the Borrower in respect of any such term, for the time being demised, as aforesaid, upon trust to assign and dispose of the same as any purchaser of such term may direct.
- (b) Despite any other provision of this Security Agreement, the Security Interest will not attach to any agreement, right, franchise, licence, authorization, approval, privilege or permit to which the Borrower is now or hereafter becomes a party, in which the Borrower now or hereafter has any interest or of which the Borrower is or hereafter becomes a beneficiary (a "**Contractual Right**") to the extent that the granting of the Security Interest therein

would constitute a breach of, or permit any person to terminate such Contractual Right, but the Borrower will hold its interest in each such Contractual Right in trust for the Secured Party and will, after the Security Interest has become enforceable, specifically assign each such Contractual Right to the Secured Party, or as the Secured Party may otherwise direct. The Borrower agrees that it will, upon the request of the Secured Party, whether before or after the Security Interest has become enforceable, use all commercially reasonable efforts to obtain any consent required to permit any such Contractual Right to be subjected to the Security Interest, and the Security Interest will attach to such Contractual Right following the receipt of such consent.

- (c) Despite any other provision of this Security Agreement, the interests granted to the Secured Party pursuant to this Security Agreement in the Borrower's existing and after-acquired trademarks will be limited to the Secured Party's Security Interest therein.

## 5. Attachment

The Borrower confirms and agrees that: (a) value has been given by the Secured Party to the Borrower; (b) the Borrower has rights in all existing Collateral and power to transfer rights in the Collateral to the Secured Party; and (c) the Borrower and the Secured Party have not postponed the time for attachment of the Security Interest, and the Security Interest will attach to existing Collateral upon the execution of this Security Agreement and will attach to Collateral in which the Borrower hereafter acquires rights at the time that the Borrower acquires rights in such Collateral.

## 6. Provisions with respect to Investment Collateral

All certificates representing Investment Collateral may remain registered in the name of the Borrower, but the Borrower will, promptly at the request of the Secured Party, duly endorse such certificates in blank for transfer or execute stock powers of attorney in respect thereof and deliver such certificates or powers of attorney to the Secured Party; in either case with signatures guaranteed and with all documentation being in form and substance satisfactory to the Secured Party. Upon the request of the Secured Party:

- (a) the Borrower will promptly cause the Investment Collateral to be registered in the name of the Secured Party or its nominee, and the Secured Party is hereby appointed the irrevocable attorney (coupled with an interest) of the Borrower with full power of substitution to cause any or all of the Investment Collateral to be registered in the name of the Secured Party or its nominee;
- (b) the Borrower will promptly cause each securities intermediary that holds any Investment Collateral that is a security entitlement to record the Secured Party as the entitlement holder of such Investment Collateral; and
- (c) the Borrower will promptly:
  - (i) cause a security certificate to be issued for any Investment Collateral that is in the form of an uncertificated security or a security entitlement;
  - (ii) endorse such security certificate in blank;
  - (iii) deliver such security certificate to the Secured Party; and

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- (iv) take all other steps necessary to give exclusive control over such certificated security to the Secured Party,

in a manner satisfactory to the Secured Party.

Until further notice is given by the Secured Party to the Borrower terminating such rights of the Borrower, the Borrower will be entitled to exercise all voting rights attached to the Investment Collateral and give consents, waivers and ratifications in respect thereof; provided that no vote will be cast or consent, waiver or ratification given or action taken which would be prejudicial to the interests of the Secured Party or which would have the effect of reducing the value of the Investment Collateral as security for the Obligations, or imposing any restriction on the transferability of any of the Investment Collateral. All such rights of the Borrower to vote and give consents, waivers and ratifications will cease immediately upon receipt by the Borrower of such notice by the Secured Party.

The responsibility of the Secured Party in respect of any Investment Collateral held by the Secured Party will be limited to exercising the same degree of care which it gives valuable property of the Secured Party at the Secured Party's office where such Investment Collateral is held. The Secured Party will not be bound under any circumstances to realize on any Investment Collateral or allow any Investment Collateral to be sold, or exercise any option or right attaching thereto, or be responsible for any loss occasioned by any sale of Investment Collateral or by the retention or other refusal to sell the same; nor will the Secured Party be obliged to collect or see to the payment of interest or dividends thereon but, subject to the foregoing paragraph, all such interest and dividends, if and when received by the Borrower, will be held by the Borrower in trust for the Secured Party and will be forthwith paid to the Secured Party.

## 7. **Covenants of the Borrower**

The Borrower agrees with the Secured Party that, until the Obligations have been satisfied and paid in full, the Borrower will act in accordance with the covenants set forth below, which covenants are in addition to the covenants of the Borrower in favour of the Secured Party under the Credit Facility Agreement:

- (a) Unless otherwise agreed to by, or stipulated pursuant to, the prior written consent or direction, as applicable, of the Secured Party, the Borrower will:
  - (i) hold the proceeds received from any direct or indirect dealing with the Collateral in trust for the Secured Party after either the security interests granted in this Security Agreement become enforceable or any of the Collateral is sold other than in the ordinary course of business of the Borrower and for the purpose of carrying on such business;
  - (ii) insure and keep insured all of the Collateral against loss or damage by fire and other insurable hazards for which such Collateral is commonly insured against in all locations of the collateral described on the signature page of this Security Agreement (the "**Collateral Locations**") to the full insurable value thereof and, in addition, obtain and maintain such other insurance as the Secured Party may require, and, in connection therewith, (A) the Borrower will pay when due all premiums and other amounts payable for maintaining such insurance, (B) should the Borrower fail to pay any premiums when due then the Secured Party may do so and the cost of such premiums will be added to the Obligations and will be secured by the security interests granted herein and (C) all such policies of

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insurance will neither permit nor provide for any amount of co-insurance by the Borrower;

- (iii) keep the then-existing Collateral in good condition and repair according to the nature and description thereof, and to not use the Collateral in violation of the provisions of this Security Agreement or any other agreement of the Borrower relating to the Collateral or any policy issued to the Borrower insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance, and the Secured Party may, whenever it deems, either in person or by agent, enter upon the Borrower's property and inspect the Collateral and the reasonable cost of such inspection will be payable on demand and added to the Obligations and the Secured Party may make repairs as it deems necessary, and the cost thereof will be payable on demand and added to the Obligations;
- (iv) strictly comply with every covenant and undertaking heretofore or hereafter given by the Borrower to the Secured Party;
- (v) strictly comply with valid requirements of any governmental authority pertaining to the operation by the Borrower of its business;
- (vi) permit the Secured Party at any time and from time to time, only after the security granted pursuant to this Security Agreement will have become enforceable, to require any account debtor of the Borrower to make payment to the Secured Party of any or all amounts owing by the account debtor to the Borrower and the Secured Party, may take control of any proceeds referred to in Section 3(g) hereof and may hold all amounts received from any account debtor and any proceeds as cash collateral as part of the Collateral and as security for the Obligations;
- (vii) pay or cause to be paid all taxes, rates and other impositions whatsoever already charged or hereafter to be charged by any authority on any of the Collateral as and when they will generally fall due and, upon the request of the Secured Party, deliver to the Secured Party evidence of such payments;
- (viii) comply with all applicable laws, regulations and orders, including, without limitation, all public and employee health and safety provisions and all applicable federal, provincial or municipal environmental laws and all regulations or requirements thereunder relating in any way to the environment or the release of any substance into the environment;
- (ix) defend the Collateral against the claims and demand of all other parties claiming the same or an interest therein and take all reasonable actions to keep the Collateral free from all encumbrances, other than Permitted Encumbrances;
- (x) notify the Secured Party promptly of: (A) any material change in the information contained herein relating to the Borrower, including without limitation any change in the Borrower's registered office address, the Borrower's business or the Collateral; (B) the details of any significant acquisition of Collateral; (C) the details of any material complaints, violations, claims or litigation affecting the Borrower or the Collateral; (D) any material loss or damage to the Collateral; (E) any default by

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the Borrower in payment or performance of its Obligations with respect to the Collateral; and (F) the return to or repossession by the Borrower of the Collateral;

- (xi) do, execute, acknowledge and deliver such further assignments, transfers, documents, acts, matters and things (including further schedules hereto) as may from time to time be reasonably requested by the Secured Party of or with respect to the Collateral in order to give effect to this Security Agreement and to pay all costs and expenses (including reasonable legal fees) of the Secured Party incurred with respect to searches and filings in connection therewith and with respect to the preparation, execution and filing of this Security Agreement and keeping the security interest granted hereunder perfected;
- (xii) make and maintain all filings, registrations and recordations necessary or desirable to protect its right, title and interest in the Collateral, including all filings, registrations and recordations necessary or desirable in respect of patents, trademarks, copyrights and industrial designs included in the Intellectual Property Collateral;
- (xiii) prevent the Collateral from being or becoming an accession to other property not covered by this Security Agreement;
- (xiv) at all times, both before and after the occurrence of a default, do or cause to be done such further and additional acts and things and execute and deliver or cause to be executed and delivered all such further and additional documents and agreements as the Secured Party may reasonably require to better pledge, assign, mortgage, charge and hypothecate the Collateral in favour of the Secured Party, to perfect the Security Interest and, without limiting the generality of the forgoing, to accomplish the intentions of this agreement;
- (xv) carry on and conduct the business of the Borrower so as to protect and preserve the Collateral and to keep, in accordance with Canadian generally accepted accounting principles, consistently applied, financial statements supported by the books of account for the Borrowers' business as well as accurate and complete records concerning the Collateral;
- (xvi) upon written request from the Secured Party, promptly make available to the Secured Party from time to time, true and complete copies of: (A) any documents of title, instruments, securities and chattel paper constituting, representing or relating to the Collateral; (B) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same; (C) all financial statements prepared by or for the Borrower regarding Borrower's business; (D) all policies and certificates of insurance relating to the Collateral; and (E) such information concerning Collateral, the Borrower and the Borrower's business and affairs as the Secured Party may reasonably request;
- (xvii) observe and perform all its obligations under all material leases, licences, undertakings and agreements to which the Borrower is a party, obtain and preserve the Borrower's rights, powers, licences, privileges, franchises and

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goodwill thereunder, and comply with all applicable laws, by-laws, rules, regulations and ordinances; and

(xviii) subject to the transportation and location of equipment outside of the Collateral Locations in the ordinary course of business, prior to the removal of any of the Collateral from the Collateral Location in which it is or they are situated at the date of this Security Agreement or to leasehold property, effect such further registrations and obtain such other consents and give such other security as may be required or desirable to protect or preserve the security hereby created, and the Borrower will forthwith notify the Secured Party of the intended removal and the action proposed to be taken.

- (b) The Borrower will not, without the prior written consent of the Secured Party:
- (i) create any lien upon, assign or transfer as security, or pledge, hypothecate, charge, mortgage or grant a security interest in any Collateral except to the Secured Party and except for Permitted Encumbrances;
  - (ii) change the location of its chief executive office from that set out on the signature page hereto without providing the Secured Party with thirty (30) business days' prior written notice thereof; or
  - (iii) keep tangible Collateral at any location other than the location(s) listed in on the signature page hereto without providing the Secured Party with thirty (30) business days' prior written notice thereof; or
  - (iv) assign any of its rights or obligations under this Security Agreement.

## 8. **Default**

The Obligations will, at the option of the Secured Party, become payable and the security granted pursuant to this Security Agreement will become enforceable upon the occurrence of an Event of Default as defined in the Credit Facility Agreement.

## 9. **Remedies of the Secured Party**

Whenever the Security Interest will have become enforceable, and so long as it will remain enforceable, the Secured Party may, and subject to the rights of any subsequent lender or subsequent lenders, proceed to realize the Security Interest and the Collateral and to enforce its rights by doing any one or more of the following:

- (a) entering upon the Collateral and any lands and premises where any Collateral is or may be located;
- (b) taking possession of Collateral by any method permitted by law;
- (c) occupying any lands and premises owned or occupied by the Borrower and using all or any part of such lands and premises and the equipment and other Collateral located thereon;

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- (d) leasing, selling, licensing or otherwise disposing of the whole or any part or parts of the Collateral;
- (e) collecting, selling or otherwise dealing with any accounts or other amounts receivable of the Borrower, including notifying any person obligated to the Borrower in respect of an account, chattel paper or instrument to make payment to the Secured Party of all present and future amounts due thereon;
- (f) taking steps and expending such monies as it considers necessary or desirable in its sole discretion to maintain, preserve and protect the Collateral, including making payments on account of other security interests affecting the Collateral; provided that the Secured Party will have no obligation to take any such actions or make any such expenditures; but any such amounts paid by the Secured Party will be added to the Obligations and will be secured by the Security Interest;
- (g) collecting any rents, income, and profits received in connection with the business of the Borrower or the Collateral, without carrying on such business;
- (h) exercising all voting rights attached to any Collateral constituting Investment Collateral (whether or not registered in the name of the Secured Party or its nominee) and giving or withholding all consents, waivers and ratifications in respect thereof and otherwise acting with respect thereto as though it were the absolute owner thereof;
- (i) exercising any and all rights of set-off, exchange, subscription or any other rights, privileges or options pertaining to any Collateral constituting Investment Collateral as if it were the absolute owner thereof including the right to exchange at its sole discretion any and all of such Investment Collateral upon the merger, consolidation, reorganization, recapitalization or other readjustment of any issuer thereof, or upon the exercise by any issuer of any right, privilege or option pertaining to any such Investment Collateral, and in connection therewith, to deposit and deliver any such Investment Collateral with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as it may determine in its sole discretion, all without liability except to account for property actually received by it;
- (j) complying with any limitation or restriction in connection with any proposed sale or other disposition of Collateral constituting Investment Collateral as may be necessary in order to comply with applicable law or regulation or any policy imposed by any stock exchange, securities commission or other governmental or regulatory authority or official, and the Borrower agrees that such compliance will not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, and the Secured Party will not be liable or accountable to the Borrower for any discount in the sale price of any such Investment Collateral which may be given by reason of the fact that such Investment Collateral are sold in compliance with any such limitation or restriction;
- (k) carrying on the business of the Borrower or any portion thereof;
- (l) exercising any and all of the rights and remedies granted pursuant to the PPSA and any other applicable legislation, or otherwise available at law or in equity;

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- (m) demanding, commencing, continuing or defending any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of the Collateral, and giving valid and effectual receipts and discharges therefor and to compromise or give time for the payment or performance of all or any part of the accounts or other amounts receivable of the Borrower or any other obligation of any third party to the Borrower;
- (n) borrowing money for the maintenance, preservation or protection of the Collateral or for the carrying on of the business of the Borrower, and charge and grant further security interests in the Collateral in priority to the Security Interest or otherwise, as security for the money so borrowed;
- (o) accepting the Collateral in satisfaction of the Obligations;
- (p) appointing by instrument in writing a Receiver or Receivers of the Collateral or any part thereof. For the purposes of this Security Agreement, “**Receiver**” means a receiver, receiver-manager and receiver and manager;
- (q) bringing proceedings in any court of competent jurisdiction for the appointment of a Receiver or Receivers or for the sale of the Collateral or any part thereof; and
- (r) filing such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Borrower or the Collateral.

Any Receiver appointed by the Secured Party may be any person or persons (including one or more officers or employees of the Secured Party) and the Secured Party may remove any Receiver so appointed and appoint another or others instead. Any such Receiver may exercise any and all of the rights, remedies and powers of the Secured Party provided in this Security Agreement. The Secured Party will not be responsible for the actions, errors or omissions of any Receiver it appoints and any such Receiver will be deemed to act as agent for the Borrower for all purposes, including the occupation of any lands and premises of the Borrower and in carrying on the Borrower’s business, unless the Secured Party expressly specifies in writing that the Receiver will be agent for the Secured Party for one or more purposes. Without limiting the generality of the forgoing, for the purposes of realizing upon the Security Interest, any Receiver may sell, lease, or otherwise dispose of Collateral as agent for the Borrower or as agent for the Secured Party as the Secured Party may specify in writing in its sole discretion. The Borrower agrees to ratify and confirm all actions of any Receiver appointed by the Secured Party acting as agent for the Borrower, and to release and indemnify the Receiver in respect of all such actions.

Without limiting the ability of the Secured Party or any Receiver to dispose of Collateral in any other manner, the Borrower agrees that any sale, lease or other disposition of the Collateral hereunder may be completed by public auction, public tender or private contract, with or without notice, with or without advertising and with or without any other formality (except as required by law), all of which are hereby waived by the Borrower. Any such disposition of Collateral may involve all or part of the Collateral and may be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as the Secured Party or any Receiver appointed by the Secured Party may, in its sole discretion, deem advantageous and may take place whether or not the Secured Party or any such Receiver has taken possession of such Collateral. Any purchaser or lessee of Collateral may be a customer of the Secured Party.

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The Secured Party will not be liable for any delay or failure to enforce any rights, powers or remedies available to it or to institute any proceedings for such purposes.

No right, power or remedy of the Secured Party (whether granted herein or otherwise) will be exclusive of or dependent on or merge in any other right, power or remedy, but all such rights, powers and remedies may from time to time be exercised independently or in combination.

The Borrower agrees to pay to the Secured Party, forthwith on demand by the Secured Party, all costs and expenses incurred by the Secured Party in connection with the exercise by the Secured Party of its rights, powers and remedies hereunder, including:

- (a) any costs and expenses incurred by the Secured Party in taking, holding, moving, storing, recovering, possessing, repairing, processing, preparing for disposition or disposing of Collateral;
- (b) any legal fees and expenses incurred by the Secured Party in enforcing its rights, powers and remedies, including those incurred in connection with any proceedings taken for the purpose of enforcing its rights, powers and remedies hereunder or otherwise relating to the non-payment or non-performance of any Obligations;
- (c) the cost of borrowing amounts as hereinbefore provided (for the purpose of carrying on the Borrower's business or otherwise), including, the principal amount or any such amount borrowed, all interest thereon and fees relating thereto; and
- (d) all costs and expenses of or incurred by any Receiver, agent or consultant appointed by the Secured Party (including any legal fees and expenses incurred by any such Receiver, agent or consultant).

All such sums will bear interest at the highest rate applicable to the Obligations, will form part of the Obligations and will be secured by the Security Interest.

Any and all payments made in respect of the Obligations from time to time and moneys realized from any Collateral (including moneys realized on any enforcement of this agreement) may be applied to such part or parts of the Obligations as the Secured Party may see fit, and the Secured Party will at all times and from time to time have the right to change any appropriation as the Secured Party may see fit.

The Borrower will remain liable for all Obligations that are outstanding following realization of all or any part of the Collateral.

#### 10. **Additional Rights of the Secured Party**

The Secured Party has the following rights:

- (a) The Secured Party may pay the whole or any part of any liens, taxes, rates, charges or encumbrances now or hereafter existing in respect of any Collateral and such payments together with all costs, charges and expenses which may be incurred in connection with making such payments will form part of the Obligations, will bear interest at the highest rate applicable to the Obligations, and will be secured by the Security Interest. Whenever the Secured Party pays any such lien, tax, rate, charge or encumbrance, it will be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to

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obtain any discharge thereof and hold such discharge without registration for so long as it may deem advisable to do so.

- (b) If the Borrower fails to perform or comply with any covenant or other obligation of the Borrower under this Security Agreement, the Secured Party may, but need not, perform or otherwise cause the performance or compliance of such covenant or other obligation, provided that any performance or compliance undertaken by the Secured Party will not constitute a waiver, remedy or satisfaction of such failure. The costs and expenses of the Secured Party incurred in connection with any such performance or compliance will be payable by the Borrower to the Secured Party on demand, form part of the Obligations, bear interest at the highest rate applicable to the Obligations and be secured by the Security Interest.
- (c) The Borrower grants to the Secured Party the right to set off against the Obligations (or any portion thereof) any amount owed by the Secured Party to the Borrower, including the amount of any and all accounts, credits or balances maintained by the Borrower with the Secured Party.
- (d) The Secured Party, without exonerating in whole or in part the Borrower, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Borrower and all other persons and securities as the Secured Party may see fit.
- (e) The Secured Party may assign, transfer and deliver to any transferee any of the Obligations or any security or any documents or instruments held by the Secured Party in respect thereof.

Notwithstanding the foregoing, nothing herein will obligate the Secured Party to extend or amend any credit to the Borrower or to any other person.

#### 11. **Amalgamation of Borrower**

If the Borrower amalgamates with any other corporation or corporations, this Security Agreement will continue in full force and effect and will be binding on the amalgamated corporation and, for greater certainty:

- (a) the Security Interest will (i) continue to secure payment of all obligations of the Borrower to the Secured Party, (ii) secure payment of all obligations of each other amalgamating corporation to the Secured Party and (iii) secure payment of all obligations of the amalgamated corporation to the Secured Party arising on or after the amalgamation; and the term "Obligations" will include all such obligations of the Borrower, the other amalgamating corporations and the amalgamated corporation;
- (b) the Security Interest will (i) continue to charge all property and assets of the Borrower; (ii) charge all property and assets of each other amalgamating corporation; and (iii) charge all property and assets of the amalgamated corporation in existence at the time of the amalgamation and all property and assets acquired by the amalgamated corporation after

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the amalgamation, and the term "Collateral" will include all such property and assets of the Borrower, the other amalgamating corporations and the amalgamated corporation;

- (c) all defined terms and other provisions of this Security Agreement will be deemed to have been amended to reflect such amalgamation, to the extent required by the context; and
- (d) the parties agree to execute and deliver all such further documents and assurances as may be necessary or desirable in connection with the foregoing.

## 12. Notices

Any notice or demand to be given to a party in connection with this Security Agreement must be in writing and given in accordance with the notice provisions of the Credit Facility Agreement. Either the Borrower or the Secured Party may change its address for notice by providing notice of such change to the other party in the manner specified in the Credit Facility Agreement.

## 13. General

- (a) *Business Days.* In the event that any day, on or before which any action is required to be taken hereunder, is not a business day in the Borrower's principal province of business, then such action will be required to be taken on or before the first business day thereafter.
- (b) *Time of the Essence.* Time is of the essence in this Security Agreement.
- (c) *Discharge.* Upon payment and fulfillment by the Borrower, its successors or permitted assigns, of all Obligations and provided that the Secured Party is then under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Borrower or to any other person, the payment of which is secured, directly or indirectly, by this agreement, the Secured Party will, upon request in writing by the Borrower, delivered to the Secured Party at the Secured Party's address as set out in the notice provisions of the Credit Facility Agreement and at the Borrower's expense, discharge this Security Agreement.
- (d) *Continuing Security.* This Security Agreement is in addition to and not in substitution for any other security now or hereafter held by the Secured Party and will be general and continuing security notwithstanding that the Obligations will be at any time or from time to time fully satisfied or paid.
- (e) *Waiver.* The Secured Party may waive in writing (and not otherwise) any default by the Borrower in the observance or performance of any provision of this Security Agreement; provided that no waiver by the Secured Party will extend to or be taken in any manner whatsoever to affect any subsequent default, whether of the same or a different nature, or the rights resulting therefrom.
- (f) *Enurement.* This Security Agreement will enure to the benefit of the Secured Party, its successors and assigns, and will be binding on the Borrower, its successors and permitted assigns.
- (g) *Disclosure of Information.* The Borrower agrees that the Secured Party may from time to time provide information concerning this Security Agreement (including a copy hereof), the

Collateral and the Obligations to any person the Secured Party in good faith believes is entitled thereto pursuant to applicable legislation.

- (h) *Acknowledgment.* The Borrower acknowledges receipt of an executed copy of this Security Agreement.
- (i) *Inconsistency.* If there is an inconsistency between a provision of this Security Agreement and the Credit Facility Agreement, the relevant provision of the Credit Facility Agreement is to prevail.
- (j) *Severability.* Each provision of this Security Agreement is distinct and severable and a declaration of invalidity, illegality or unenforceability of any provision or part of this Security Agreement by a court of competent jurisdiction will not affect the validity or enforceability of any other provision of this Security Agreement.
- (k) *Execution and Delivery.* This Security Agreement may be signed electronically, including through DocuSign and similar electronic signature applications. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Security Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person. The laws of the Province of Ontario govern the execution of this Security Agreement, regardless of where this Security Agreement was signed.

***[Signature page follows]***

IN WITNESS WHEREOF this Security Agreement has been executed by the Borrower as of the date first written above.

**SPARTAN BIOSCIENCE INC.**

By: \_\_\_\_\_

Name: Rick Clements

Title: Chief Financial Officer

LOCATION OF COLLATERAL: 2934 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

240 Legget Drive, Suite 180  
Ottawa, ON K2K 1Y6

ADDRESS FOR NOTICE: 2934 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

**EXHIBIT B**  
**TO THE CREDIT FACILITY AGREEMENT**

**FORM OF SUBORDINATION AGREEMENT**

TO: Casa-Dea Finance Limited (the “**New Lender**”)

DATE: \_\_\_\_\_, 2020

RE: Subordination of debt owing by Spartan Bioscience Inc. (the “**Borrower**”)

RECITALS:

- A. The Borrower has requested and/or obtained certain loans or other credit accommodations from the undersigned set forth in Schedule 1 hereto (the “**Existing Lenders**”) and may hereafter become further indebted or liable to the Existing Lenders.
- B. The Borrower proposes to enter into a bridge financing round with the New Lender (the “**Bridge Financing**”), pursuant to which the Borrower will enter into a credit facility agreement with the New Lender (the “**Credit Facility Agreement**”).
- C. It is a condition of the Bridge Financing that the repayment of the indebtedness of the Borrower to the Existing Lenders be subordinated to the payment by the Borrower of all moneys payable to the New Lender, and the Existing Lenders are to subordinate such indebtedness in order to induce the New Lender to enter into the Bridge Financing, which is necessary to fund the Borrower’s ongoing operations.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Existing Lenders hereby agree with the New Lender as follows:

- 4. Each Existing Lender hereby severally (and not jointly and severally) represents, warrants and covenants with the New Lender as follows:
  - (a) **Confirmation of Existing Indebtedness.** The Borrower is indebted to the Existing Lender in the principal amount and pursuant to the loan agreement, debenture, promissory note or other debt instrument described next to the Existing Lender’s name in Schedule 1 (the “**Existing Indebtedness**”) and may hereafter become further indebted or liable to the Existing Lender from time to time.
  - (b) **Subordination of Security Interests.** The Existing Lender subordinates to the New Lender any present or future security interest or lien that the Existing Lender may have in any property of the Borrower. Notwithstanding the respective dates of attachment or perfection of the security interests of the Existing Lender and any security interests of the New Lender, all security interests of the New Lender that presently exist or are created hereafter in any property of the Borrower and all proceeds resulting from such property (collectively, the “**Collateral**”) will at all times be senior to the security interest of the Existing Lenders. The subordinations contained in this Subordination Agreement will apply in all events and circumstances regardless of the validity, invalidity, perfection, lack of

perfection, enforceability or unenforceability of any security interests of the New Lender or the security interests of the Existing Lender.

- (c) **Subordination of Payments.** The Existing Lender subordinates its rights to payment on account of the Existing Indebtedness, all interest, fees, charges and other expenses thereon and any other payments that might arise pursuant to and in accordance with the terms of the Existing Indebtedness, whether presently existing or arising in the future (collectively, the “**Subordinated Debt**”) to all obligations of the Borrower to the New Lender now existing or hereafter arising pursuant to the Credit Facility Agreement, together with all costs of collecting such obligations (including attorneys’ fees) (the “**Senior Debt**”). All moneys received by the Existing Lender in respect of the Subordinated Debt otherwise than in accordance with the terms hereof without the prior written approval of the New Lender will be received in trust for the New Lender and promptly upon receipt will be paid over to the New Lender. The Existing Lender will not be entitled to exercise any right of set-off or combination of accounts it now has or hereafter may have in respect of any Existing Indebtedness.
- (d) **Standstill Agreement / No Restriction on Set-Off.** The Existing Lender will not (i) claim, demand or receive from the Borrower or any other source all or any part of the Subordinated Debt, (ii) exercise any remedy with respect to any property of the Borrower, (iii) accelerate the Subordinated Debt, (iv) contest, protest or object to any enforcement proceeding or other action commenced by the New Lender, any other exercise by the New Lender of any right or remedy under the Credit Facility Agreement or at law, or any application by the New Lender of monies or proceeds, or (v) commence or cause to commence any action or proceeding against Borrower or any of its assets until such time as (A) the Senior Debt has been fully paid in cash, (B) the New Lender no longer has any commitment or obligation to lend any further funds to the Borrower, and (C) the Credit Facility Agreement between the New Lender and Borrower are terminated. Notwithstanding the foregoing, if all or any part of the Subordinated Debt is set-off to purchase equity securities of the Borrower in accordance with the terms of the Subordinated Debt existing as of the date of this Subordination Agreement, nothing in this Section 1(d)13(d) will prohibit the Existing Lender from setting off all or any part of the Subordinated Debt into equity securities of the Borrower.
- (e) **Exclusivity.** The New Lender will have the exclusive right to enforce rights and remedies with respect to the property and assets charged by the Credit Facility Agreement and the New Lender will not be required to marshal any of such property and assets. In exercising any such rights and remedies, the New Lender may enforce the provisions of the Credit Facility Agreement and exercise the remedies thereunder in such order and such manner as the New Lender may determine in its sole discretion.
- (f) **Amendments to Subordinated Debt.** No amendment of the documents evidencing or relating to the Subordinated Debt will directly or indirectly modify the provisions of this Subordination Agreement in any manner which might terminate or impair the subordination of the Subordinated Debt or the subordination of the security interest or lien that the Existing Lender may have in any property of the Borrower.
- (g) **No Liability for Loss.** The Existing Lender agrees that the New Lender will not incur any responsibility to the Existing Lender or to the Borrower for any loss whatsoever which he,

she or it may suffer arising out of or in any way connected with the Existing Indebtedness or this Subordination Agreement (including without limiting the generality of the foregoing, loss resulting from the incidence of prescription).

- (h) **Further Assurances.** The Existing Lender hereby agrees to execute such documents and/or take such further action as the New Lender may at any time or times reasonably request in order to carry out the provisions and intent of this Subordination Agreement, including, without limitation, ratifications and confirmations of this Subordination Agreement from time to time hereafter, as and when requested by the New Lender and notice of subordination of the Existing Lender's security to the New Lender's security pursuant to the *Personal Property Security Act* (Ontario).
5. **No Waiver / Remedies Cumulative.** No failure by the New Lender to exercise any right, power, remedy or privilege (whether in whole or in part) will operate as a waiver thereof. No single or partial exercise of any right, power, remedy or privilege will preclude any other or further exercise thereof or the exercise of any further right, power or privilege. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently, and are not exclusive of any other rights or remedies provided by law.
6. **Invalidated / Fraudulent Payments or Proceeds.** If the New Lender receive any payment on, or proceeds of any property or assets of the Borrower on account of the Senior Debt and such payment or proceeds are subsequently invalidated, declared to be fraudulent or preferential, or required to be repaid to the Borrower, a trustee, receiver, receiver and manager or any other person under any applicable law, then to the extent of such payment or proceeds received by the New Lender and required to be repaid, the Senior Debt, or such part thereof, intended to be satisfied by such payment or proceeds will be revived and will continue in full force and effect as if such payment or proceeds had not been received by the New Lender.
7. **Survival.** This Subordination Agreement will continue until the earlier of: (a) the date all of the Subordinated Debt is repaid in full or set-off in payment or partial payment of equity securities of the Borrower and all documents relating to the Subordinated Debt are terminated or surrendered to the Borrower for cancellation; and (b) the date all of the Senior Debt is repaid in full and all documents relating to the Senior Debt are terminated or surrendered to the Borrower for cancellation.
8. **Enurement.** This Subordination Agreement will extend to and be binding upon the undersigned their successors and assigns and will enure to the benefit of the New Lender and its respective successors and assigns.
9. **Governing Law.** This Subordination Agreement is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law, rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). The Existing Lenders irrevocably submit to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto. The laws of the Province of Ontario govern the execution of this Subordination Agreement, regardless of where this Subordination Agreement was signed.
10. **Execution and Delivery.** This Subordination Agreement may be signed electronically, including through DocuSign and similar electronic signature applications. Delivery of a printed counterpart

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(whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Subordination Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.

***[Signature pages follow]***

**IN WITNESS WHEREOF** the undersigned has executed this Subordination Agreement as of the date first written above.

By the Existing Lenders:

**[EXISTING LENDER]**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Address for Notice:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

**ACKNOWLEDGED AND AGREED** to by the Borrower as of the date first written above.

**SPARTAN BIOSCIENCE INC.**

By:

\_\_\_\_\_  
Name: Rick Clements  
Title: Chief Financial Officer

**SCHEDULE 1**  
**TO SUBORDINATION AGREEMENT**

<b>Existing Lender Name</b>	<b>Principal Amount of Existing Indebtedness</b> (include currency)	<b>Type of Debt Instrument</b> (include name of agreement and date)
Eastern Ontario Community Futures Development Corporation		

**EXHIBIT C**  
**TO THE CREDIT FACILITY AGREEMENT**

**OPTION AGREEMENT**

This option agreement (this "**Option Agreement**") is made as of the \_\_\_ day of November, 2020,

**BETWEEN:**

**CASA-DEA FINANCE LIMITED ("CDFL")**

and

**SPARTAN BIOSCIENCE INC. ("Spartan")**

**WHEREAS:**

- (A) CDFL provided a loan to Spartan in the principal sum of Seven Million Dollars (\$7,000,000) (the "**Loan**") pursuant to a credit facility agreement between them dated as of November [ ], 2020 (the "**Credit Facility Agreement**");
- (B) The Credit Facility Agreement provides that Spartan will grant CDFL an option to acquire securities offered by Spartan and the parties are entering into this Option Agreement to evidence same;

NOW THEREFORE in consideration of making the above noted Loan and for other good and valuable consideration the receipt and sufficiency of which the parties hereto acknowledge, CDFL and Spartan covenant and agree as follows:

1. In this Option Agreement, the term "**Next Equity Financing**" means the first equity financing of Spartan occurring after the date of the Advance.
2. Subject to the terms and conditions set forth in this Option Agreement, not less than fifteen (15) business days prior the anticipated closing date of the Next Equity Financing, Spartan shall give written notice to CDFL (the "**Offer Notice**") containing a description of the terms and conditions of the Next Equity Financing, including (a) a description of the equity securities to be offered in the Next Equity Financing (the "**Financing Securities**"), (b) the subscription price or method of determining the subscription price of the Financing Securities, and (c) the anticipated closing date of the Next Equity Financing, and in such Offer Notice offer CDFL the option (the "**Option**"), conditional on the closing of the Next Equity Financing, to subscribe for Financing Securities with an aggregate subscription price of Seven Million Canadian Dollars (CA \$7,000,000) (the "**Maximum Amount**"), at the same price for each Financing Security and otherwise on terms and conditions at least as favourable to CDFL as are offered to the other subscribers in the Next Equity Financing (including CDFL's execution of standard subscription documentation (the "**Subscription Documentation**")). The Option shall be exercisable by CDFL in whole or for a portion only of the Maximum Amount, at CDFL's discretion.

3. If the Next Equity Financing is an initial public offering or similar transaction (a “**Public Offering**”), CDFL’s acceptance of the offer set forth in the Offer Notice must include acceptance of the pricing of the Financing Securities that is determined by Spartan and the underwriters for the Public Offering and such other requirements as may be imposed by Spartan’s underwriters or under applicable securities regulations or the rules, policies or listing conditions of any applicable stock exchange (including any applicable hold periods or resale restrictions, contractual lock-up periods, or escrow requirements).
4. CDFL acknowledges that Spartan is subject to pre-emptive rights under its Amended and Restated Shareholder Agreement dated March 11, 2015, as the same may be amended from time to time (the “**USA**”), and certain other rights of existing shareholders under the USA, the Articles of Amendment of the Borrower dated March 6, 2015, as the same may be amended from time to time (the “**Articles**”), and the Canon Rights Agreement dated March 11, 2015 (the “**Canon Rights Agreement**”), and that the obligations of Spartan pursuant to this Option Agreement are subject to compliance with the USA, the Articles and the Canon Rights Agreement. Spartan hereby agrees to use its commercially reasonable efforts to obtain such waivers and consents from the existing shareholders of and investors in Spartan as may be required to permit Spartan to fulfill all of its obligations pursuant to this Option Agreement in compliance with the terms set forth in the USA, the Articles and the Canon Rights Agreement.
5. CDFL shall have the right to subscribe for and purchase Financing Securities in such amount as CDFL may in its discretion determine, up to the Maximum Amount, by giving notice in writing by email (with receipt confirmed) to Spartan (the “**Response**”) within 10 business days after Spartan’s delivery of the Offer Notice (the “**Acceptance Period**”), stating that CDFL wishes to exercise the Option and stating the number of Financing Securities which CDFL wishes to purchase, and delivering or undertaking to deliver all required Subscription Documentation and the purchase price for the Financing Securities to Spartan as set forth in paragraph 6 below.
6. If, within the Acceptance Period, CDFL has delivered a Response fully or partially exercising the Option as set forth in the Offer Notice, CDFL shall be obligated to pay its subscription price for the Financing Securities designated by CDFL in the Response on the closing date for the Next Equity Financing designated by Spartan, provided that, if the Aggregated Indebtedness payable pursuant to the Credit Facility Agreement has not yet be paid in full, CDFL can set off the subscription price against the Aggregate Indebtedness then outstanding. If the subscription price is greater than such Aggregate Indebtedness then outstanding, the balance of the subscription price shall be paid by CDFL by wire transfer in immediately available funds as directed by Spartan. If the subscription price is less than the Aggregate Indebtedness then outstanding, the subscription price shall firstly be set off against any accrued and unpaid interest and then against the Principal Sum with the balance of the Principal Sum remaining outstanding to bear interest and be payable in accordance with the terms of the Credit Facility Agreement.
7. Notwithstanding that CDFL will be entitled to subscribe for Financing Securities pursuant to the Option on terms and conditions at least as favourable as are offered to the other subscribers in the Next Equity Financing, CDFL may not be entitled to rights conditioned upon holding a specified number of shares or maintaining a minimum ownership percentage, if it does not hold such specified number of shares or maintain such minimum ownership percentage. As a condition to subscribing for Financing Securities, CDFL shall sign an acknowledgment, a counterpart signature page or other agreement to be bound by the USA, if the USA is then in effect. CDFL has had the opportunity to review the USA and obtain independent legal advice as

to the transfer restrictions under the USA and the resale restrictions imposed by the applicable securities laws.

8. If, within the Acceptance Period, CDFL has not delivered a Response, or CDFL has indicated in its Response that it does not wish to fully or partially exercise the Option, Spartan's offer pursuant to the Offer Notice shall be deemed to be irrevocably declined and the Option and this Option Agreement shall be terminated and Spartan shall have no further obligations hereunder. If CDFL fully or partially exercises the Option set forth in the Offer Notice, on the issuance to CDFL of the Financing Securities so subscribed for, Spartan's obligations pursuant to this Option Agreement will be deemed to be satisfied and this Option Agreement shall be terminated and Spartan shall have no further obligations hereunder. For avoidance of doubt, the obligation of Spartan under this Option Agreement shall apply only to the initial closing of a Next Equity Financing and shall not apply to subsequent equity financings (including any subsequent closing of a Next Equity Financing following an initial closing).
9. CDFL is resident of Ontario and an "accredited investor" as such term is defined in National Instrument 45-106 (Prospectus Exemptions) and is acquiring the Option as principal. CDFL has not received or relied on any document purporting to describe the business and affairs of Spartan and/or any other material that, considered together, would constitute an "offering memorandum" within the meaning of applicable securities legislation.
10. This Option Agreement shall terminate and be of no further force or effect on the closing of a Sale Transaction (as defined below), if such Sale Transaction occurs prior to the closing of a Next Equity Financing. A "**Sale Transaction**" means: (a) a sale or exclusive license of all or substantially all of the assets of Spartan; or (b) any merger, amalgamation, sale of issued and outstanding shares or similar transaction involving Spartan in which the holders of Spartan's voting shares prior to such transaction will hold, after such transaction, less than 50% of the combined voting power of the continuing or surviving entity.
11. Any notice or demand to be given in connection with this Option Agreement must be in writing and may be given by delivering, mailing or sending (by email or other electronic means) such notice to a party to this agreement at the address set forth on such party's signature page. Either party may change its address for notices by delivering notice of same in accordance with the foregoing. Notices will be deemed to be delivered: (a) upon delivery (if delivered personally or by courier); (b) after five business days (if delivered by regular mail); or (c) upon transmission (if sent via email), provided that notices transmitted by email after 5 pm on any business day will be deemed to have been delivered on the next business day.
12. This Option Agreement may be signed electronically and delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Option Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.
13. This Option Agreement may only be assigned by a party with the prior written consent of the other party. This Option Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

14. This Option Agreement is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law, rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each of the parties irrevocably submits to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto.
15. Capitalized terms used herein and not otherwise defined shall have the same meaning as ascribed to them in the Credit Facility Agreement unless the context otherwise requires.

***[Signature page follows]***

IN WITNESS WHEREOF the parties hereto have executed this Credit Facility Agreement with effect as of the date first written above.

**SPARTAN BIOSCIENCE INC.**

By: \_\_\_\_\_  
Name: Rick Clements  
Title: Chief Financial Officer

Address for Notice:

2934 Baseline Road, Suite 500

Ottawa, Ontario

K2H 1B2

Email: legal@spartanbio.com

**CASA-DEA FINANCE LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

Address for Notice:

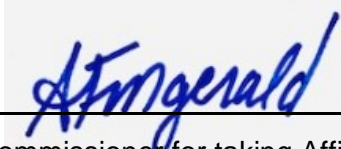
150 North Murray Street

Trenton, ON

K8V 6R8

Email: darrell@decacables.com

This is **Exhibit 'D'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.

## SECURITY AGREEMENT

TO: **Casa-Dea Finance Limited** (the “**Secured Party**”)

FROM: **Spartan Bioscience Inc.** (the “**Borrower**”)

DATE: November 25, 2020

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1. **Obligations Secured.** The Borrower hereby enters into this Security Agreement for good and valuable consideration and as security for the payment of all present and future indebtedness of the Borrower to the Secured Party and interest accrued thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, matured or unmatured, joint or several, of the Borrower to the Secured Party, whether as principal or surety, including, without limiting the generality of the foregoing, pursuant to the Credit Facility Agreement dated as of the date hereof between the Borrower and the Secured Party (the “**Credit Facility Agreement**”, and all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the “**Obligations**”).
2. **Definitions and Interpretation.** Except as otherwise defined in this general security agreement (this “**Security Agreement**”), capitalized terms have the respective meanings set forth in the Credit Facility Agreement. To the extent the Collateral (defined below) is located in the Province of Ontario, this Security Agreement will be read and interpreted in accordance with the provisions of the *Personal Property Security Act* (Ontario) (“**PPSA**”).
3. **Grant of Mortgages, Charges and Security Interests**

As continuing security for the payment and performance of all Obligations, the Borrower hereby pledges, assigns, mortgages, charges and hypothecates to the Secured Party and grants to the Secured Party a security interest in the following (the “**Security Interest**” and all present and future property, assets and undertaking of the Borrower so pledged, assigned, mortgaged, charged and hypothecated, the “**Collateral**”):

- (a) all of its present and future equipment, including, without limiting the generality of the foregoing, all of its fixtures, plant, machinery, tools and furniture, books, records, documents, and vehicles of any nature, kind or description, now or hereafter owned or acquired and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating to the foregoing;
- (b) all of its present and future inventory, including, without limiting the generality of the foregoing, all of its raw materials, materials used or consumed in its business, work-in-progress, finished goods, goods used for packing and goods acquired or held for sale or lease or that have been leased or furnished or that are to be furnished under contracts of rental or service, and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing;
- (c) all of its present and future accounts and intangibles, including, without limiting the generality of the foregoing, all of its book debts, accounts and other amounts receivable,

[Signature Page to Spartan Bioscience Inc. Security Agreement]

contract rights and choses in action of every kind or nature including insurance rights arising from or out of the assets referred to in Sections 3(a) and 3(b) hereof, goodwill, chattel paper, instruments of title, investments, money and securities;

- (d) all of its present and future Investment Property (as such term is defined in the PPSA) and Financial Assets (as such term is defined in the *Securities Transfer Act, 2006* (Ontario), as amended from time to time and any legislation substituted therefor and any amendments thereto) of the Borrower, including all substitutions for any Investment Property or Financial Assets and dividends and income derived therefrom or payable in connection therewith (“**Investment Collateral**”);
- (e) all of its present and future intellectual property (whether registered or unregistered) comprising without limitation all computer programs, application software, hardware/software maintenance support agreements and all documentation related thereto, licenses of software, copyrights, patents and inventions, trade-marks, trade names, business names, trade styles and other business identifiers, industrial designs, integrated circuit topographies, trade secrets and other confidential information and all know-how obtained, developed or used by the Borrower or contemplated at any time for use by the Borrower (the “**Intellectual Property Collateral**”);
- (f) its business and undertaking and all of its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, both present and future (other than property and assets hereby validly assigned or subjected to a specific mortgage, charge or security interest by Sections 3(a), 3(b), 3(c), 3(d) and 3(e) hereof and the exceptions hereinafter contained), which security is granted as and by way of a floating charge;
- (g) proceeds arising from any of the property, assets and undertaking of the Borrower referred to in this Section 3; and
- (h) all additions to and replacements of the assets referred to in this Section 3.

#### 4. **Limited Exceptions to Grant of Security Interest**

- (a) Despite any other provision of this Security Agreement, the last day of any term reserved by any lease of real property, oral or written, or any agreement therefor, now held or hereafter acquired by the Borrower, and whether falling within the general or particular description of the Collateral, is hereby and will be excepted out of the Security Interest, but the Borrower will stand possessed of the reversion of one day remaining in the Borrower in respect of any such term, for the time being demised, as aforesaid, upon trust to assign and dispose of the same as any purchaser of such term may direct.
- (b) Despite any other provision of this Security Agreement, the Security Interest will not attach to any agreement, right, franchise, licence, authorization, approval, privilege or permit to which the Borrower is now or hereafter becomes a party, in which the Borrower now or hereafter has any interest or of which the Borrower is or hereafter becomes a beneficiary (a “**Contractual Right**”) to the extent that the granting of the Security Interest therein would constitute a breach of, or permit any person to terminate such Contractual Right, but the Borrower will hold its interest in each such Contractual Right in trust for the Secured

Party and will, after the Security Interest has become enforceable, specifically assign each such Contractual Right to the Secured Party, or as the Secured Party may otherwise direct. The Borrower agrees that it will, upon the request of the Secured Party, whether before or after the Security Interest has become enforceable, use all commercially reasonable efforts to obtain any consent required to permit any such Contractual Right to be subjected to the Security Interest, and the Security Interest will attach to such Contractual Right following the receipt of such consent.

- (c) Despite any other provision of this Security Agreement, the interests granted to the Secured Party pursuant to this Security Agreement in the Borrower's existing and after-acquired trademarks will be limited to the Secured Party's Security Interest therein.

## 5. Attachment

The Borrower confirms and agrees that: (a) value has been given by the Secured Party to the Borrower; (b) the Borrower has rights in all existing Collateral and power to transfer rights in the Collateral to the Secured Party; and (c) the Borrower and the Secured Party have not postponed the time for attachment of the Security Interest, and the Security Interest will attach to existing Collateral upon the execution of this Security Agreement and will attach to Collateral in which the Borrower hereafter acquires rights at the time that the Borrower acquires rights in such Collateral.

## 6. Provisions with respect to Investment Collateral

All certificates representing Investment Collateral may remain registered in the name of the Borrower, but the Borrower will, promptly at the request of the Secured Party, duly endorse such certificates in blank for transfer or execute stock powers of attorney in respect thereof and deliver such certificates or powers of attorney to the Secured Party; in either case with signatures guaranteed and with all documentation being in form and substance satisfactory to the Secured Party. Upon the request of the Secured Party:

- (a) the Borrower will promptly cause the Investment Collateral to be registered in the name of the Secured Party or its nominee, and the Secured Party is hereby appointed the irrevocable attorney (coupled with an interest) of the Borrower with full power of substitution to cause any or all of the Investment Collateral to be registered in the name of the Secured Party or its nominee;
- (b) the Borrower will promptly cause each securities intermediary that holds any Investment Collateral that is a security entitlement to record the Secured Party as the entitlement holder of such Investment Collateral; and
- (c) the Borrower will promptly:
  - (i) cause a security certificate to be issued for any Investment Collateral that is in the form of an uncertificated security or a security entitlement;
  - (ii) endorse such security certificate in blank;
  - (iii) deliver such security certificate to the Secured Party; and
  - (iv) take all other steps necessary to give exclusive control over such certificated security to the Secured Party,

in a manner satisfactory to the Secured Party.

Until further notice is given by the Secured Party to the Borrower terminating such rights of the Borrower, the Borrower will be entitled to exercise all voting rights attached to the Investment Collateral and give consents, waivers and ratifications in respect thereof; provided that no vote will be cast or consent, waiver or ratification given or action taken which would be prejudicial to the interests of the Secured Party or which would have the effect of reducing the value of the Investment Collateral as security for the Obligations, or imposing any restriction on the transferability of any of the Investment Collateral. All such rights of the Borrower to vote and give consents, waivers and ratifications will cease immediately upon receipt by the Borrower of such notice by the Secured Party.

The responsibility of the Secured Party in respect of any Investment Collateral held by the Secured Party will be limited to exercising the same degree of care which it gives valuable property of the Secured Party at the Secured Party's office where such Investment Collateral is held. The Secured Party will not be bound under any circumstances to realize on any Investment Collateral or allow any Investment Collateral to be sold, or exercise any option or right attaching thereto, or be responsible for any loss occasioned by any sale of Investment Collateral or by the retention or other refusal to sell the same; nor will the Secured Party be obliged to collect or see to the payment of interest or dividends thereon but, subject to the foregoing paragraph, all such interest and dividends, if and when received by the Borrower, will be held by the Borrower in trust for the Secured Party and will be forthwith paid to the Secured Party.

#### 7. **Covenants of the Borrower**

The Borrower agrees with the Secured Party that, until the Obligations have been satisfied and paid in full, the Borrower will act in accordance with the covenants set forth below, which covenants are in addition to the covenants of the Borrower in favour of the Secured Party under the Credit Facility Agreement:

- (a) Unless otherwise agreed to by, or stipulated pursuant to, the prior written consent or direction, as applicable, of the Secured Party, the Borrower will:
  - (i) hold the proceeds received from any direct or indirect dealing with the Collateral in trust for the Secured Party after either the security interests granted in this Security Agreement become enforceable or any of the Collateral is sold other than in the ordinary course of business of the Borrower and for the purpose of carrying on such business;
  - (ii) insure and keep insured all of the Collateral against loss or damage by fire and other insurable hazards for which such Collateral is commonly insured against in all locations of the collateral described on the signature page of this Security Agreement (the "**Collateral Locations**") to the full insurable value thereof and, in addition, obtain and maintain such other insurance as the Secured Party may require, and, in connection therewith, (A) the Borrower will pay when due all premiums and other amounts payable for maintaining such insurance, (B) should the Borrower fail to pay any premiums when due then the Secured Party may do so and the cost of such premiums will be added to the Obligations and will be secured by the security interests granted herein and (C) all such policies of insurance will neither permit nor provide for any amount of co-insurance by the Borrower;

- (iii) keep the then-existing Collateral in good condition and repair according to the nature and description thereof, and to not use the Collateral in violation of the provisions of this Security Agreement or any other agreement of the Borrower relating to the Collateral or any policy issued to the Borrower insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance, and the Secured Party may, whenever it deems, either in person or by agent, enter upon the Borrower's property and inspect the Collateral and the reasonable cost of such inspection will be payable on demand and added to the Obligations and the Secured Party may make repairs as it deems necessary, and the cost thereof will be payable on demand and added to the Obligations;
- (iv) strictly comply with every covenant and undertaking heretofore or hereafter given by the Borrower to the Secured Party;
- (v) strictly comply with valid requirements of any governmental authority pertaining to the operation by the Borrower of its business;
- (vi) permit the Secured Party at any time and from time to time, only after the security granted pursuant to this Security Agreement will have become enforceable, to require any account debtor of the Borrower to make payment to the Secured Party of any or all amounts owing by the account debtor to the Borrower and the Secured Party, may take control of any proceeds referred to in Section 3(g) hereof and may hold all amounts received from any account debtor and any proceeds as cash collateral as part of the Collateral and as security for the Obligations;
- (vii) pay or cause to be paid all taxes, rates and other impositions whatsoever already charged or hereafter to be charged by any authority on any of the Collateral as and when they will generally fall due and, upon the request of the Secured Party, deliver to the Secured Party evidence of such payments;
- (viii) comply with all applicable laws, regulations and orders, including, without limitation, all public and employee health and safety provisions and all applicable federal, provincial or municipal environmental laws and all regulations or requirements thereunder relating in any way to the environment or the release of any substance into the environment;
- (ix) defend the Collateral against the claims and demand of all other parties claiming the same or an interest therein and take all reasonable actions to keep the Collateral free from all encumbrances, other than Permitted Encumbrances;
- (x) notify the Secured Party promptly of: (A) any material change in the information contained herein relating to the Borrower, including without limitation any change in the Borrower's registered office address, the Borrower's business or the Collateral; (B) the details of any significant acquisition of Collateral; (C) the details of any material complaints, violations, claims or litigation affecting the Borrower or the Collateral; (D) any material loss or damage to the Collateral; (E) any default by the Borrower in payment or performance of its Obligations with respect to the Collateral; and (F) the return to or repossession by the Borrower of the Collateral;

- (xi) do, execute, acknowledge and deliver such further assignments, transfers, documents, acts, matters and things (including further schedules hereto) as may from time to time be reasonably requested by the Secured Party of or with respect to the Collateral in order to give effect to this Security Agreement and to pay all costs and expenses (including reasonable legal fees) of the Secured Party incurred with respect to searches and filings in connection therewith and with respect to the preparation, execution and filing of this Security Agreement and keeping the security interest granted hereunder perfected;
- (xii) make and maintain all filings, registrations and recordations necessary or desirable to protect its right, title and interest in the Collateral, including all filings, registrations and recordations necessary or desirable in respect of patents, trademarks, copyrights and industrial designs included in the Intellectual Property Collateral;
- (xiii) prevent the Collateral from being or becoming an accession to other property not covered by this Security Agreement;
- (xiv) at all times, both before and after the occurrence of a default, do or cause to be done such further and additional acts and things and execute and deliver or cause to be executed and delivered all such further and additional documents and agreements as the Secured Party may reasonably require to better pledge, assign, mortgage, charge and hypothecate the Collateral in favour of the Secured Party, to perfect the Security Interest and, without limiting the generality of the forgoing, to accomplish the intentions of this agreement;
- (xv) carry on and conduct the business of the Borrower so as to protect and preserve the Collateral and to keep, in accordance with Canadian generally accepted accounting principles, consistently applied, financial statements supported by the books of account for the Borrowers' business as well as accurate and complete records concerning the Collateral;
- (xvi) upon written request from the Secured Party, promptly make available to the Secured Party from time to time, true and complete copies of: (A) any documents of title, instruments, securities and chattel paper constituting, representing or relating to the Collateral; (B) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same; (C) all financial statements prepared by or for the Borrower regarding Borrower's business; (D) all policies and certificates of insurance relating to the Collateral; and (E) such information concerning Collateral, the Borrower and the Borrower's business and affairs as the Secured Party may reasonably request;
- (xvii) observe and perform all its obligations under all material leases, licences, undertakings and agreements to which the Borrower is a party, obtain and preserve the Borrower's rights, powers, licences, privileges, franchises and goodwill thereunder, and comply with all applicable laws, by-laws, rules, regulations and ordinances; and

- (xviii) subject to the transportation and location of equipment outside of the Collateral Locations in the ordinary course of business, prior to the removal of any of the Collateral from the Collateral Location in which it is or they are situated at the date of this Security Agreement or to leasehold property, effect such further registrations and obtain such other consents and give such other security as may be required or desirable to protect or preserve the security hereby created, and the Borrower will forthwith notify the Secured Party of the intended removal and the action proposed to be taken.
- (b) The Borrower will not, without the prior written consent of the Secured Party:
  - (i) create any lien upon, assign or transfer as security, or pledge, hypothecate, charge, mortgage or grant a security interest in any Collateral except to the Secured Party and except for Permitted Encumbrances;
  - (ii) change the location of its chief executive office from that set out on the signature page hereto without providing the Secured Party with thirty (30) business days' prior written notice thereof; or
  - (iii) keep tangible Collateral at any location other than the location(s) listed in on the signature page hereto without providing the Secured Party with thirty (30) business days' prior written notice thereof; or
  - (iv) assign any of its rights or obligations under this Security Agreement.

## 8. **Default**

The Obligations will, at the option of the Secured Party, become payable and the security granted pursuant to this Security Agreement will become enforceable upon the occurrence of an Event of Default as defined in the Credit Facility Agreement.

## 9. **Remedies of the Secured Party**

Whenever the Security Interest will have become enforceable, and so long as it will remain enforceable, the Secured Party may, and subject to the rights of any subsequent lender or subsequent lenders, proceed to realize the Security Interest and the Collateral and to enforce its rights by doing any one or more of the following:

- (a) entering upon the Collateral and any lands and premises where any Collateral is or may be located;
- (b) taking possession of Collateral by any method permitted by law;
- (c) occupying any lands and premises owned or occupied by the Borrower and using all or any part of such lands and premises and the equipment and other Collateral located thereon;
- (d) leasing, selling, licensing or otherwise disposing of the whole or any part or parts of the Collateral;

- (e) collecting, selling or otherwise dealing with any accounts or other amounts receivable of the Borrower, including notifying any person obligated to the Borrower in respect of an account, chattel paper or instrument to make payment to the Secured Party of all present and future amounts due thereon;
- (f) taking steps and expending such monies as it considers necessary or desirable in its sole discretion to maintain, preserve and protect the Collateral, including making payments on account of other security interests affecting the Collateral; provided that the Secured Party will have no obligation to take any such actions or make any such expenditures; but any such amounts paid by the Secured Party will be added to the Obligations and will be secured by the Security Interest;
- (g) collecting any rents, income, and profits received in connection with the business of the Borrower or the Collateral, without carrying on such business;
- (h) exercising all voting rights attached to any Collateral constituting Investment Collateral (whether or not registered in the name of the Secured Party or its nominee) and giving or withholding all consents, waivers and ratifications in respect thereof and otherwise acting with respect thereto as though it were the absolute owner thereof;
- (i) exercising any and all rights of set-off, exchange, subscription or any other rights, privileges or options pertaining to any Collateral constituting Investment Collateral as if it were the absolute owner thereof including the right to exchange at its sole discretion any and all of such Investment Collateral upon the merger, consolidation, reorganization, recapitalization or other readjustment of any issuer thereof, or upon the exercise by any issuer of any right, privilege or option pertaining to any such Investment Collateral, and in connection therewith, to deposit and deliver any such Investment Collateral with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as it may determine in its sole discretion, all without liability except to account for property actually received by it;
- (j) complying with any limitation or restriction in connection with any proposed sale or other disposition of Collateral constituting Investment Collateral as may be necessary in order to comply with applicable law or regulation or any policy imposed by any stock exchange, securities commission or other governmental or regulatory authority or official, and the Borrower agrees that such compliance will not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, and the Secured Party will not be liable or accountable to the Borrower for any discount in the sale price of any such Investment Collateral which may be given by reason of the fact that such Investment Collateral are sold in compliance with any such limitation or restriction;
- (k) carrying on the business of the Borrower or any portion thereof;
- (l) exercising any and all of the rights and remedies granted pursuant to the PPSA and any other applicable legislation, or otherwise available at law or in equity;
- (m) demanding, commencing, continuing or defending any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of the Collateral, and giving valid and effectual receipts and

discharges therefor and to compromise or give time for the payment or performance of all or any part of the accounts or other amounts receivable of the Borrower or any other obligation of any third party to the Borrower;

- (n) borrowing money for the maintenance, preservation or protection of the Collateral or for the carrying on of the business of the Borrower, and charge and grant further security interests in the Collateral in priority to the Security Interest or otherwise, as security for the money so borrowed;
- (o) accepting the Collateral in satisfaction of the Obligations;
- (p) appointing by instrument in writing a Receiver or Receivers of the Collateral or any part thereof. For the purposes of this Security Agreement, "**Receiver**" means a receiver, receiver-manager and receiver and manager;
- (q) bringing proceedings in any court of competent jurisdiction for the appointment of a Receiver or Receivers or for the sale of the Collateral or any part thereof; and
- (r) filing such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Borrower or the Collateral.

Any Receiver appointed by the Secured Party may be any person or persons (including one or more officers or employees of the Secured Party) and the Secured Party may remove any Receiver so appointed and appoint another or others instead. Any such Receiver may exercise any and all of the rights, remedies and powers of the Secured Party provided in this Security Agreement. The Secured Party will not be responsible for the actions, errors or omissions of any Receiver it appoints and any such Receiver will be deemed to act as agent for the Borrower for all purposes, including the occupation of any lands and premises of the Borrower and in carrying on the Borrower's business, unless the Secured Party expressly specifies in writing that the Receiver will be agent for the Secured Party for one or more purposes. Without limiting the generality of the forgoing, for the purposes of realizing upon the Security Interest, any Receiver may sell, lease, or otherwise dispose of Collateral as agent for the Borrower or as agent for the Secured Party as the Secured Party may specify in writing in its sole discretion. The Borrower agrees to ratify and confirm all actions of any Receiver appointed by the Secured Party acting as agent for the Borrower, and to release and indemnify the Receiver in respect of all such actions.

Without limiting the ability of the Secured Party or any Receiver to dispose of Collateral in any other manner, the Borrower agrees that any sale, lease or other disposition of the Collateral hereunder may be completed by public auction, public tender or private contract, with or without notice, with or without advertising and with or without any other formality (except as required by law), all of which are hereby waived by the Borrower. Any such disposition of Collateral may involve all or part of the Collateral and may be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as the Secured Party or any Receiver appointed by the Secured Party may, in its sole discretion, deem advantageous and may take place whether or not the Secured Party or any such Receiver has taken possession of such Collateral. Any purchaser or lessee of Collateral may be a customer of the Secured Party.

The Secured Party will not be liable for any delay or failure to enforce any rights, powers or remedies available to it or to institute any proceedings for such purposes.

No right, power or remedy of the Secured Party (whether granted herein or otherwise) will be exclusive of or dependent on or merge in any other right, power or remedy, but all such rights, powers and remedies may from time to time be exercised independently or in combination.

The Borrower agrees to pay to the Secured Party, forthwith on demand by the Secured Party, all costs and expenses incurred by the Secured Party in connection with the exercise by the Secured Party of its rights, powers and remedies hereunder, including:

- (a) any costs and expenses incurred by the Secured Party in taking, holding, moving, storing, recovering, possessing, repairing, processing, preparing for disposition or disposing of Collateral;
- (b) any legal fees and expenses incurred by the Secured Party in enforcing its rights, powers and remedies, including those incurred in connection with any proceedings taken for the purpose of enforcing its rights, powers and remedies hereunder or otherwise relating to the non-payment or non-performance of any Obligations;
- (c) the cost of borrowing amounts as hereinbefore provided (for the purpose of carrying on the Borrower's business or otherwise), including, the principal amount or any such amount borrowed, all interest thereon and fees relating thereto; and
- (d) all costs and expenses of or incurred by any Receiver, agent or consultant appointed by the Secured Party (including any legal fees and expenses incurred by any such Receiver, agent or consultant).

All such sums will bear interest at the highest rate applicable to the Obligations, will form part of the Obligations and will be secured by the Security Interest.

Any and all payments made in respect of the Obligations from time to time and moneys realized from any Collateral (including moneys realized on any enforcement of this agreement) may be applied to such part or parts of the Obligations as the Secured Party may see fit, and the Secured Party will at all times and from time to time have the right to change any appropriation as the Secured Party may see fit.

The Borrower will remain liable for all Obligations that are outstanding following realization of all or any part of the Collateral.

#### **10. Additional Rights of the Secured Party**

The Secured Party has the following rights:

- (a) The Secured Party may pay the whole or any part of any liens, taxes, rates, charges or encumbrances now or hereafter existing in respect of any Collateral and such payments together with all costs, charges and expenses which may be incurred in connection with making such payments will form part of the Obligations, will bear interest at the highest rate applicable to the Obligations, and will be secured by the Security Interest. Whenever the Secured Party pays any such lien, tax, rate, charge or encumbrance, it will be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to obtain any discharge thereof and hold such discharge without registration for so long as it may deem advisable to do so.

- (b) If the Borrower fails to perform or comply with any covenant or other obligation of the Borrower under this Security Agreement, the Secured Party may, but need not, perform or otherwise cause the performance or compliance of such covenant or other obligation, provided that any performance or compliance undertaken by the Secured Party will not constitute a waiver, remedy or satisfaction of such failure. The costs and expenses of the Secured Party incurred in connection with any such performance or compliance will be payable by the Borrower to the Secured Party on demand, form part of the Obligations, bear interest at the highest rate applicable to the Obligations and be secured by the Security Interest.
- (c) The Borrower grants to the Secured Party the right to set off against the Obligations (or any portion thereof) any amount owed by the Secured Party to the Borrower, including the amount of any and all accounts, credits or balances maintained by the Borrower with the Secured Party.
- (d) The Secured Party, without exonerating in whole or in part the Borrower, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Borrower and all other persons and securities as the Secured Party may see fit.
- (e) The Secured Party may assign, transfer and deliver to any transferee any of the Obligations or any security or any documents or instruments held by the Secured Party in respect thereof.

Notwithstanding the foregoing, nothing herein will obligate the Secured Party to extend or amend any credit to the Borrower or to any other person.

#### 11. **Amalgamation of Borrower**

If the Borrower amalgamates with any other corporation or corporations, this Security Agreement will continue in full force and effect and will be binding on the amalgamated corporation and, for greater certainty:

- (a) the Security Interest will (i) continue to secure payment of all obligations of the Borrower to the Secured Party, (ii) secure payment of all obligations of each other amalgamating corporation to the Secured Party and (iii) secure payment of all obligations of the amalgamated corporation to the Secured Party arising on or after the amalgamation; and the term "Obligations" will include all such obligations of the Borrower, the other amalgamating corporations and the amalgamated corporation;
- (b) the Security Interest will (i) continue to charge all property and assets of the Borrower; (ii) charge all property and assets of each other amalgamating corporation; and (iii) charge all property and assets of the amalgamated corporation in existence at the time of the amalgamation and all property and assets acquired by the amalgamated corporation after the amalgamation, and the term "Collateral" will include all such property and assets of the Borrower, the other amalgamating corporations and the amalgamated corporation;

- (c) all defined terms and other provisions of this Security Agreement will be deemed to have been amended to reflect such amalgamation, to the extent required by the context; and
- (d) the parties agree to execute and deliver all such further documents and assurances as may be necessary or desirable in connection with the foregoing.

## 12. Notices

Any notice or demand to be given to a party in connection with this Security Agreement must be in writing and given in accordance with the notice provisions of the Credit Facility Agreement. Either the Borrower or the Secured Party may change its address for notice by providing notice of such change to the other party in the manner specified in the Credit Facility Agreement.

## 13. General

- (a) *Business Days.* In the event that any day, on or before which any action is required to be taken hereunder, is not a business day in the Borrower's principal province of business, then such action will be required to be taken on or before the first business day thereafter.
- (b) *Time of the Essence.* Time is of the essence in this Security Agreement.
- (c) *Discharge.* Upon payment and fulfillment by the Borrower, its successors or permitted assigns, of all Obligations and provided that the Secured Party is then under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Borrower or to any other person, the payment of which is secured, directly or indirectly, by this agreement, the Secured Party will, upon request in writing by the Borrower, delivered to the Secured Party at the Secured Party's address as set out in the notice provisions of the Credit Facility Agreement and at the Borrower's expense, discharge this Security Agreement.
- (d) *Continuing Security.* This Security Agreement is in addition to and not in substitution for any other security now or hereafter held by the Secured Party and will be general and continuing security notwithstanding that the Obligations will be at any time or from time to time fully satisfied or paid.
- (e) *Waiver.* The Secured Party may waive in writing (and not otherwise) any default by the Borrower in the observance or performance of any provision of this Security Agreement; provided that no waiver by the Secured Party will extend to or be taken in any manner whatsoever to affect any subsequent default, whether of the same or a different nature, or the rights resulting therefrom.
- (f) *Enurement.* This Security Agreement will enure to the benefit of the Secured Party, its successors and assigns, and will be binding on the Borrower, its successors and permitted assigns.
- (g) *Disclosure of Information.* The Borrower agrees that the Secured Party may from time to time provide information concerning this Security Agreement (including a copy hereof), the Collateral and the Obligations to any person the Secured Party in good faith believes is entitled thereto pursuant to applicable legislation.

- (h) *Acknowledgment.* The Borrower acknowledges receipt of an executed copy of this Security Agreement.
- (i) *Inconsistency.* If there is an inconsistency between a provision of this Security Agreement and the Credit Facility Agreement, the relevant provision of the Credit Facility Agreement is to prevail.
- (j) *Severability.* Each provision of this Security Agreement is distinct and severable and a declaration of invalidity, illegality or unenforceability of any provision or part of this Security Agreement by a court of competent jurisdiction will not affect the validity or enforceability of any other provision of this Security Agreement.
- (k) *Execution and Delivery.* This Security Agreement may be signed electronically, including through DocuSign and similar electronic signature applications. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Security Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person. The laws of the Province of Ontario govern the execution of this Security Agreement, regardless of where this Security Agreement was signed.

***[Signature page follows]***

IN WITNESS WHEREOF this Security Agreement has been executed by the Borrower as of the date first written above.

**SPARTAN BIOSCIENCE INC.**

By:   
Name: Rick Clements  
Title: Chief Financial Officer

LOCATION OF COLLATERAL: 2934 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

240 Legget Drive, Suite 180  
Ottawa, ON K2K 1Y6

ADDRESS FOR NOTICE: 2934 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

This is **Exhibit 'E'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.



## PRIORITY AGREEMENT

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**THIS AGREEMENT** dated the 23<sup>rd</sup> day of November, 2020.

**AMONG:**

**BDC CAPITAL INC.**, with a business centre at Sun Life Financial Centre, 50 O'Connor Street, Suite 1100, Ottawa, ON K1P 5E1

(“**BDC**”)

**AND:**

**CASA-DEA FINANCE LTD.** with a registered office at 150 North Murray Street, Trenton, ON, Canada, K8V 6R8

(the “**Lender**”)

**AND:**

**SPARTAN BIOSCIENCE INC.**, a corporation incorporated pursuant to the laws of Canada with its head office located at 2934 Baseline Road, Suite 500, Ottawa, ON, K2H 1B2

(the “**Borrower**”)

**WHEREAS:**

A. The Borrower has granted BDC security interests in all of the Borrower’s present and after-acquired personal property to secure present and future debts and obligations of the Borrower to BDC;

B. The Borrower has granted or agreed to grant to the Lender security interests in all of the Borrower’s present and after-acquired personal property, to secure present and future debts and obligations of the Borrower to the Lender;

C. The parties hereto have agreed to enter into this agreement in order to set out the respective priorities of the BDC Security and the Lender Security;

**NOW THEREFORE** in consideration of the premises and other good and valuable consideration, the parties hereto covenant and agree as follows:

**ARTICLE 1 - CONSENT**

1.01 BDC hereby acknowledges its consent to the creation and issue by the Borrower to the Lender of the Lender Security and to the incurring by the Borrower of the indebtedness evidenced thereby.

1.02 The Lender hereby acknowledges its consent to the creation and issue by the Borrower to BDC of the BDC Security and to the incurring by the Borrower of the indebtedness evidenced thereby.

## ARTICLE 2 - INTERPRETATION

2.01 The preamble hereto forms an integral part of this Agreement.

2.02 In this Agreement, the following terms shall have the following meanings:

- (a) "BDC Offer" means the offer of financing dated October 9, 2019 relating to, *inter alia*, the granting of financing in the amount of \$9,000,000 to the Borrower, as amended by way of amending letter dated November 4, 2020;
- (b) "BDC Security" means all registered security interests now or hereafter held by BDC in any or all of the Borrower's present and after acquired personal property to secure present and future debts and obligations of the Borrower to BDC, including, without limitation, the Life Insurance Policy;
- (c) "Bridge Loan" means the bridge financing in the amount of seven million dollars (\$7,000,000) provided to the Borrower by the Lender;
- (d) "Bridge Loan Maturity Date" means May 20, 2021;
- (e) "Business Day" means any day other than a Saturday, Sunday or statutory holiday in Ontario or any day on which commercial banks are open for business in the city of Ottawa, in the Province of Ontario.
- (f) "Lender Security" means all registered security interests now or hereafter held by the Lender in any or all of the Borrower's present and after acquired personal property to secure the Bridge Loan;
- (g) "Life Insurance Policy" means the insurance policy on the life of Paul Lem in the coverage amount equal to \$5,000,000 that has been or will be obtained pursuant to the BDC Offer and that is subject to the BDC Security, and includes any amendments, modifications, replacements or substitutions therefor and all proceeds payable thereunder or in connection therewith;
- (h) "PPSA" means the applicable *Personal Property Security Act*; and
- (i) "Secured Parties" means BDC and the Lender, and a "Secured Party" means either of them and each of their respective successors and permitted assigns.

## ARTICLE 3 - PRIORITIES

3.01 Subject to the terms and conditions of this Agreement, the BDC Security and the Lender Security shall have the following priorities as against one another:

- (a) Save and except for the Life Insurance Policy, the BDC Security is hereby postponed and subordinated to the security constituted by the Lender Security, to a maximum of \$7,000,000, for a period (the "**Postponement Period**") commencing on the date of the first disbursement of the Bridge Loan and ending on the earlier of: (i) the receipt of evidence by BDC of the Borrower satisfying all obligations, principal, interest and fees in relation to the Bridge Loan; or (ii) the three (3) month anniversary following the date the first of either BDC or the Lender making demand upon the Borrower (with written notice to the other party), *provided that* such demand is made within five (5) Business Days of the Bridge Loan Maturity Date; or within five (5) Business Days of an Event of Default (as such term is defined in the BDC Offer); and
- (b) Following the Postponement Period, the Lender Security is then postponed and subordinated to the security constituted by the BDC Security to the extent of the Borrower's indebtedness to BDC from time to time, together with all accrued interest thereon and all costs, charges and expenses incurred by BDC in connection therewith unless prior to expiry of the Postponement Period, the Lender has commenced collection proceedings against the Borrower.

- 3.02 The subordinations and postponements herein shall apply in all events and circumstances regardless of:
- (a) the date of execution, attachment, registration or perfection of any security interest held by BDC or the Lender; or
  - (b) the date of any advance or advances made to the Borrower by BDC or the Lender; or
  - (c) the date of default by the Borrower under any of the BDC Security or the Lender Security or the dates of crystallization of any floating charges held by BDC or the Lender; or
  - (d) any priority granted by any principle of law or any statute, including the PPSA.
- 3.03 Any proceeds, including, without limitation, any insurance proceeds received by the Borrower or by BDC or the Lender in respect of the collateral charged by the BDC Security or the Lender Security shall be dealt with according to the preceding provisions hereof as though such proceeds were paid or payable as proceeds of realization of the collateral for which they compensate subject to subparagraphs (a) and (b):
- (a) The Lender's priorities herein shall not extend to any payments against the Borrower's indebtedness to BDC received by BDC in the ordinary course of business and prior to written notice of the Borrower's default from the Lender.
  - (b) BDC's priorities herein shall not extend to any payments against the Borrower's indebtedness to the Lender received by the Lender in the ordinary course of business and prior to written notice of the Borrower's default from BDC.
- 3.04 If any of the BDC Security or the Lender Security is claimed or found by a trustee in bankruptcy or a court of competent jurisdiction to be unenforceable, invalid, unregistered or unperfected, then the foregoing provisions of this Article 3 shall not apply to such security to the extent that such security is so found to be unenforceable, invalid, unregistered or unperfected as against a third party unless the secured party shall be diligently contesting such a claim and has provided the other party with a satisfactory indemnity.
- 3.05 Each of the parties hereto shall permit any of the other parties hereto and their employees, agents and contractors, access at all reasonable times to any property and assets of the Borrower upon which it has a prior charge or security interest in accordance with the terms hereof and to permit such other party to remove such property and assets from the premises of the Borrower at all reasonable times without interference, provided that such other party shall promptly repair any damage caused to the premises by the removal of any such property or assets.
- 3.06 If any person, other than the Secured Parties, shall have a valid claim, right or interest in or to any of the present or after-acquired personal property of the Borrower which is subject to all or any part of the BDC Security or the Lender Security, as the case may be, in priority to or on a parity with one of the Secured Parties but not in priority to or on a parity with the other Secured Party, then this Agreement shall not apply so as to diminish the rights (as such rights would have been but for this Agreement) of such other Secured Party to such property or the proceeds thereof.
- 3.07 Nothing in this Agreement affects the priority of any security over the Borrower's real property interests held by BDC or the Lender. The real property interests of the Borrower are excluded from the operation of this agreement.
- 3.08 This Agreement is not intended to affect the priority of any third party claims and no such parties may benefit from anything contained herein.
- 3.09 Nothing in this Agreement shall affect the priority of purchase money security interests (as defined in the PPSA) hereafter acquired by BDC or the Lender in specific equipment of the Borrower. As between the parties where either BDC or the Lender finances the acquisition of equipment by the Borrower, BDC or the Lender will be entitled to a purchase money security interest whether they advance their funds before or after the Borrower has paid for the equipment and whether or not the funds are paid directly to the

vendor so long as the funds are advanced in connection with the acquisition by the Borrower of rights in such equipment.

#### **ARTICLE 4 - COVENANTS OF THE BORROWER**

- 4.01 The Borrower hereby confirms to and agrees with BDC and the Lender that:
- (a) so long as any of the indebtedness of the Borrower to BDC and the Lender remains outstanding, it shall stand possessed of its assets so charged for BDC and for the Lender in accordance with their respective interests and priorities as herein set out;
  - (b) the Borrower shall pay to BDC an additional 8% interest, accruing monthly, commencing on the first disbursement of the Bridge Loan to the Borrower by the Lender and ending upon BDC Capital receiving evidence of the repayment of the Bridge Loan in full, including all interest, fees and expenses; and
  - (c) the additional 8% accruing interest to be paid by the Borrower to BDC pursuant to the BDC Offer and the 12% interest to be paid by the Borrower to the Lender pursuant to the terms of the Bridge Loan, shall rank *pari passu* as between BDC and the Lender and shall be paid in priority to any other creditor of the Borrower and in advance of any liquidation event.

#### **ARTICLE 5- GENERAL**

- 5.01 From time to time upon request therefor BDC and the Lender may advise each other of the particulars of the indebtedness and liability of the Borrower to each other and all security held by each therefor.
- 5.02 BDC and the Lender each agree that, except as required by law, it will not transfer or assign any of its security from the Borrower without first obtaining from the proposed assignee or transferee an agreement to be bound by the provisions of this Agreement.
- 5.03 Prior to making any demand for payment on the Borrower or proceeding to enforce its security, BDC or the Lender, as the case may be, shall provide notice of such demand or enforcement to the other of them, provided, however, that neither shall be liable for any accidental omission to provide the said notice.
- 5.04 Any notice required or permitted to be given pursuant to this Agreement shall be in writing and shall be addressed and delivered to the parties hereto as follows:

for BDC:

BDC Capital Inc.  
Sunlife Financial Centre  
50 O'Connor Street, Suite 1100  
Ottawa, ON  
K1P 5E1

To the attention of: Vice President, Cleantech Practice

for the Lender:

Casa-Dea Finance Limited  
150 North Murray Street  
Trenton, ON  
Canada  
K8V 6R8

To the attention of: President

for the Borrower:

2434 Baseline Road, Suite 500  
Ottawa, ON  
K2H 1B2

To the attention of: Chief Executive Officer

- 5.05 Each of the Borrower, BDC and the Lender shall do, perform, execute and deliver all acts, deeds and documents as may be necessary from time to time to give full force and effect to the interests of this Agreement; provided however, that no consent of the Borrower shall be necessary to any amendment of the terms hereof by BDC and the Lender unless the interests of the Borrower are directly affected thereby.
- 5.06 This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and shall be effective as of the formal date hereof.
- 5.07 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 5.08 This Agreement shall be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.

*[The remainder of this page is intentionally left blank. Signature page to follow.]*

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement under the hand(s) of their duly authorized officer(s) on the date first above written.

**BDC CAPITAL INC.**

By: Susan Rohac  
Name: Susan Rohac  
Title: Vice-President Cleantech Practice

By: Z. Tompa  
Name: Zoltan Tompa  
Title: Director

I have authority to bind the BDC.

**CASA-DEA FINANCE LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Lender.

**SPARTAN BIOSCIENCE INC.**

By: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Borrower.

IN WITNESS WHEREOF the parties hereto have executed this Agreement under the hand(s) of their duly authorized officer(s) on the date first above written.

**BDC CAPITAL INC.**

By: *Susan Rohac*  
Name: Susan Rohac  
Title: Vice-President Cleantech Practice

By: *Z. Tompa*  
Name: Zoltan Tompa  
Title: Director

I have authority to bind the BDC.

**CASA-DEA FINANCE LIMITED**

By: *D. Edge*  
Name: Durrell Edge II  
Title: V.P.

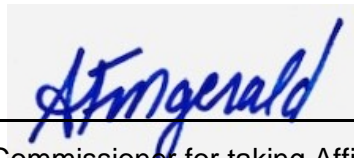
I have authority to bind the Lender.

**SPARTAN BIOSCIENCE INC.**

By: *Rick Clements*  
Name: Rick Clements  
Title: chief Financial officer

I have authority to bind the Borrower.

This is **Exhibit 'F'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits  
**Allison Jeanine Fitzgerald,**  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.

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

- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
Spartan Bioscience Inc.  
of the City of Ottawa, in the Province of Ontario

Take notice that:

1. I, Spartan Bioscience Inc., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that I intend to make a proposal to my creditors.
2. Ernst & Young Inc. of 99 Bank Street, Suite 1200, Ottawa, ON, K1P 6B9, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the official receiver in my locality.

Dated at the City of Ottawa in the Province of Ontario, this 5th day of April 2021.



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Spartan Bioscience Inc.  
Insolvent Person

To be completed by Official Receiver:

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Filing Date

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Official Receiver

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Adecco Employment Services Limited	Lockbox # T46033 Toronto ON M5W 4K9		5,443.53
Alberta Health Services	Attn: Accounts Payable PO Box 1600 Edmonton AB T5J 2N9		754,788.00
Alberta Precision Laboratories	PO Box 1600 Edmonton AB T5J 2N9		921,750.00
Altis Recruitment	102 Bank Street Ottawa ON K1P 5N4		1,672.40
Amazon Canada	40 King street West, 47th Floor Toronto ON M5H 4A9		2,106.39
Amica Senior Lifestyles	20 Queen Street Toronto ON M5H 3R3		77,964.35
Amica Senior Lifestyles	Attn: Doug Maclatchy 20 Queen Street W, Suite 3200 Toronto ON M5H 3R3		413,970.00
Arete Biosciences, LLC	222 Merchandise Mart Plz Chicago IL 60654 USA		19,100.76
Asuragen Inc	2150 Woodward St Austin TX 78744 USA		5,201.86
Athabasca Oil Corporation	Att: Cost Controller – Thermal Oil AOC Leismer Corner Partnership, Suite 1200, 215 - 9th Avenue SW Calgary AB T2P 1K3		5,613.00
Bank of Montreal - Contingent			250.00
Beaufort LLC	999 Waterside Drive Norfolk VA 23510 USA		551.13
Bio Rad	1329 Meyerside Drive Mississauga ON L5T 1C9		586.47
Biosearch Technologies, Inc.	Attn: Accounts Receivable Petaluma CA 94954 USA		678,540.04

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
BioTalent Canada	130 Slater Street Ottawa ON K1P 6E2		5,650.00
Brentwood College School	Att: David Burton 2735 Mt Baker Road Mill Bay BC V0R 2P1		13,590.00
Building Insites Consulting Inc.	Attn: Ron Roedig Ottawa ON K2K 2L1		17,604.68
Business Development Canada	5, Place Ville Marie, Ground Floor Montreal QC H3B 5E7		8,838,000.00
Canadawide Fruit Wholesalers Inc.	1370 rue de Beauharnois Ouest bureau 200 Montréal QC H4N1J5		3,045.00
Canadian Bank Note Company, Limited	Att: Accounts Payable 145 Richmond Road Ottawa ON K1Z 1A1		25,200.00
Canadian Natural Resources LTD	855 2 Street SW, Suite 2100 Calgary AB T2P 4J8		80,970.00
Canon Canada Inc.	Lockbox 914820 Toronto ON M5W 0E9		799.55
Capliq Corporation	957 Snowshoe Crescent Ottawa ON K1C 2Y3		709.68
Casa-Dea Finance Limited	150 North Murray Street Trenton ON K8V 6R8		6,933,091.00
CBSC Capital Inc	3450 Superior Court Oakville ON L6L 0C4		564.92
Cedarlane Labs	4410 Paletta Court Burlington ON L7L 5R2		7,399.14
Cenovus Energy	Attn: Danny Gemmell 225 6 Avenue SW, POC Box 766 Calgary AB T2P 0M5		10,326.00
Centerline Windsor Limited	415 Morton Dr. Windsor ON N9J 3T8		9,944.00

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
Challenger Logistics Inc	300 Maple Grove Road Cambridge ON N3E 1B7		534.60
Choate, Hall & Stewart	Collections Department Boston MA 02110 USA		8,962.03
CHU de Québec-Université Laval	775 Rue Saint-Viateur, Bureau 101 Québec QC G2L 2Z3		8,748,567.60
Clinical Research Solutions Inc.	104-18 Pine Street Kitchener ON N2H 5Z8		5,700.00
Coastal GasLink Pipeline Limited	Accounts Payable Department P.O. Box 1000, Station M Calgary AB T2P 4K5		248,850.00
Coastal GasLink Pipeline Limited	P.O. Box 1000 Calgary AB T2P 4K5		134,520.00
Collaton Consultancy Limited	8 Gampian Close Collaton St. Mary ENG TQ4 7GD UK		438.31
Connacher Oil and Gas Limited	Att: Accounts Payable Suite 500, 215 9th Avenue SW Calgary AB T2P 1K3		2,013.00
Cooke Aquaculture Inc.	669 Main Street Blacks Harbour NB E5H 1K1		10,012.50
Customer Deposits - Not specified			1,272,852.00
David Himsworth	848 Carlaw Avenue Toronto ON M4K 3L2		3,785.50
Day Shift Digital Inc	229 Niagara St Toronto ON M6J 2L5		4,192.30
Deloitte Management Services LP	c/o T04567C, PO Box 4567 Toronto ON M5W 0J1		155,611.11
DigiKey	701 Brooks Ave. South Thief River Falls MN 56701 USA		263.86

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Digitcom Canada Inc	70 Esna Park Drive Markham ON L3R 6E7		3,702.10
Duke Inv.			2,000.00
Duplicate PMT			3,603.74
E.T.M Industries Inc	310 Hall Avenue Renfrew ON K7V 4E7		6,836.50
Eastern Ontario Community Futures Development Corporation			182,726.00
Emergo Global Representation LLC	2500 Bee Cave Road Austin TX 78746 USA		2,560.97
Employees - Severance Amount Unknown	2934 Baseline Road, Suite 500 Ottawa ON K2H 1B2		250.00
Enbridge Employee Services Canada Inc.	PO Box 398 10180 - 101 Street, Suite 330 Edmonton AB T5J 2J9		156,847.50
Enbridge Gas Distribution Inc	PO Box 650 Scarborough ON M1K 5E3		3,411.34
Endoch Inc	12 Bradwick Drive Concord ON L4K 3P6		82,224.45
Enterprise Canada Inc	1202-595 Bay Street Toronto ON M5G 2C2		16,950.00
EPICOR Software Canada Ltd	Lockbox Number T56165C/U Toronto ON M5W 4L1		1,183.77
Equifax	PO Box 4265 Toronto ON M5W 5T7		2,867.52
ESBE Scientific	80 McPherson Street Markham ON L3R 3V6		363.86
Evik Diagnostic Innovations Inc	1240 Teron Road Kanata ON K2K 2B5		231,021.72

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
Export Development Corporation - Contingent	150 Slater Street Ottawa ON K1A 1K3		250.00
Fedex Express Canada Ltd.	PO Box 4626 Toronto Stn A Toronto ON M5W 5B4		38,944.61
FedEx Trade Networks Canada	Box 916200 Toronto ON M5W 0E9		629.86
Fisher Scientific	C/O 915660 Toronto ON M5W 0E9		6,017.30
Fleming Communications Inc.	101-920 Belfast Rd. Ottawa ON K1G 0Z6		2,184.41
GA International Inc.	3208 Jacques-Bureau Avenue Laval QC H7P 0A9		5,387.84
Gibson Energy ULC	1700, 440 - 2nd Avenue SW Calgary AB T2P 5E9		19,326.00
Globe Scientific Inc.	400 Corporate Drive Mahwah NJ 07430 USA		1,666.76
Graphic Products	PO Box 4030 Beaverton OR 97076 USA		395.63
Hallmark Housekeeping Services Inc	2150 Isington Avenue Toronto ON M9P 3V4		1,356.00
Harvest Operations Corp	700 2nd Street SW, Suite 1500 Calgary AB T2P 2W1		3,813.00
Health Canada	Accounting Operations East, PSP Invoices, Jeanne Mance Bldg. Tunney's Pasture, 200 Eglantine Drive, 18th Floor, Room 1855C Ottawa ON K1A 0K9		150,000.00
Health Canada – PHAC	Accounting Operations East, PSP Invoices, Jeanne Mance Building, Tunney's Pasture 200 Eglantine Drive, 18th Floor, Room 1855C Ottawa ON K1A 0K9		16,445,410.00

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Hi Bob Inc	205 Hudson St. New York NY 10013 USA		2,529.02
Home Depot	1 Concorde Gate, #400 North York ON M3C 4H9		411.76
HTS Toronto	115 Norfinch Dr. North York ON M3N 1W8		9,303.28
Idem Traslations Inc	500 California Avenue Palo Alto CA 94306 USA		317.22
Imperial Oil Limited	Attn: Accounts Payable PO Box 2480, Station M Calgary AB T2P 3M9		62,391.00
Insight Canada Inc	5410 Boul Decarie Montreal QC H3X 4B2		3,893.98
Inter Pipeline Ltd.	215 - 2nd Street SW, 3200 Calgary AB T2P 1M4		46,834.50
Ironworks Inc	450 Avenue Lee Baie D'Urfe QC H9X 3T3		2,595.00
i-tag Promotions Inc.	430 Hazeldean Road Ottawa ON K2L 1T9		22,571.42
ITM Instruments Inc.	16975 Leslie Street Newmarket ON L3Y 9A1		11,477.94
JF Perras	485 Industrial Avenue Ottawa ON K1G 0Z1		900.00
KPMG LLP	T4348, PO Box 4348 STN A Toronto ON M5W 7A6		90,682.50
Label Innovation Inc.	2714 Fenton Road Ottawa ON K1T 3T7		37,221.07
L-D Tool & Die	139 Iber Road Ottawa ON K2S 1E7		11,180.55
Life Sciences Advanced Technologies Inc.	2900 72nd Street North St. Petersburg FL 33710 USA		4,110.91

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Life Technologies Inc.	Bank of America Lockbox Toronto ON M5W 0E9		2,472.16
Linde Canada Inc	PO Box 400 Station D Scarborough ON M1R 5M1		3,527.85
Livingston	PO Box 5640 Toronto ON M5W 1P1		521.57
M & L Testing Inc.	31 Dundas Street East Dundas ON L9H 7H8		8,938.41
Maryna Dovbysh			943.06
McMaster-Carr	P.O. Box 7690 Chicago IL 60680 USA		589.58
Merit Medical	P.O. Box 204842 Dallas TX 75320-4842 USA		1,059.81
Mettler-Toledo Inc.	PO Box 1518, Station A Toronto ON M5W 3N9		1,217.58
Minerai de Fer Québec	1100 Boul Rene Levesque Ouest Montreal QC H3B 4N4		83,250.00
No Fixed Address Inc	50 Carroll Street Toronto ON M4M 3G3		11,300.00
Norgen	3430 Schmon Parkway Thorold ON L2V 4Y6		653.14
Nucro-Technics	2000 Ellesmere Rd Scarborough ON M1H 2W4		12,745.27
NWT Health & Social Services	Financial & Employee Shared Services Department of Finance, Bag Services 1511 Yellowknife NT X1A 2R3		20,025.00
Office Move Pro	1290 Old Innes Road, #713 Ottawa ON K1B 5M6		974.63
Ontario Agency for Health Protection & Promotion	480 University Ave, Suite 300 Toronto ON M5G 1V2		9,815,320.00

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Ontario Power Generation	135 West Beaver Creek, PO Box 850 Richmond Hill ON L4B 4R7		445,725.00
pdq Courier Services Inc.	P.O. Box 9251 Stn "T" Ottawa ON K1G 3T9		803.23
People Ink	Sherry Roberts 9400 Holly Avenue NE, Suite 202 Albuquerque NM 87122 USA		9,504.27
Pioneer Construction Inc	Pioneer Construction Main Off. 1 Ceasar Road Sudbury ON P3E 5P3		7,680.00
Platinum Code	8095 215th St W Lakeville MN 55044 USA		505.63
Procurement & Supply Chain	Central Services, Re: COVID-19 Laboratory Test Kits 600-352 Donald Street Winnipeg MB R3B 2H8		1,651,125.00
Production Case Company	PO box 969 Stittsville ON K2S 1B1		354.76
Promega Corp.	PO Box 15376 Stn A Toronto ON M5W 1C1		3,790,032.75
Purolator Inc	PO Box 4800 Concord ON L4K 0K1		2,033.19
Pylon Electronics Inc.	6355 Danville Rd, Unit 10 Mississauga ON L5T 2L4		1,220.48
Qosina	2002-Q Orville Drive North Ronkonkoma NY 11779 USA		5,984.37
reDivine Clinic	18 Rean Drive, Suite #620 North York ON M2K 1H3		1,695.00
Refresh Creationis	115 Broadway New York NY 10006 USA		10,643.80
Regina Qu'Appelle Health Region	2180 23rd Avenue Regina SK S4S 0A5		220,500.00

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
Revolution Networks	333 Preston Street Ottawa ON K1S 5N4		25,437.96
Rio Tinto Canada Management Inc	400-1190 Avenue des Canadiens-de-Montreal Montreal QC H3B 0E3		457,650.00
Sanmina Corporation	2700 North First Street San Jose CA 95134 USA		6,250,000.00
Seigi Media	67 Belmont Avenue Ottawa ON K1S 0V2		562.50
Seton	710 Cochrane Drive Markham ON L3R 5N7		496.51
Sigma-Aldrich Canada Co.	LBX#T6226 Toronto ON M4Y 2Z2		20,096.26
Smith Induspac Limited	Accounts Receivable Mississauga ON L4W 5M7		1,356.00
SNC-Dragados-Pennecon G.P.	Att: Account Payables 13 A-B Placentia Pike Road Argentina NL A0B 1W0		3,840.00
Sonic Wire transfer			15,733.18
Stericycle	19 Armthorpe Road Brampton ON L6T 5M4		1,163.40
Suncor Energy Services Inc	17424 129th Avenue NW, Material Control Centre Edmonton AB T5V 0C7		16,375.00
Suncor Energy Services Inc	17424-129th Avenue NW, Material Control Centre Edmonton AB T5V 0C7		343,885.50
Sure Print & Graphics	2507 St Josepg Blvd Orleans ON K1C 1G2		1,000.23
Syncrude Canda Ltd	Attn: Accounts Payable PO Box 1600, Station M Calgary AB T2P 1M5		75,001.50
TACT	500, Grande Allée Est, bureau 100 Quebec QC G1R 2J7		5,277.36

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
Creditor	Address	Account#	Claim Amount
TCA Technologies	38 Winer Road Puslinch ON N0B 2J0		1,030,604.03
Teck Coal Inc	Attn: Accounts Payables 2000 Sparwood Sparwood BC V0B 2G0		49,452.00
Telecom Computer	1545 Chatelain Ave Ottawa ON K1Z 8B6		24,642.20
The Ottawa Hospital - Civic Campus	Finance Department CPC Building 6th Floor, 1053 Carling Avenue Ottawa ON K1Y 4E9		261,075.00
Top Aces Inc.	ATTN: Accounts Payable 1675 Trans-Canada, Suite 201 Doval QC H9P 1J1		12,975.00
Trafalgar Residence Inc.	124 Merton Street Suite 305 Toronto ON M4S 2Z2		16,995.00
Trans Mountain Pipeline LP	300 5 Avenue SW Suite 2700 Calgary AB T2P 5J2		30,847.50
TransCanada Keystone Pipeline Limited Partnership	Accounts Payable Department P.O. Box 100, Station M Calgary AB T2P 4K5		146,216.25
TransCanada Keystone Pipeline Limited Partnership	PO Box 100 Calgary AB T2P 4K5		8,520.25
TransCanada PipeLines Limited	Attn: Accounts Payable Department P.O. Box 1000, Station M Calgary AB T2P 4K5		497,700.00
TransCanada PipeLines Limited	Attn: Accounts Payable Department P.O. Box 1000, Station M Calgary AB T2P 4K5		106,672.50
Troemner, LLC	201 Wolf Drive Thorofare NJ 08086 USA		822.81

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

- FORM 33 -  
 Notice of Intention To Make a Proposal  
 (Subsection 50.4(1) of the Act)

In the matter of the proposal of  
 Spartan Bioscience Inc.  
 of the City of Ottawa, in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
Twist Bioscience	Dept LA 25072 Pasadena CA 91185-5072 USA		724.67
Typenex Medical, LLC	303 E. Wacker Drive Chicago IL 60601 USA		204,142.82
Uline	PO Box 3500, RPO Streetsville Mississauga ON L5M 0S8		5,122.89
Ultident	381 Locke Street St. Laurent QC H4T 1X7		1,981.80
UPS Canada Ltd.	P.O. Box 4900, Station A Toronto ON M5W 0A7		1,594.89
Vita Needle Company	919 Great Plain Avenue Needham MA 02492 USA		2,659.72
VPS HR Solutions Inc.	29-2300 Finch Ave. West Toronto ON M9M 2Y3		2,595.00
VWR International Co.	PO Box 4286 Toronto ON M5W 5W9		20,380.16
Wellington Advocacy Inc	C/O Tara McLeod MNP Ottawa 1600 Carling Avenue Ottawa ON K1Z 1G3		67,800.00
WR-Mount Vernon Clinical Research, LLC	3100 Duraleigh Road Raleigh NC 27612 USA		1,732.13
WSIB	P.O. Box 4115 Toronto ON M5W 2V3		6,141.57
Xometry Inc	PO Box 735303 Dallas TX 75373 USA		4,464.92
Zendesk Inc	P.O. Box 734287 Chicago IL 60673-4287 USA		8,232.70
Ziebarth Electrical	890 Boyd Ave Ottawa ON K2A 2E3		9,621.37
ZOOM Information	307 Waverley Oaks Road Waltham MA 02452 USA		32,122.13

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

- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
Spartan Bioscience Inc.  
of the City of Ottawa, in the Province of Ontario

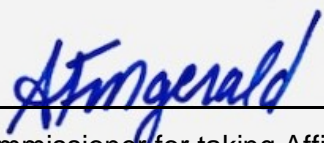
Total			72,994,145.99
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*Jennifer Ross-Carrière*

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Spartan Bioscience Inc.  
Insolvent Person

This is **Exhibit 'G'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**



65 Bridge Street East, Belleville, Ontario K8N 1L8  
T: 613.966.5222 F: 613.966.8036  
[www.owtlaw.com](http://www.owtlaw.com)

Scott McMahon  
E-Mail – [smcmahon@owtlaw.com](mailto:smcmahon@owtlaw.com)  
Direct Telephone Extension: 255  
Assistant: Denise, Extension: 254

**VIA COURIER**

April 8, 2021

BDC Capital Inc.  
Sunlife Financial Centre  
50 O'Connor Street, Suite 1100  
Ottawa, ON K1P 5E1

Dear Sir/Madam:

**Re: Credit Facility Agreement dated November 25, 2020**  
**Our Client: Casa-Dea Finance Limited**  
**Date of Default: April 6, 2021**  
**Our File No.: 210596**


---

Please find enclosed as a courtesy to you a copy of our correspondence to Spartan Bioscience Inc. dated April 8, 2021, with attachments.

Yours very truly,

O'FLYNN WEESE LLP

Per:

  
SCOTT McMAHON  
SM:dms  
Enclosure



65 Bridge Street East, Belleville, Ontario K8N 1L8  
T: 613.966.5222 F: 613.966.8036  
www.owtlaw.com

Scott McMahon  
E-Mail – [smcmahon@owtlaw.com](mailto:smcmahon@owtlaw.com)  
Direct Telephone Extension: 255  
Assistant: Denise, Extension: 254

April 8, 2021

Spartan Bioscience Inc.  
2434 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

Attention: Chief Executive Officer

**Re: Credit Facility Agreement dated November 25, 2020**  
**Our Client: Casa-Dea Finance Limited**  
**Date of Default: April 6, 2021**  
**Our File No.: 210596**

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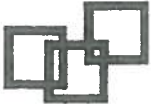
Please be advised that we are the solicitors for Casa-Dea Finance Limited (“CDFL”).

We understand that effective April 6, 2021, Spartan Bioscience Inc. (“Spartan”) has taken certain measures which trigger its liability for immediate repayment on demand to CDFL of the Aggregate Indebtedness of Spartan as referenced and defined in the Bridge Credit Facility Agreement (“Credit Facility Agreement”) dated November 25, 2020.

Further to the Credit Facility Agreement under the caption, “Events of Default”, CDFL has learned that Spartan has, “committed or threatened to commit an act of bankruptcy”; and, CDFL has further learned of, “an event that has occurred that has had, or is likely to have, an adverse effect on the ability of [Spartan] to repay the Aggregate Indebtedness when due”.

Accordingly, CDFL hereby makes formal demand of Spartan for immediate repayment of the Aggregate Indebtedness referred to in the Credit Facility Agreement dated November 25, 2020 in full failing which it will obtain judgment for repayment of the said amount and its legal costs on a substantial indemnity basis.

We enclose at this time a Notice of Intention to Enforce Security which is served upon you pursuant to section 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B. 3 as am. We further enclose a Statement of Claim applicable to the foregoing debt which has been issued by the Superior Court of Justice at Belleville, Ontario.



Page 2  
Spartan Bioscience Inc.  
April 8, 2021

Our client looks forward to immediate repayment of the debt in full failing which we expect that we will hear from your solicitors in due course.

Yours very truly,

O'FLYNN WEESE LLP

Per:

SCOTT McMAHON

SM:dms

Enclosure

- c. BDC Capital Inc.  
Sunlife Financial Centre  
50 O'Connor Street, Suite 1100  
Ottawa, ON K1P 5E1  
Attention: Vice-President, Cleantech Practice

**NOTICE OF INTENTION TO ENFORCE SECURITY**

**(SUBSECTION 244(1))**

**BANKRUPTCY AND INSOLVENCY ACT**

TO: SPARTAN BIOSCIENCE INC. (an insolvent corporation)  
2434 Baseline Road, Suite 500  
Ottawa, ON K2H 1B2

**TAKE NOTICE THAT:**

1. Casa-Dea Finance Limited, a secured creditor, intends to enforce its security on the insolvent corporation's property described below:
  - (a) all of its present and future equipment, including, without limiting the generality of the foregoing, all of its fixtures, plant, machinery, tools and furniture, books, records, documents, and vehicles of any nature, kind or description, now or hereafter owned or acquired and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating to the foregoing;
  - (b) all of its present and future inventory, including, without limiting the generality of the foregoing, all of its raw materials, materials used or consumed in its business, work-in-progress, finished goods, goods used for packing and goods acquired or held for sale or lease or that have been leased or furnished or that are to be furnished under contracts of rental or service, and all accessions to any of the foregoing, including all spare parts and accessories installed in or affixed or attached to any of the foregoing;
  - (c) all of its present and future accounts and intangibles, including, without limiting the generality of the foregoing, all of its book debts, accounts and other amounts receivable, contract rights and choses in action of every kind or nature including insurance rights arising from or out of the assets referred to in Sections (a) and (b) hereof, goodwill, chattel paper, instruments of title, investments, money and securities:

- (d) all of its present and future Investment Property (as such term is defined in the PPSA) and Financial Assets (as such term is defined in the *Securities Transfer Act, 2006* (Ontario), as amended from time to time and any legislation substituted therefor and any amendments thereto) of the Borrower, including all substitutions for any Investment Property or Financial Assets and dividends and income derived therefrom or payable in connection therewith (“Investment Collateral”);
  - (e) all of its present and future intellectual property (whether registered or unregistered) comprising without limitation all computer programs, application software, hardware/software maintenance support agreements and all documentation related thereto, licenses of software, copyrights, patents and inventions, trade-marks, trade names, business names, trade styles and other business identifiers, industrial designs, integrated circuit topographies, trade secrets and other confidential information and all know-how obtained, developed or used by the Borrower or contemplated at any time for use by the Borrower (the “Intellectual Property Collateral”);
  - (f) its business and undertaking and all of its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, both present and future (other than property and assets hereby validly assigned or subjected to a specific mortgage, charge or security interest by Sections (a), (b), (c), (d) and (e) hereof and the exceptions hereinafter contained), which security is granted as and by way of a floating charge;
  - (g) proceeds arising from any of the property, assets and undertaking of the Borrower referred to herein; and
  - (h) all additions to and replacements of the assets referred to herein.
2. The security that is to be enforced is in the form of a Bridge Credit Facility Agreement and Security Agreement made between SPARTAN BIOSCIENCE INC., as Borrower, and CASA-DEA FINANCE LIMITED, as Secured Party, executed November 25, 2020.
  3. The total amount of indebtedness secured by the security **as of the date hereof is \$7,341,512.03** calculated as follows: a principal sum of \$7,000,000.00, plus interest of \$339,012.03 to April 9, 2021, plus legal costs and expenses of \$2,500.00 plus interest thereon at the rate of 12% per annum, based on a 365 day year, compounded and calculated at the end of each fiscal quarter.
  4. The secured creditor will not have the right to enforce the security until after the expiry of the ten (10) day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

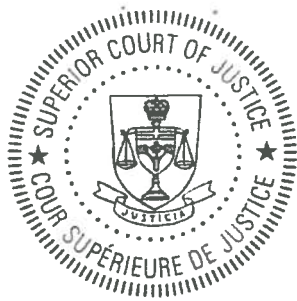
DATED at Belleville this 9th day of April, 2021

NAME OF SECURED CREDITOR:

Casa-Dea Finance Limited  
By its solicitors, O'FLYNN WEESE LLP

A handwritten signature in black ink, appearing to read "Scott McMahon", written over a horizontal line.

Scott McMahon



Electronically issued : 08-Apr-2021  
Délivré par voie électronique  
Belleville

Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

BETWEEN:

(Court Seal)

CASA-DEA FINANCE LIMITED

Plaintiff

and

SPARTAN BIOSCIENCE INC.

Defendant

**STATEMENT OF CLAIM**

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

-2-

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of court office: 15 Bridge Street West  
Belleville ON K8P 0C7

TO: Spartan Bioscience Inc.  
2434 Baseline Road, Suite 500  
Ottawa ON K2H 1B2

## CLAIM

1. The Plaintiff's claim is for:
  - (a) payment by the Defendant of the amount of SEVEN MILLION THREE HUNDRED AND FORTY-ONE THOUSAND, FIVE HUNDRED AND TWELVE DOLLARS (\$7,341,512.03) due and payable according to the terms and provisions of a Bridge Credit Facility Agreement and Security Agreement dated November 25, 2020, plus any additional expenses, charges and costs, incurred or to be incurred by the Plaintiff in the exercise of its rights under the Agreements;
  - (b) interest at the rate of 12% per annum, based on a 365 day year, compounded and calculated at the end of each fiscal quarter, from April 9, 2021 calculated to the date of payment;
  - (c) the costs of this action on a substantial indemnity basis inclusive of applicable taxes and disbursements; and,
  - (d) such further and other relief as Counsel for the Plaintiff may advise and this Honourable Court deem necessary.
  
2. The Plaintiff is an entity incorporated pursuant to the laws of the Province of Ontario having an office at 150 North Murray Street in the City of Trenton in the Province of Ontario. At all material times, the Plaintiff was acting as a Secured Party lender with respect to a loan extended to the Defendant.

-4-

3. The Defendant is an entity incorporated pursuant to the laws of the Province of Ontario having an office at 2934 Baseline Road, Suite 500 in the City of Ottawa in the Province of Ontario. At all material times, the Defendant was acting as a Borrower with respect to a loan it received from the Plaintiff Secured Party.

4. The Plaintiff's claim is on a Bridge Credit Facility Agreement and Security Agreement dated November 25, 2020 made between the Defendant, Spartan Bioscience Inc. as Borrower and the Plaintiff, Casa-Dea Finance Limited as Secured Party.

5. Pursuant to a Bridge Credit Facility Agreement entered into by the parties on November 25, 2020, the Plaintiff Secured Party extended the Defendant Borrower a loan in the principal amount of SEVEN MILLION DOLLARS (\$7,000,000.00) with interest to be charged to the Defendant Borrower thereon at the rate of 12% per annum, based on a 365 day year, compounded and calculated at the end of each fiscal quarter.

6. Pursuant to a Security Agreement also entered into by the parties on November 25, 2020, the Defendant Borrower extended to the Plaintiff Secured Party a security interest over inter alia, its equipment, inventory, investments, accounts, intellectual product and other business and undertaking securing the repayment of the loan codified by the Bridge Credit Facility Agreement dated November 25, 2020.

7. Contained within the Bridge Credit Facility Agreement were stipulations pertaining to the Defendant Borrower's default. On or about April 6, 2021, the Defendant Borrower committed certain acts of default or took certain measures constitutive of an "Event of Default" as set out in the Bridge Credit Facility Agreement. In doing so, the Defendant Borrower became liable for immediate repayment of the loan to the Plaintiff Secured Party with interest.

-5-

8. The measures taken by the Defendant Borrower constituting acts of default were inter alia, committing or threatening to commit an act of bankruptcy and causing an event to occur that has or will likely have an adverse effect on the ability of the Defendant Borrower to repay the loan to the Plaintiff Secured Party.

9. By reason of having taken certain measures contemplated as an “Event of Default”, the Defendant Borrower is liable under the Bridge Credit Facility Agreement and the Security Agreement to repay to the Plaintiff Secured Party the entirety of the loan including interest and the costs and expenses incurred by the Plaintiff Secured Party in enforcing its secured interest.

10. Despite knowing that it has taken certain measures contemplated as an “Event of Default”, the Defendant Borrower has failed to repay the amounts owing to the Plaintiff Secured Party and therefore is in breach of its obligations under both the Bridge Credit Facility Agreement and the Security Agreement.

11. The Defendant Borrower has at no time whatsoever made any payments against the loan codified by the Bridge Credit Facility Agreement.

12. The Defendant Borrower has been sent a demand from the Plaintiff Secured Party to repay the loan in full. The Defendant Borrower has been sent a Notice of Intention to Enforce Security as contemplated by the terms and provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.3.

13. The amount owing by the Defendant Borrower to the Plaintiff Secured Party is calculated as follows:

-6-

For Principal	\$7,000,000.00
For Interest to April 9, 2021	\$ 339,012.03
For Legal Fees and Expenses	\$ 2,500.00
TOTAL	\$7,341,512.03

14. The Plaintiff Secured Party proposes a trial of this action at the City of Belleville in the Province of Ontario.

O'FLYNN WEESE LLP  
Barristers & Solicitors  
65 Bridge Street East  
Belleville, Ontario K8N 1L8

**Scott McMahon**  
LSO# 55608V  
[smcmahon@owtlaw.com](mailto:smcmahon@owtlaw.com)  
Tel: (613) 966-5222  
Fax: (613) 966-8036

Lawyers for the Plaintiff

CASA-DEA FINANCE LIMITED  
Plaintiff

-and-

SPARTAN BIOSCIENCE INC.  
Defendant

Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**PROCEEDING COMMENCED AT**  
**BELLEVILLE**

**STATEMENT OF CLAIM**

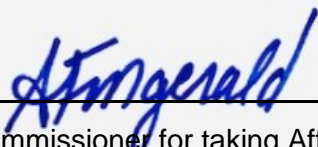
O'FLYNN WEESE LLP  
Barristers & Solicitors  
65 Bridge Street East  
Belleville, Ontario K8N 1L8

**Scott McMahon**  
LSO# 55608V  
[smcmahon@owlaw.com](mailto:smcmahon@owlaw.com)  
Tel: (613) 966-5222

Lawyers for the Plaintiff

Email for party served:  
Spartan Bioscience Inc.: unknown

This is **Exhibit 'H'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

**Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) MONDAY, THE 21<sup>st</sup>  
JUSTICE S.J. KERSHMAN ) DAY OF JUNE 2021

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  
SPARTAN BIOSCIENCE INC. (the "**Company**")

**INITIAL ORDER**

**THIS APPLICATION**, made by the Spartan Bioscience Inc. (the "**Company**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 161 Elgin Street, Ottawa, Ontario.

**ON READING** the affidavit of Jennifer Ross-Carrière sworn June 18, 2021 and the Exhibits thereto and the Fourth Report of Ernst & Young Inc., ("**EY**") in its capacity as the proposal trustee of the Company in the NOI Proceeding (as defined below) (in such capacity, the "**Proposal Trustee**") and in its capacity as the proposed monitor of the Company dated June 18, 2021 (the "**Fourth Report**"), and on reading the consent of EY to act as the monitor of the Company (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Company and EY,

**SERVICE**

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

**CONTINUANCE UNDER THE CCAA**

2. **THIS COURT ORDERS AND DECLARES** that the Company is a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that effective June 21, 2021, the Company's proceeding bearing Estate/Court File No. 33-2726552 (the "**NOI Proceeding**") commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") is hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to the Company save that any and all steps, agreements and procedures validly taken, done or entered into by the Company during the NOI Proceeding shall remain valid and binding, notwithstanding the commencement of the within CCAA proceeding, including, without limitation, (a) any steps taken by the Company in accordance with the terms of the SISP (as defined in the Order of Justice Kershman dated April 20, 2021) and any steps taken pursuant to the SISP, (b) the KERP (as defined in the Order of Justice Kershman dated April 20, 2021), (c) the Credit Facility and Term Sheet (the "**Term Sheet**"), as defined in the Order of Justice Kershman dated April 23, 2021 and (d) any Order issued in the NOI Proceeding.

4. **THIS COURT ORDERS** that the Company shall not be deemed to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding Section 50.4(8) of the BIA.

**PLAN OF ARRANGEMENT**

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

## POSSESSION OF PROPERTY AND OPERATIONS

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

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

8. **THIS COURT ORDERS** that the Company shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and,

- (b) the fees and disbursements of any Assistants retained or employed by the Company in respect of these proceedings, at their standard rates and charges.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Company shall be entitled but not required to pay all reasonable expenses incurred by the Company in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) payment for goods or services actually supplied to the Company; and,
- (c) any payment referred to in paragraphs 9(a) to 9(b) of this Order that was incurred during the NOI Proceeding or that pertains to such period.

10. **THIS COURT ORDERS** that the Company shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Company in connection with the sale of goods and services by the Company, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of

municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Company.

11. **THIS COURT ORDERS** that until a real property lease is assigned or disclaimed in accordance with the CCAA, the Company shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Company and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, in accordance with the applicable real property lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Company and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of

any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Company in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

14. **THIS COURT ORDERS** that, except as specifically permitted herein or under any Order made in the NOI Proceeding the Company is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Company to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order, any Order made in the NOI Proceedings or any other Order of this Court.

#### **RESTRUCTURING**

15. **THIS COURT ORDERS** that the Company shall, subject to such requirements as are imposed by the CCAA, and such covenants as may be contained in the Term Sheet, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

#### **NO PROCEEDINGS AGAINST THE COMPANY OR THE PROPERTY**

16. **THIS COURT ORDERS** that until and including June 30, 2021, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the

Company or the Monitor, or affecting the Business or the Property, except with the written consent of the Company and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Company or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Company or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Company and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Company to carry on any business which the Company is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

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

#### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Company or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Company, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Company, and that the Company shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses

and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Company in accordance with normal payment practices of the Company or such other practices as may be agreed upon by the supplier or service provider and each of the Company and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Company. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

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

#### **APPOINTMENT OF MONITOR**

22. **THIS COURT ORDERS** that EY is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Company with the powers and obligations set out in the CCAA or set forth herein and that the Company and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Company pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the

assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the Company's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Company in its preparation of its cash flow statements and reporting required by Casa Dea Finance Limited (the "**Interim Financing Lender**"), which information shall be reviewed with the Monitor and delivered to the Interim Financing Lender and its counsel on a periodic basis, to the extent agreed to by the Company and Interim Financing Lender;
- (d) advise the Company in its development of the Plan and any amendments to the Plan;
- (e) assist the Company, to the extent required by the Company, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Company, to the extent that is necessary to adequately assess the Company's business and financial affairs or to perform its duties arising under this Order;
- (g) assist the Company with respect to the consideration, development and implementation of any restructuring initiatives;
- (h) carry out the SISP in accordance with its terms and the Order of Justice Kershman dated April 20, 2021 and to take such steps and do all things the Monitor reasonably deems necessary to perform its obligations thereunder and to take such steps and execute such documentation as the Monitor may deem necessary or incidental to the SISP;

- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

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

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Company with information provided by the Company in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Company is

confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Company may agree.

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

28. **THIS COURT ORDERS** that the Monitor, Norton Rose Fulbright Canada LLP, counsel to the Monitor and Dentons Canada LLP, counsel to the Company shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Company in accordance with the payment terms agreed to with such professionals.

29. **THIS COURT ORDERS** that the Proposal Trustee, the Monitor and their legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to the Case Management Judge (as defined herein).

30. **THIS COURT ORDERS** that the Proposal Trustee and counsel to the Proposal Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these CCAA proceedings. The Company is hereby authorized and directed to pay any outstanding accounts of the Proposal Trustee and counsel to the Proposal Trustee.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED IN THE NOI PROCEEDING**

31. **THIS COURT ORDERS** that the Administration Charge, KERP Charge and D&O Charge, as defined in and created by the Order of Justice Kershman dated April 20, 2021 and the Interim Financing Charge, as defined in and created by the Order of Justice Kershman dated April 23, 2021 (collectively, the “**Charges**”) shall continue with the following priority:

- (a) First, the Administration Charge (up to the maximum amount of \$250,000);

- (b) Second, the KERP Charge (up to a maximum amount of \$725,000);
- (c) Third, the D&O Charge (up to a maximum amount of \$250,000); and,
- (d) Fourth, the Interim Financing Charge (up to the maximum principal amount of \$600,000).

For greater certainty, the Charges do not extend over the Cash Collateral Security (as defined in the Affidavit of Jennifer Ross-Carrière sworn April 16, 2021) and the Assignment of Life Insurance in favour of Business Development Canada Inc. (also as defined in the Affidavit of Jennifer Ross-Carrière sworn April 16, 2021).

32. **THIS COURT ORDERS** that EY, in its capacity as Proposal Trustee in the NOI Proceeding and Monitor in these CCAA proceedings, Norton Rose Fulbright Canada LLP, as counsel to the Proposal Trustee in the Proposal Proceedings and Monitor in these CCAA proceedings, and Dentons Canada LLP, as counsel to the Company in the Proposal Proceedings and these CCAA proceedings, shall be entitled to the benefit of the Administration Charge as security for their professional fees and disbursements incurred both before and after the granting of this Order at the standard rates and charges of EY and such counsel.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that except as otherwise provided herein, each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges.

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Company pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

## SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the Monitor's obligations under Sections 23(1)(a)(i), 23(1)(a)(ii)(B), and 23(1)(a)(ii)(C) of the CCAA and the regulations made thereunder are hereby dispensed with.

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

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

## GENERAL

41. **THIS COURT ORDERS** that this matter shall be consolidated with and proceed under Court File 33-2726552. All materials related to this CCAA matter in Court File CV-21-00086797-0000 shall be filed in Court File 33-2726552. All future materials filed shall include the following file numbers: Court File 33-2726552 and CV-21-00086797-0000.

42. **THIS COURT ORDERS** that this matter shall be case managed by Kershman J. (the “**Case Management Judge**”).

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

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

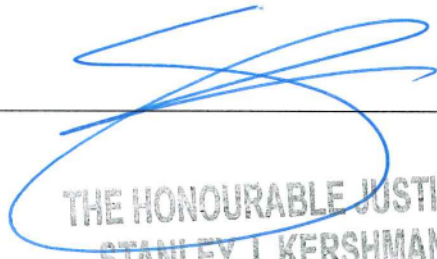
45. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Company, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Company and the Monitor and their respective agents in carrying out the terms of this Order.

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

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

48. **THIS COURT ORDERS** that, except in the case of urgency, before any motions in the within proceedings are scheduled, including any motions that are contemplated in paragraph 47

herein, a case conference before the Case Management Judge shall be held on at least three (3) days' notice.

  
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THE HONOURABLE JUSTICE  
STANLEY J. KERSHMAN

ENTERED AT OTTAWA  
INSCRIT A OTTAWA  
ON/LE JUN 21 2021  
DOCUMENT # 0411  
IN BOOK NO. 73-13  
AU REGISTRE NO. 73-13

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 SPARTAN BIOSCIENCE INC. (the "Company")

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**APPLICATION UNDER THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C., 1985, C. C-36, AS AMENDED  
PROCEEDING COMMENCED AT OTTAWA**

**ORDER**

**Dentons Canada LLP**  
1420 - 99 Bank Street  
Ottawa ON K1P 1H4  
Fax: (613) 783-9690

**Kenneth Kraft** (LSO #31919P)  
Tel: 416-863-4374  
Fax: 416-863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Robert Kennedy** (LSO #474070)  
Tel: 416-367-6756  
[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)

**Fraser Mackinnon Blair** (LSO #66683L)  
Tel: 613-783-9647  
[fraser.mackinnon.blair@dentons.com](mailto:fraser.mackinnon.blair@dentons.com)

*Lawyers for the Applicant, Spartan Bioscience Inc.*

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 SPARTAN BIOSCIENCE INC. (the "Company")

June 21/21

~~Order to go as proposed~~

For oral reasons given, the relief as requested and amended shall be granted.

Draft Order reviewed and revised to be signed over

A copy of the CCAA shall be filed in

the BIA proposed file 33-2726552.

All materials going forward shall be

filed in the BIA Proposed file 33-2726552.

Make to return on July 28, 2021 via Zoom by Zoom for various orders.

ONTARIO

SUPERIOR COURT OF JUSTICE

APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985, c. C-36, AS AMENDED

PROCEEDING COMMENCED AT OTTAWA

APPLICATION RECORD  
(CONTINUATION TO CCAA)

Dentons Canada LLP  
1420 - 99 Bank Street  
Ottawa ON K1P 1H4  
Fax: (613) 783-9690

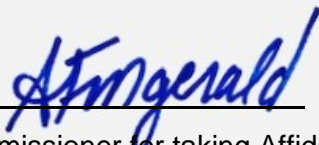
Kenneth Kraft (LSO #31919P)  
Tel: 416-863-4374  
Fax: 416-863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

Robert Kennedy (LSO #474070)  
Tel: 416-367-6756  
[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)

Fraser Mackinnon Blair (LSO #66683L)  
Tel: 613-783-9647  
[fraser.mackinnon.blair@dentons.com](mailto:fraser.mackinnon.blair@dentons.com)

Lawyers for the Applicant, Spartan Bioscience Inc.

This is **Exhibit 'I'** referred to in the Affidavit of Susan Rohac sworn before me in the City of Ottawa in the Province of Ontario on August 4, 2021, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



A Commissioner for taking Affidavits

Allison Jeanine Fitzgerald,  
a Commissioner, etc., Province of  
Ontario, for Brazeau Seller LLP,  
Barristers and Solicitors.  
Expires January 13, 2023.



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

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

THE HONOURABLE ) TUESDAY, THE 20TH  
JUSTICE S.J. KERSHMAN ) DAY OF APRIL 2021

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

**ORDER**

**THIS MOTION**, made by Spartan Bioscience Inc. (the “**Company**”), pursuant to the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3, as amended (the “**BIA**”) for an order, *inter alia*:

- (a) Abridging the time for service and filing of the Notice of Motion and the Motion Record and dispensing with further service and filing thereof;
- (b) Approving the granting of an extension of time to file a proposal and the corresponding stay of proceedings to and including June 18, 2021, in accordance with the BIA;
- (c) Approving a super priority administration charge in the aggregate amount of \$250,000;

- (d) Approving a super priority charge in respect of the KERP (as defined herein), in the aggregate amount of \$725,000;
- (e) Approving a super priority charge in favour of the Company's directors and officers, in the aggregate amount of \$250,000; and
- (f) Approving the SISP (as defined herein) and certain related relief;

was heard this day by judicial videoconference via Zoom due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the Affidavit of Jennifer Ross-Carrière, sworn April 16, 2021, and the exhibits thereto (the "**Ross-Carrière Affidavit**"), the First Report (the "**First Report**") of Ernst & Young Inc. (the "**Proposal Trustee**"), dated April 16, 2021, and on hearing the submissions of counsel to the Company and counsel for the Proposal Trustee, and such other counsel as are listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Kristina Tam, sworn April 16, 2021:

**SERVICE**

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

**EXTENSION OF TIME TO MAKE A PROPOSAL**

2. **THIS COURT ORDERS** that the time within which the Company is to make a proposal pursuant to section 62(1) of the BIA, and the corresponding stay of proceedings provided for in section 69 of the BIA, are hereby extended in accordance with section 50.4(9) of the BIA to and including June 18, 2021.

### **ADMINISTRATION CHARGE**

3. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and Company's counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these proceedings, both before and after the making of this Order. The Company is hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel to the Proposal Trustee, and Company's counsel on a bi-weekly basis, provided that the accounts of the Proposal Trustee and counsel to the Proposal Trustee as paid are passed from time to time and for this purpose the accounts are hereby referred to the Case Management Judge (as defined herein).

4. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and the Company's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the current and future assets, undertakings and properties of the Company of every nature and kind whatsoever (including all real and personal property), and wherever situate including all proceeds thereof) other than the Cash Collateral Security (as defined in the Ross-Carriere Affidavit) in favour of Bank of Montreal and the Assignment of Life Insurance in favour of BDC (also as defined in the Ross-Carriere Affidavit) (collectively, the "**Property**"), which charge shall not exceed an aggregate amount of \$250,000 as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 10 and 12 herein.

### **KEY EMPLOYEE RETENTION PLAN AND KEY EMPLOYEE CHARGE**

5. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**"), the details of which are attached as Confidential Exhibit "1" to the Ross-Carriere Affidavit

(“**Confidential Exhibit “1”**”), is hereby approved and the Company is authorized and directed to make payments in accordance with the terms thereof.

6. **THIS COURT ORDERS** that each of the beneficiaries of the KERP shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$725,000, to secure amounts payable under the KERP pursuant to paragraph 5 herein. The KERP Charge shall have the priority set out in paragraphs 10 and 12 herein.

#### **DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE**

7. **THIS COURT ORDERS** that the Company shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Company after the commencement of the within proceedings provided that the occurrence giving rise to the indemnified obligations and liabilities shall have occurred after the effective time of this Order, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

8. **THIS COURT ORDERS** that the directors and officers of the Company shall be entitled to the benefit of and are hereby granted a charge (the “**D&O Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for the indemnity provided in paragraph 7 of this Order. The D&O Charge shall have the priority set out in paragraphs 10 and 12 herein.

9. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Company’s directors and officers shall only be entitled to the benefit

of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 7 of this Order.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

10. **THIS COURT ORDERS** that the priorities of the Administration Charge, the KERP Charge and the D&O Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (up to the maximum amount of \$250,000);

Second – the KERP Charge (up to the maximum amount of \$725,000); and,

Third – D&O Charge (up to the maximum amount of \$250,000).

11. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

12. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) notwithstanding the order of perfection or attachment.

13. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any Encumbrances over any Property

that rank in priority to, or *pari passu* with, any of the Charges, unless the Company also obtains the prior written consent of the Proposal Trustee and the applicable chargee(s) entitled to the benefit of such Charges (collectively, the “**Chargees**”), and further Order of this Court.

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Company pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

#### **APPROVAL OF THE SISP**

16. **THIS COURT ORDERS** that the Sale and Investment Solicitation Process (subject to any amendments thereto that may be made in accordance therewith and with this Order) attached hereto as **Schedule "A"** (the "SISP"), is hereby approved and the Company and the Proposal Trustee are hereby authorized and directed to carry out the SISP in accordance with its terms and this Order, and are hereby authorized and directed to such steps and do all things reasonably necessary to perform their obligations thereunder and to take such steps and execute such documentation as may be necessary or incidental to the SISP.

17. **THIS COURT ORDERS** that the Company, the Proposal Trustee and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of the Company or the Proposal Trustee, as applicable, as determined by the Court.

18. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Company and the Proposal Trustee are hereby authorized and permitted to disclose and transfer to any Phase 1 Qualified Bidder (as defined in the SISP) personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each Phase 1 Qualified Bidder to whom such personal information is disclosed

shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Company or the Proposal Trustee, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Company or the Proposal Trustee. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon the closing of the Transaction(s) contemplated in the Successful Bid, shall be entitled to the use the personal information provided to it that is related to the business and / or property acquired pursuant to the SISP in a manner that is in all materials respects identical to the prior use of such information by the Company, and shall return all other personal information to the Company or the Proposal Trustee, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Company or the Proposal Trustee.

#### **SEALING ORDER**

19. **THIS COURT ORDERS** that Confidential Exhibit “1” to the Ross-Carriere Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record, subject to further Order of the Court.

#### **SERVICE AND NOTICE**

20. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (Toronto) (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of

documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL [www.ey.com/ca/spartan](http://www.ey.com/ca/spartan).

21. **THIS COURT ORDERS** that the Company and the Proposal Trustee and each of their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Company's creditors or other interested parties and their advisors. For greater certainty, such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **GENERAL**

22. **THIS COURT ORDERS** that this matter shall be case managed by Kershman J. (the "Case Management Judge").


23. **THIS COURT FURTHER ORDERS** that before any further motions in the within proceedings are scheduled, including any motions that are contemplated in paragraph 27 herein, a case conference before the Case Management shall be held.

24. **THIS COURT ORDERS** that the Company or the Proposal Trustee may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation or application of this Order.

25. **THIS COURT ORDERS** that nothing in this Order shall prevent the Proposal Trustee from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Company or the Property or act as monitor if the proceeding is continued under the *Companies' Creditors Arrangement Act* (Canada).

26. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Company, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to Proposal Trustee in any foreign proceeding, or to assist the Company and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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



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THE HONOURABLE JUSTICE  
STANLEY J. KERSHMAN

## **SCHEDULE 'A'**

## 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) all or 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> 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 will 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 address 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 certified cheque, bank draft, wire or electronic funds transfer deposit in the amount of not less than 10% of the Purchase Price;
  - (i) for an Investment Proposal, the bid includes a non-refundable certified cheque, bank draft, wire or electronic funds transfer 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, 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"

### Address 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)

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT OTTAWA

**STAY EXTENSION ORDER**

**DENTONS CANADA LLP**

1420-99 Bank Street  
Ottawa, ON K1P 1H4  
Fax: 613-783-9690

**Kenneth Kraft** (LSO #31919P)

Tel: 416-863-4374  
Fax: 416-863-4592  
[kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

**Robert Kennedy** (LSO #474070)

Tel: 416-367-6756  
[robert.kenned@dentons.com](mailto:robert.kenned@dentons.com)

**Fraser Mackinnon Blair** (LSO #66683L)

Tel: 613-783-9647  
[fraser.mackinnon.blair@dentons.com](mailto:fraser.mackinnon.blair@dentons.com)

*Lawyers for Spartan Bioscience Inc.*

IN THE MATTER OF THE *COMPANIES' CREDITOR ARRANGEMENT ACT*, R.S.C. 1985 C. C-36, AS AMENDED  
AND  
IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SPARTAN BIOSCEIENCE INC.

Court File No.: 33-2726552  
Courte File No.: CV-21-00086797-0000

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Ottawa

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**MOTION RECORD**

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**BRAZEAU SELLER LLP**

700-100 Queen Street  
Ottawa, ON K1P 1J9

**FRED E. SELLER**

LSO #28868A  
Email: [fseller@brazeauseller.com](mailto:fseller@brazeauseller.com)

**ERIC DWYER**

LSO# 79413V  
Email: [edwyer@brazeauseller.com](mailto:edwyer@brazeauseller.com)

Tel: 613-237-4000

Fax: 613-237-4001

Lawyers for BDC Capital Inc.