

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF THE FLOWR CORPORATION, THE FLOWR
CANADA HOLDINGS ULC, THE FLOWR GROUP (OKANAGAN) INC.,
AND TERRACE GLOBAL INC.

**NOTICE OF MOTION
(Re: Comeback Hearing – Amended and Restated Initial Order and SISP Order)
(Returnable on October 28, 2022)**

The Flowr Corporation, The Flowr Canada Holdings ULC, The Flowr Group (Okanagan) Inc. and Terrace Global Inc. (collectively, the “**Applicants**”) will make a motion to Mr. Justice Cavanagh on Friday, October 28, 2022 at 11:00 a.m. or as soon after that time as the motion can be heard via Zoom videoconference.

PROPOSED METHOD OF HEARING: The motion is to be by video conference at the following location:

Zoom link to be uploaded on Caselines.

THE MOTION IS FOR:

1. An amended and restated initial order (the “**ARIO**”), substantially in the form attached as **Schedule “A”** to this Notice of Motion (a comparison to the Initial Order is attached as **Schedule “B”** for ease of reference), *inter alia*:

- (a) abridging the time for and validating service of this notice of motion and the motion record and dispensing with service on any person other than those served;
- (b) extending the stay of proceedings granted pursuant to the Initial Order granted on October 20, 2022 (the “**Initial Order**”) to January 13, 2023 (the “**Extended Stay Period**”);
- (c) increasing the amount of the Priority Charges (as defined below), as follows:
 - (i) increasing the Administration Charge (as defined in the Initial Order) to \$500,000;
 - (ii) increasing the authorized borrowings under the DIP Financing (as described in the Initial Order) to \$2,000,000; and
 - (iii) increasing the Directors’ Charge (as defined in the Initial Order) to \$800,000;
- (d) approving a Key Employee Retention Plan (the “**KERP**”) and authorizing the Applicants to make payment in accordance with the terms of the KERP;
- (e) granting a charge over the Property (as defined in the Initial Order) of the Applicants in favour of the proposed KERP beneficiaries (the “**KERP Charge**”), in the aggregate amount of \$800,000, ranking behind the Directors’ Charge;
- (f) authorizing the Applicants to make payment to certain third party suppliers if, in the opinion of the Applicants and with the consent of the Monitor (as defined below), such third party supplier is critical to the Business (as defined in the

Initial Order), the ongoing operations of the Applicants and the Business, or the preservation of the Property, and payment is required to ensure ongoing supply of goods and/or services; and

- (g) a sealing order in respect of the Confidential Appendices to the First Report of Ernst & Young Inc., in its capacity as court-appointed Monitor of the Applicants (the “**Monitor**”) to be filed (the “**First Report**”);

2. A Sale and Investment Solicitation Process Order (the “**SISP Order**”), substantially in the form attached as **Schedule “C”** to this Notice of Motion, *inter alia*:

- (a) approving the sale and investment solicitation process (the “**SISP**”) attached as Schedule “A” to the SISP Order; and
- (b) authorizing the Monitor and the Applicants to conduct and undertake the SISP; and

3. Such further and other relief as counsel may advise, and as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

4. Capitalized terms not otherwise defined herein have the meanings prescribed to them in the ARIO or the SISP Order;

Background to the Applicants

5. The Flowr Group is a licenced producer and distributor of cannabis with its head office being located in Toronto, Ontario and its operations being located in Kelowna, British Columbia;

6. The Flowr Group, through Flowr Okanagan, is licensed by Health Canada to sell cannabis products;

7. The Flowr Group focuses on producing premium cannabis products for recreational consumers throughout Canada, utilizing its purpose-built twenty indoor grow room cultivation and processing facilities located at the property known municipally as 9590 McCarthy Road, Kelowna, British Columbia, in the Okanagan Valley;

8. Despite certain of its restructuring efforts, the Applicants' ordinary course monthly cash expenditures exceeded its cash receipts, and the Applicants were facing a liquidity issue and insolvent;

9. Accordingly, the Applicants brought an application returnable on October 20, 2022 before the Ontario Superior Court of Justice (Commercial List) for the Initial Order and creditor protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c, C-36, as amended (the "CCAA");

Initial Order and CCAA Proceedings

10. On October 20, 2022, Mr. Justice Cavanagh granted the Initial Order in favour of the Applicants under the CCAA;

11. Pursuant to the Initial Order, among other things;

(a) The Applicants are companies to which the CCAA applies;

(b) Ernst & Young Inc. was appointed as Monitor of the Applicants in these proceedings;

- (c) A stay of proceedings was granted for an initial Stay Period up to October 30, 2022;
- (d) The Applicants were authorized to obtain and borrow under a credit facility from the DIP Lender, provided that borrowings under such credit facility did not exceed \$500,000;
- (e) The following charges against the Property were granted, in the following priority rankings (the “**Priority Charges**”):
 - (i) First – Administration Charge (to the maximum amount of \$350,000);
 - (ii) Second – DIP Lender’s Charge; and
 - (iii) Third – Directors’ Charge (to the maximum amount of \$600,000);

Amended and Restated Initial Order

12. The Applicants are seeking approval of the proposed ARIO, for the following relief:

Extended Stay Period

- (a) The Stay Period currently expires on October 30, 2022;
- (b) The proposed Extended Stay Period expires at the end of the 13-week cash flow forecast prepared by the Monitor and filed in support of the Initial Order (the “**Cash Flow Forecast**”) being January 13, 2022;
- (c) The Extended Stay Period is reasonable in light of the Cash Flow Forecast, and provides the Applicants with a sufficient amount of time and the breathing room

necessary to undertake and implement the SISP, if approved by the Court on this motion;

Increase in DIP Loan and Priority Charges

- (d) The Applicants seek to increase the quantum of the authorized borrowings under the DIP Commitment Letter to \$2,000,000 to reflect the financing requirements of the Applicants during the Stay Period;
- (e) The Applicants seek to increase the Administration Charge from \$350,000 to \$500,000 to reflect the additional work to be undertaken during these CCAA Proceedings and more accurately reflect projected monthly professional fees;
- (f) The Applicants seek to increase the Director's Charge from \$600,000 to \$800,000 to reflect the potential monthly director liabilities as sized with the assistance of the Monitor;

KERP and KERP Charge

- (g) The Applicants have developed a KERP, with input from the Monitor, to facilitate and encourage the continued participation of certain key management employees in the business and the restructuring for the pendency of these CCAA proceedings;
- (h) The full details of the proposed KERP will be set out in a Confidential Appendix to the First Report;

- (i) The KERP will provide appropriate incentives for the Applicants' key employees to remain in their current positions and will ensure that they are properly compensated for their assistance in the restructuring process;
- (j) The KERP contemplates two milestone payments: (i) one based on continuing employment for a period of time, and (ii) the second based on a successful sale or recapitalization outcome;
- (k) The maximum amount that would be paid under the KERP is in the aggregate of \$800,000, which amount is proposed to be secured by the KERP Charge on the Property of the Applicants, which would rank behind the Administration Charge, the DIP Lender's Charge and the Directors' Charge;

Critical Suppliers

- (l) The Applicants rely on certain service providers in their day-to-day operations;
- (m) To preserve their business and maintain critical relationships, the Applicants request Court approval, with the Monitor's consent, to pay certain pre-filing expenses to certain third party providers of goods and services prior to the date of the Initial Order, if the Applicants believe such third party suppliers are critical to the Business and ongoing operations of the Applicants;

Sealing Order

- (n) Given that the KERP contains certain personal identifiable confidential information regarding the employees of the Applicants, the Applicants are

seeking a sealing Order from the Court in respect of the KERP and the information contained therein;

SISP Order

13. The Applicants seek a SISP Order, which will allow the Applicants to canvas the market for an investment in, or sale of, all or substantially all of the Applicants' Property;

14. The SISP was developed in consultation with the Monitor, taking into account the financial circumstances of the Applicants and the amount of DIP Financing available;

15. The proposed SISP contemplates the following milestone dates:

- (a) A November 14, 2022 deadline to publish notice of the SISP and circulate teaser and non-disclosure agreements;
- (b) A Bid Deadline of November 25, 2022 to receive binding offers from Potential Bidders participating in the SISP;
- (c) An Auction date of December 1, 2022; and
- (d) A January 31, 2023 deadline to close the transaction resulting from the SISP;

16. The SISP will be administered by the Monitor in consultation with the Applicants. In addition, the Monitor will have certain consent rights in connection with material decisions related to the SISP (for example, extending timelines, dispensing with Bid requirements, terminating the SISP);

17. The Applicants are of the view that a Court-supervised SISP under the CCAA will be the most cost-efficient and effective means of maximizing creditor recovery and preserving employment for as many employees as possible;

18. The DIP Term Sheet grants an exclusivity period to the DIP Lender to negotiate a Stalking Horse Agreement. At this time, the Applicants anticipate that a Stalking Horse Agreement may form part of the SISP. In the event a Stalking Horse Agreement is finalized, the Applicants will seek an Order for approval of same from the Court;

General

19. The provisions of the CCAA and the statutory, inherent and equitable jurisdiction of this Court;

20. Rules 1.04, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

21. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of Darren Karasiuk sworn October 20, 2022 and the exhibits attached thereto, filed;
- (b) The Pre-Filing Report of the Proposed Monitor dated October 20, 2022;
- (c) The First Report of the Monitor, to be filed; and

(d) such further and other evidence as counsel may advise and this Court may permit.

October 25, 2022

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Lawyers for the Applicants

TO: THE SERVICE LIS ATTACHED HERETO AS **SCHEDULE “D”**

SCHEDULE "A"

Court File No. CV-22-00688966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	THURSDAY, THE 20 TH
	)	
JUSTICE CAVANAGH	)	DAY OF OCTOBER, 2022

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 THE FLOWR CORPORATION, THE FLOWR
CANADA HOLDINGS ULC, THE FLOWR GROUP (OKANAGAN) INC.,
AND TERRACE GLOBAL INC. (collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, and c. C-36, as amended (the "**CCAA**") was heard this day by Zoom video conference.

ON READING the affidavit of Darren Karasiuk sworn October 20, 2022 and the Exhibits thereto (the "**Karasiuk Affidavit**"), and the pre-filing report of Ernst & Young Inc., in its capacity as proposed monitor of the Applicants (the "**Monitor**"), dated October 20, 2022 (the "**Pre-Filing Report**"), and the First Report of the Monitor dated October 20, 2022 (the "**First Report**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for Applicants, counsel for the Monitor and counsel for the DIP Lender, no one appearing for any other party although duly served as appears from the affidavits of service of Alina Stoica dated

October 20, 2022 and October •, 2022, filed, and on reading the consent of Ernst & Young Inc. to act as the Monitor,

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.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants 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

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their 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 Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are 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 them, with liberty to retain such further Assistants as they deem reasonably

necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the banking and cash management system currently in place as described in the Karasiuk Affidavit 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 Applicants 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 Applicants, 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.

6. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay the following expenses, whether incurred prior to or after the date of 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;

- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges;
- (c) any taxes, duties, or other payments required under the Cannabis Legislation (as defined below); and
- (d) with the consent of the Monitor, amounts owing for goods and/or services actually supplied to the Applicants prior to the date of this Order by third party suppliers if, in the opinion of the Applicants, such third party suppliers are critical to the Business and ongoing operations of the Applicants.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the Definitive Documents, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants 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; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants 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 Applicants in connection with the sale of goods and services by the Applicants, 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 Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants 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 Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). 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.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and

- (c) pursue all avenues of sale or investment of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material sale or refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 Applicants’ 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 such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with Section 32 of the CCAA, they 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 Applicants’ claim to the fixtures in dispute.

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

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including January 13, 2023, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are 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

16. **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, lease, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Applicants, 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 Applicants, and that the Applicants shall be entitled to the continued use of their 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, 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.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$800,000, as security for the

indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 44 herein.

22. **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 Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' 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 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their respective shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

24. **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 Applicants' 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) assist the Applicants, to the extent required by the Applicants, in their dissemination to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis as agreed to by the DIP Lender;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) 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;

- (i) to the extent required, hold the right, title and interest of the Akanda Shares (as defined in the Karasiuk Affidavit) pursuant to the terms and conditions of a trust agreement to be negotiated and agreed to by the relevant parties; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not occupy or take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of (or be deemed to take Possession of), or exercise (or be deemed to have exercised) any rights of control over any activities in respect of, the Property, or any assets, properties or undertakings of any of the Applicants’, or the direct or indirect subsidiaries or affiliates of any of the Applicants’, including any joint venture entities, for which a permit or license is issued or required pursuant to any provision of any federal, provincial, or other law respecting, among other things, the manufacturing, possession, processing, and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act*, S.C. 2018, c. 16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Tax Act*, R.S.C. 1985, c. E. 15, *Excise Act, 2001*, S.C. 2002, c.22 the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, the *Ontario Cannabis Control Act, 2017*, S.O. 2017, c. 26, Sched. 1, *Ontario Cannabis Retail Corporation Act, 2017*, S.O. 2017, c. 26, the *Cannabis License Act, 2018*, S.O. 2018, c. 12, or other such applicable federal or provincial legislation (collectively, the “**Cannabis Legislation**”) 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, and nothing in this Order shall be

construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to take 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*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (collectively, 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.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

28. **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.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to, the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

30. **THIS COURT ORDERS** that the Monitor and its 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 a judge of the Commercial List of the Ontario Superior Court of Justice.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order

in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 42 and 44 hereof.

DIP FINANCING

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from 1000343100 Ontario Inc. (the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$2,000,000 (plus interest, fees and expenses in accordance with the Commitment Letter (as defined below)) unless permitted by further Order of this Court.

33. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of October 20, 2022 (the “**Commitment Letter**”), filed.

34. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the Commitment Letter, the “**Definitive Documents**”), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 42 and 44 hereof.

36. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender’s Charge, the DIP Lender, upon five (5) business days’ written notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender’s Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

37. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “BIA”), with respect to any advances made under the Definitive Documents.

38. **THIS COURT ORDERS** that nothing herein contained shall require or deem the DIP Lender to take Possession of, or exercise any rights of control over any activities in respect of, any of the Property or the property of any direct or indirect subsidiaries or affiliates of any of the Applicants, including any joint venture entities, that is or may be: (i) subject to any Cannabis Legislation; or (ii) 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 Environmental Legislation.

39. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the DIP Lender under this Order, any other Order of the Court (whether made pursuant to these proceedings or otherwise), or at law, the DIP Lender shall incur no liability or obligation as a result of carrying out the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or willful misconduct on its part.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

40. **THIS COURT ORDERS** that the Key Employee Retention Plan described in the Karasiuk Affidavit (the “KERP”) with the confidential details being contained in Confidential

Appendix “•” to the First Report, is hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms thereof.

41. **THIS COURT ORDERS** that each of the beneficiaries of the KERP shall be entitled to the benefit of and are hereby granted a charge on the Property (the “**KERP Charge**”), which KERP Charge shall not exceed an aggregate amount of \$800,000, to secure the amounts payable under the KERP pursuant to paragraph 40 hereof. The KERP Charge shall have the priority set out in paragraphs 42 and 44 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

42. **THIS COURT ORDERS** that the priorities of the Directors’ Charge, the Administration Charge, the DIP Lender’s Charge and the KERP Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – DIP Lender’s Charge;

Third – Directors’ Charge (to the maximum amount of \$800,000); and

Fourth – KERP Charge (to the maximum aggregate amount of \$800,000).

43. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors’ Charge, the Administration Charge, the DIP Lender’s Charge or the KERP Charge (collectively, 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.

44. **THIS COURT ORDERS** that each of the Directors' Charge, the Administration Charge, the DIP Lender's Charge and the KERP Charge (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.

45. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge, the Administration Charge and the KERP Charge, or further Order of this Court.

46. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the KERP Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants 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 Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, 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.

47. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

RELIEF FROM REPORTING OBLIGATIONS

48. **THIS COURT ORDERS** that none of the directors, officers, employees, or other representatives of the Applicants, nor the Monitor (and their respective directors, officers, employees or representatives) shall have any personal liability for the Applicants’ failure to file annual information forms, annual and quarterly management discussion and analysis, annual and quarterly financial statements (including related audits, reports, and certifications) for the Stay

Period, which period may be extended pursuant to further Order of the Court. Notwithstanding the foregoing, the Applicants shall continue to advise the appropriate regulators of material updates in this proceeding.

49. **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the “**Securities Filings**”) that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act (Ontario)*, RSO 1990, c S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange (collectively, the “**Securities Provisions**”), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of the Applicants failing to make any Securities Filings required by the Securities Provisions.

50. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Provisions.

SERVICE AND NOTICE

51. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five business days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every

known creditor who has a claim against any of the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

52. **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 <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://ey.com/ca/flowr>.

53. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the respective Applicant 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.

SEALING ORDER

54. **THIS COURT ORDERS** that Confidential Appendix “●” to the First Report shall be and is hereby sealed, kept confidential, and shall not form part of the public record.

GENERAL

55. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

56. **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 Applicants, the Business or the Property.

57. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

58. **THIS COURT ORDERS** that each of the Applicants 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.

59. **THIS COURT ORDERS** that any interested party (including the Applicants 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.

60. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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

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 THE
FLOWR CORPORATION, THE FLOWR CANADA HOLDINGS ULC, THE FLOWR
GROUP (OKANAGAN) INC., AND TERRACE GLOBAL INC. (collectively, the
"Applicants")

Court File No.: CV-22-00688966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL
ORDER**

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Lawyers for the Applicants

SCHEDULE "B"

Court File No. CV-22-00688966-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

THE HONOURABLE <u> </u> MR.	)	THURSDAY, THE 20 TH
JUSTICE <u> </u> CAVANAGH	)	DAY OF OCTOBER, 2022

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 THE FLOWR CORPORATION, THE FLOWR
CANADA HOLDINGS ULC, THE FLOWR GROUP (OKANAGAN) INC.,
AND TERRACE GLOBAL INC. (collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, and c. C-36, as amended (the "**CCAA**") was heard this day by Zoom video conference.

ON READING the affidavit of Darren Karasiuk sworn October 20, 2022 and the Exhibits thereto (the "**Karasiuk Affidavit**"), and the pre-filing report of Ernst & Young Inc., in its capacity as proposed monitor of the Applicants (the "**Monitor**"), dated October 20, 2022 (the "**Pre-Filing Report**"), and the First Report of the Monitor dated October 20, 2022 (the "**First Report**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for Applicants, counsel for the Monitor and counsel for the DIP Lender, no one appearing for any other party although duly served as appears from the ~~affidavit~~ affidavits of service of Alina Stoica

dated October 20, [2022 and October 1](#), 2022, filed, and on reading the consent of Ernst & Young Inc. to act as the Monitor,

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.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants 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

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their 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 Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are 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 them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the banking and cash management system currently in place as described in the Karasiuk Affidavit 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 Applicants 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 Applicants, 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.

6. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay the following expenses, whether incurred prior to or after the date of 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;

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

(c) any taxes, duties, or other payments required under the Cannabis Legislation (as defined below); and

(d) with the consent of the Monitor, amounts owing for goods and/or services actually supplied to the Applicants prior to the date of this Order by third party suppliers if, in the opinion of the Applicants, such third party suppliers are critical to the Business and ongoing operations of the Applicants.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the Definitive Documents, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants 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; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants 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 Applicants in connection with the sale of goods and services by the Applicants, 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 Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants 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 Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). 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.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents ~~(as hereinafter defined)~~, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and

- (c) pursue all avenues of ~~refinancing~~sale or investment of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material sale or refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. THIS COURT ORDERS that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 Applicants’ 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 such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with Section 32 of the CCAA, they 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 Applicants’ claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24

hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, 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 Applicants 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.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. ~~12.~~ **THIS COURT ORDERS** that until and including ~~October 30, 2022~~ January 13, 2023, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. ~~13.~~ **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are 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

16. ~~14.~~ **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, lease, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Applicants, 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 Applicants, and that the Applicants shall be entitled to the continued use of their 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. ~~16.~~ **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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. ~~18.~~ **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, 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.

21. ~~19.~~ **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$~~600,000~~800,000, as security for the indemnity provided in paragraph ~~18~~20 of this Order. The Directors’ Charge shall have the priority set out in paragraphs ~~38~~42 and ~~40~~44 herein.

22. ~~20.~~ **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 Directors’ Charge, and (b) the Applicants’ directors and officers shall only be entitled to the benefit of the Directors’ 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 ~~18~~20 of this Order.

APPOINTMENT OF MONITOR

23. ~~21.~~ **THIS COURT ORDERS** that Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their respective shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

24. ~~22.~~ **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 Applicants' 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) assist the Applicants, to the extent required by the Applicants, in their dissemination to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis as agreed to by the DIP Lender;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) ~~(e)~~ 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) ~~(f)~~ 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;

(i) ~~(g)~~ to the extent required, hold the right, title and interest of the Akanda Shares (as defined in the Karasiuk Affidavit) pursuant to the terms and conditions of a trust agreement to be negotiated and agreed to by the relevant parties; and

(j) ~~(h)~~ perform such other duties as are required by this Order or by this Court from time to time.

25. ~~23.~~ **THIS COURT ORDERS** that the Monitor shall not occupy or take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of (or be deemed to take Possession of), or exercise (or be deemed to have exercised) any rights of control over any activities in respect of, the Property, or any assets, properties or undertakings of any of the Applicants’, or the direct or indirect subsidiaries or affiliates of any of the Applicants’, including any joint venture entities, for which a permit or license is issued or required pursuant to any provision of any federal, provincial, or other law respecting, among other things, the manufacturing, possession, processing, and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act*, S.C. 2018, c. 16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Tax Act*, R.S.C. 1985, c. E. 15, *Excise Act*, 2001, S.C. 2002, c.22 the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, the *Ontario Cannabis Control Act, 2017*, S.O. 2017, c. 26, Sched. 1, ~~Ontario Cannabis Retail Corporation Act~~, 2017, S.O. 2017, c. 26~~1~~, the *Cannabis License Act, 2018*, S.O. 2018, c. 12, or other such applicable

federal or provincial legislation (collectively, the “**Cannabis Legislation**”) 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, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

26. ~~24.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to take 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*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (collectively, 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.

27. ~~25.~~ **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants 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 Applicants 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 Applicants may agree.

28. ~~26.~~ **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.

29. ~~27.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to, the date of this Order by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

30. ~~28.~~ **THIS COURT ORDERS** that the Monitor and its 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 a judge of the Commercial List of the Ontario Superior Court of Justice.

31. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the

“**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of ~~\$350,000~~500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~38~~42 and ~~40~~44 hereof.

DIP FINANCING

32. ~~30.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from 1000343100 Ontario Inc. (the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed ~~\$500,000~~2,000,000 (plus interest, fees and expenses in accordance with the Commitment Letter (as defined below)) unless permitted by further Order of this Court.

33. ~~31.~~ **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of October 20, 2022 (the “**Commitment Letter**”), filed.

34. ~~32.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the Commitment Letter, the “**Definitive Documents**”), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and

the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. ~~33.~~ **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs ~~38~~42 and ~~40~~44 hereof.

36. ~~34.~~ **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender’s Charge, the DIP Lender, upon five (5) business days’ written notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender’s Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

37. ~~35.~~ **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “BIA”), with respect to any advances made under the Definitive Documents.

38. ~~36.~~ **THIS COURT ORDERS** that nothing herein contained shall require or deem the DIP Lender to take Possession of, or exercise any rights of control over any activities in respect of, any of the Property or the property of any direct or indirect subsidiaries or affiliates of any of the Applicants, including any joint venture entities, that is or may be: (i) subject to any Cannabis Legislation; or (ii) 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 Environmental Legislation.

39. ~~37.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the DIP Lender under this Order, any other Order of the Court (whether made pursuant to these proceedings or otherwise), or at law, the DIP Lender shall incur no liability or obligation as a result of carrying out the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or willful misconduct on its part.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

40. THIS COURT ORDERS that the Key Employee Retention Plan described in the Karasiuk Affidavit (the “KERP”) with the confidential details being contained in Confidential Appendix “•” to the First Report, is hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms thereof.

41. THIS COURT ORDERS that each of the beneficiaries of the KERP shall be entitled to the benefit of and are hereby granted a charge on the Property (the “KERP Charge”), which KERP Charge shall not exceed an aggregate amount of \$800,000, to secure the amounts payable under the KERP pursuant to paragraph 40 hereof. The KERP Charge shall have the priority set out in paragraphs 42 and 44 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

42. ~~38.~~ THIS COURT ORDERS that the priorities of the Directors’ Charge, the Administration Charge ~~and~~, the DIP Lender’s Charge and the KERP Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$~~350,000~~500,000);

Second – DIP Lender’s Charge; ~~and~~

Third – Directors’ Charge (to the maximum amount of \$~~600,000~~800,000); and

Fourth – KERP Charge (to the maximum aggregate amount of \$800,000).

43. ~~39.~~ THIS COURT ORDERS that the filing, registration or perfection of the Directors’ Charge, the Administration Charge ~~or~~, the DIP Lender’s Charge or the KERP Charge (collectively, 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.

44. ~~40.~~ **THIS COURT ORDERS** that each of the Directors' Charge, the Administration Charge ~~and~~, the DIP Lender's Charge and the KERP Charge (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.

45. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge ~~and~~, the Administration Charge and the KERP Charge, or further Order of this Court.

46. ~~42.~~ **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the KERP Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants 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 Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, 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.

47. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

RELIEF FROM REPORTING OBLIGATIONS

48. ~~44.~~ **THIS COURT ORDERS** that none of the directors, officers, employees, or other representatives of the Applicants, nor the Monitor (and their respective directors, officers,

employees or representatives) shall have any personal liability for the Applicants' failure to file annual information forms, annual and quarterly management discussion and analysis, annual and quarterly financial statements (including related audits, reports, and certifications) for the Stay Period, which period may be extended pursuant to further Order of the Court. Notwithstanding the foregoing, the Applicants shall continue to advise the appropriate regulators of material updates in this proceeding.

49. ~~45.~~ **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the “**Securities Filings**”) that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act (Ontario)*, RSO 1990, c S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange (collectively, the “**Securities Provisions**”), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of the Applicants failing to make any Securities Filings required by the Securities Provisions.

50. ~~46.~~ **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Provisions.

SERVICE AND NOTICE

51. ~~47.~~ **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five business days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

52. ~~48.~~ **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 <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://ey.com/ca/flowr>.

53. ~~49.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the respective Applicant 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.

SEALING ORDER

54. **THIS COURT ORDERS** that Confidential Appendix “•” to the First Report shall be and is hereby sealed, kept confidential, and shall not form part of the public record.

GENERAL

55. ~~50.~~ **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

56. ~~51.~~ **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 Applicants, the Business or the Property.

57. ~~52.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

58. ~~53.~~ **THIS COURT ORDERS** that each of the Applicants 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.

59. ~~54.~~ **THIS COURT ORDERS** that any interested party (including the Applicants 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.

60. ~~55.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

61. ~~56.~~ **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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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 THE
FLOWR CORPORATION, THE FLOWR CANADA HOLDINGS ULC, THE FLOWR
GROUP (OKANAGAN) INC., AND TERRACE GLOBAL INC. (collectively, the
"Applicants")

Court File No.: CV-22-00688966-00CL

Double Click on mouse to Add space for Third Party



Double Click on mouse to Add more space to parties line



ONTARIO
**SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL
ORDER**

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Lawyers for the Applicants

Document comparison by Workshare Compare on Tuesday, October 25, 2022 11:00:43 AM

Input:	
Document 1 ID	iManage://MTDMSWSSC.MILLERTHOMSON.CORP/Legal/65643659/3
Description	#65643659v3<Legal> - Initial Order (as served Oct 20-22)
Document 2 ID	iManage://MTDMSWSSC.MILLERTHOMSON.CORP/Legal/65745131/1
Description	#65745131v1<Legal> - Amended and Restated Initial Order (Oct 25 2022)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
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Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	115
Deletions	79
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	194

SCHEDULE "C"

Court File No. CV-22-00688966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	FRIDAY, THE 28 TH
	)	
JUSTICE CAVANAGH	)	DAY OF OCTOBER, 2022

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 THE FLOWR CORPORATION, THE FLOWR
CANADA HOLDINGS ULC, THE FLOWR GROUP (OKANAGAN) INC.,
AND TERRACE GLOBAL INC. (collectively, the "**Applicants**")

SISP ORDER

THIS MOTION, made by the Applicants seeking, among other relief, an Order (i) approving the sale and investment solicitation process (the "**SISP**") attached hereto as Schedule "A"; and (ii) authorizing and directing the Monitor to conduct the SISP was heard this day by way of judicial conference via Zoom at Toronto, Ontario in accordance with the changes to the operations of the Commercial List.

ON READING the affidavit of Darren Karasiuk sworn October 20, 2022 and the Exhibits thereto (the "**Karasiuk Affidavit**"), the pre-filing report of Ernst & Young Inc., in its capacity as proposed monitor of the Applicants (the "**Monitor**"), dated October 20, 2022 (the "**Pre-Filing Report**"), and the First Report of the Monitor dated October 20, 2022 (the "**First Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for the DIP Lender, no one appearing for any other party although duly served as

appears from the affidavits of service of Alina Stoica dated October 20, 2022 and October 20, 2022, filed,

DEFINED TERMS

1. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them under the SISP as the case may be.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

APPROVAL OF SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS** that the SISP (subject to such amendments as may be agreed to by the Monitor, the Applicants and the DIP Lender in accordance with the terms of the SISP) be and are hereby approved.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to take such steps as it deems necessary or advisable to carry out and perform its obligations under the SISP.

5. **THIS COURT ORDERS** that the Monitor and its respective affiliates, partners, employees, representatives and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor in performing its obligations under the SISP as determined by this Court.

6. **THIS COURT ORDERS** that the Monitor and the Applicants and their respective counsel be and are hereby authorized but not obligated, to serve or distribute this SISP Order, any other materials, orders, communication, correspondence or other information as may be necessary or desirable in connection with the SISP to any Person (as defined in the Initial Order dated October 20, 2022, as amended and restated) or interested party that the Monitor or the Applicants considers appropriate. For greater certainty, any such distribution, communication or correspondence shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor and the Applicants are hereby authorized and permitted to disclose and transfer to each potential bidder (the “**Bidders**”) and to their advisors, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Applicants’ records pertaining to its past and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale of the Property (“**Sale**”) or investment in the Business (“**Investment**”). Each Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale or Investment, and if it does not complete a Sale or Investment, shall return all such information to the Monitor and the Applicants, or in the alternative destroy all such information. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Property of Business acquired pursuant to the Sale or invested in pursuant to the Investment in a manner which is in

all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Monitor and the Applicants, or ensure that all other personal information is destroyed.

GENERAL

8. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that each of the Applicants 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.

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

SCHEDULE “A”
SALE AND INVESTMENT SOLICITATION PROCESS

Sale and Investment Solicitation Process

Introduction

1. On October 20, 2022, The Flowr Corporation (“**Flowr**”) and certain of its subsidiaries (collectively, the “**Applicants**”) were granted an initial order (as amended or amended and restated from time to time, the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**” and the “**CCAA Proceedings**”) by the Ontario Superior Court of Justice (the “**Court**”). The Initial Order (which was amended and restated on **[October 28, 2022]**), among other things:
 - (a) stayed all proceedings against the Applicants, their assets and their respective directors and officers;
 - (b) appointed Ernst & Young Inc. as the monitor of the Applicants (in such capacity, the “**Monitor**”);
 - (c) authorized the Applicants to enter into a debtor-in-possession financing facility (the “**DIP Facility**”) with 1000343100 Ontario Inc. (“**DIP Lender**”) pursuant to a Commitment Letter dated October 20, 2022 (the “**DIP Commitment Letter**”), as well as the related charge in favour of the DIP Lender (the “**DIP Charge**”) over all of the Applicants’ present and future assets, property and undertakings of every nature and kind whatsoever, and wherever situate including all proceeds thereof to secure the amounts outstanding under or in connection with the DIP Facility; and
 - (d) authorized the Applicants to pursue all avenues of sale or investment of their assets or business, in whole or in part, subject to prior approval of the Court before any material sale or refinancing.
2. Further to the Applicants’ restructuring efforts and the terms of the DIP Facility, the Monitor will conduct the sale and investment solicitation process (the “**SISP**”) described herein, with the assistance of the Applicants, and pursuant to a Court order dated **[October 28, 2022]** (the “**SISP Order**”). The SISP is intended to solicit interest in an acquisition or refinancing of the business or a sale of the assets and/or the business of the Applicants by way of merger, reorganization, recapitalization, primary equity issuance or other similar transaction. The Applicants intend to provide all qualified interested parties with an opportunity to participate in the SISP.
3. In accordance with the terms of the DIP Facility, the DIP Lender has the exclusive option to submit a Stalking Horse Agreement (when referring to the bid, the “**Stalking Horse Bid**” and in referring to the DIP Lender, as purchaser, the “**Stalking Horse Bidder**”) in order to provide certainty in the marketplace for the Applicants. Where the Stalking Horse Bidder submits its Stalking Horse Bid, the Monitor or the Applicants shall bring a motion before the Court seeking the approval of the Stalking Horse Bid. In the event the Stalking Horse Bid is approved by the Court, the Stalking Horse Bid shall automatically be considered as a Qualified Bid (as defined herein) for the purposes of the Auction (as defined herein).

Opportunity

4. The SISP is intended to solicit interest in, and opportunities for, a sale of, or investment in, all or part of the Applicants' assets and business operations (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Applicants as a going concern or a sale of all, substantially all or one or more components of the Applicants' assets (the "**Property**") and business operations (the "**Business**") as a going concern or otherwise.
5. Except to the extent otherwise set forth in a definitive sale or investment agreement with a successful bidder, any sale of the Property or investment in the Business will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Applicants, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.

Timeline

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

Milestone	Deadline
Deadline to publish notice of SISP and deliver Teaser Letter and NDA to Known Potential Bidders	November 7, 2022
Bid Deadline	November 25, 2022
Auction Date	December 1, 2022
Hearing of the Sale Approval Motion (as defined below)	No later than December 16, 2022, subject to the availability of the Court
Closing Date Deadline	January 31, 2023

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

Solicitation of Interest: Notice of the SISP

8. As soon as reasonably practicable, but in any event by no later than November 14, 2022:

- (a) the Monitor, in consultation with the Applicants, will prepare a list of potential bidders, including (i) parties that have approached the Applicants or the Monitor indicating an interest in the Opportunity, and (ii) local and international strategic and financial parties who the Applicants, in consultation with the Monitor, believe may be interested in purchasing all or part of the Business and Property or investing in the Applicants pursuant to the SISP, in each case whether or not such party has submitted a letter of intent or similar document (collectively, “**Known Potential Bidders**”);
 - (b) the Monitor will arrange for a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Applicants, considers appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition), and any other newspaper or journal as the Applicants, in consultation with the Monitor, consider appropriate, if any;
 - (c) the Monitor will issue a press release with Canada Newswire setting out the information contained in the Notice and such other relevant information which the Monitor, in consultation with the Applicants, consider appropriate, designating dissemination in Canada; and
 - (d) the Monitor, in consultation with the Applicants, will prepare: (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Applicants and the Monitor, and their respective counsel, and substantially in the form of the NDA executed by the DIP Lender (an “**NDA**”).
9. The Monitor will send the Teaser Letter and NDA to each Known Potential Bidder by no later than November 7, 2022 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Applicants or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Potential Bidders and Due Diligence Materials

- 10. Any party who wishes to participate in the SISP (a “**Potential Bidder**”), other than the Stalking Horse Bidder, must provide to the Applicants and the Monitor an NDA executed by it, and which shall inure to the benefit of any purchaser of the Business or Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
- 11. The Monitor, in consultation with the Applicants, shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Potential Bidder who has signed and delivered an NDA to the Monitor and provided information as to their financial wherewithal to close a transaction such access to due diligence material and information relating to the Property and Business as the Applicants or the Monitor deem appropriate. Due diligence shall include access to an electronic dataroom containing information about the Applicants and the Business, and may also include management presentations, on-site inspections, and other matters which a Potential

Bidder may reasonably request and as to which the Applicants, in their reasonable business judgment and after consulting with the Monitor, may agree. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders and the manner in which such requests must be communicated. Neither the Applicants nor the Monitor will be obligated to furnish any information relating to the Property or Business to any person other than to Potential Bidders. Furthermore and for the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders if the Applicants, in consultation with and with the approval of the Monitor, determine such information to represent proprietary or sensitive competitive information. Neither the Applicants nor the Monitor is responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the Sale of the Property and the Business.

12. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with the Applicants.

Formal Binding Offers

13. Potential Bidders that wish to make a formal offer to purchase or make an investment in the Applicants or their Property or Business (a **"Bidder"**) shall submit a binding offer (a **"Bid"**) that complies with all of the following requirements to the Monitor at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than **5:00 PM (Eastern Time) on November 25, 2022** or as may be modified in the Bid Process Letter, with the approval of the Applicants and in consultation with the DIP Lender (the **"Bid Deadline"**):
 - (a) the Bid must be either a binding offer to:
 - (i) acquire all, substantially all or a portion of the Property (a **"Sale Proposal"**); and/or
 - (ii) make an investment in, restructure, reorganize or refinance the Business or the Applicants (an **"Investment Proposal"**);
 - (b) the Bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Applicants or their Property or Business and is consistent with any necessary terms and conditions established by the Applicants and the Monitor and communicated to Bidders;
 - (c) the Bid includes a letter stating that the Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
 - (d) the Bid includes duly authorized and executed transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the **"Purchase Price"**), together with all exhibits and schedules thereto;

- (e) the Bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Applicants and the Monitor to make a determination as to the Bidder's financial and other capabilities to consummate the proposed transaction;
- (f) the Bid is not conditioned on (i) the outcome of unperformed due diligence by the Bidder, or (ii) obtaining financing, but may be conditioned upon the Applicants receiving the required approvals or amendments relating to the licences required to operate the business, if necessary;
- (g) the Bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is otherwise participating or benefiting from such bid;
- (h) for a Sale Proposal, the Bid includes:
 - (i) the purchase price in Canadian dollars and a description of any non-cash consideration, including details of any liabilities to be assumed by the 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 Bidder and the expected structure and financing of the transaction;
 - (iv) a description of the conditions and approvals required to complete the closing of the transaction;
 - (v) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - (vi) any other terms or conditions of the Sale Proposal that the Bidder believes are material to the transaction; and
 - (vii) a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 10% of the Purchase Price offered upon the Bidder being selected as the Successful Bidder;
- (i) for an Investment Proposal, the Bid includes:
 - (i) a description of how the Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization, and a description of any non-cash consideration;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Applicants in Canadian dollars;
 - (iii) the underlying assumptions regarding the pro forma capital structure;
 - (iv) a specific indication of the sources of capital for the Bidder and the structure and financing of the transaction;
 - (v) a description of the conditions and approvals required for to complete the closing of the transaction;

- (vi) a description of those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - (vii) any other terms or conditions of the Investment Proposal; and
 - (viii) a commitment by the Bidder to provide a non-refundable deposit in the amount of not less than 10% of the total new investment contemplated in the bid upon the Bidder being selected as the Successful Bidder;
 - (j) the Bid includes acknowledgements and representations of the Bidder that the Bidder:
 - (i) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its offer;
 - (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and
 - (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, the Property, or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicants;
 - (k) the Bid is received by the Bid Deadline; and
 - (l) the Bid contemplates closing the transaction set out therein on or before January 31, 2023.
14. Following the Bid Deadline, the Applicants and the Monitor will assess the Bids received. The Monitor, in consultation with the Applicants, and with the approval of the Applicants, will designate the most competitive bids that comply with the foregoing requirements to be “**Qualified Bids**”. No Bids received shall be deemed not to be Qualified Bids without the approval of the Monitor. Only Bidders whose bids have been designed as Qualified Bids are eligible to become the Successful Bidder(s).
15. In the event that a Stalking Horse Agreement is approved by the Court, the Monitor may only designate a Bid as a Qualified Bid where the proposed purchase price is equal to or greater than that contained in any Stalking Horse Bid, and includes a cash purchase price in an amount equal to or greater than the Stalking Horse Bid, *plus* the amount of any break fee.
16. The Monitor, in consultation with the Applicants and with the approval of the Applicants, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Bids to be a Qualified Bid; provided, however, that the Monitor shall not waive compliance with paragraph 14 above without the consent of the DIP Lender.

17. The Monitor shall notify each Bidder in writing as to whether its Bid constituted a Qualified Bid within two (2) business days of the Bid Deadline, or at such later time as the Monitor deems appropriate.
18. If the Monitor, in consultation with the Applicants, are not satisfied with the number or terms of the Qualified Bids, the Monitor may, in consultation with the Applicants and with the approval of the Applicants, extend the Bid Deadline, or the Monitor may seek Court approval of an amendment to the SISP, in each case after consultation with the DIP Lender.
19. The Monitor may, in consultation with the Applicants and with the approval of the Applicants, aggregate separate Bids from unaffiliated Bidders to create one Qualified Bid.

Evaluation of Competing Bids

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

Auction

21. If the Monitor receives at least one additional Qualified Bid where there is a court approved Stalking Horse Bid, or two Qualified Bids where there is no court approved Stalking Horse Bid, the Monitor will conduct and administer an Auction in accordance with the terms of this SISP (the “**Auction**”). Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.
22. Only parties that provided a Qualified Bid by the Bid Deadline, as confirmed by the Monitor, including the Stalking Horse Bid, if any (collectively, the “**Qualified Parties**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party must inform the Monitor whether it intends to participate in the Auction. The Monitor will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Bidder, if any, shall be the Successful Bid (as defined below).

Auction Procedure

23. The Auction shall be governed by the following procedures:
 - (a) **Attendance.** Only the Applicants, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the

Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;

- (b) **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid;
- (c) **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Monitor, in consultation with the Applicants (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to the Monitors announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of \$100,000;
- (d) **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Monitor, in its discretion, may establish separate video conference rooms to permit interim discussions between the Monitor and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- (e) **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and
- (f) **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.
- (g) **Auction Procedures.** The Monitor shall be at liberty to set additional procedural rules as the Auction as it sees fit.

Selection of Successful Bid

- 24. Before the conclusion of the Auction, the Monitor, in consultation with the Applicants, will:
 - (a) review each Qualified Bid, considering the factors set out in paragraph 13 and, among others things:
 - (i) the amount of consideration being offered, and, if applicable, the proposed form, composition and allocation of same;
 - (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in paragraph 26(a)(i);

- (iii) the likelihood of the Qualified Party's ability to close a transaction by January 31, 2023, after completion of the Auction and timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments and required governmental or other approvals); the likelihood of the Court's approval of the Successful Bid; the net benefit to the Applicants; and
 - (iv) any other factors the Applicants may, consistent with its fiduciary duties, reasonably deem relevant; and
 - (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**") and the Qualified Party making such bid, the "**Successful Party**").
25. The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the Monitor, in consultation with and Approval from the Applicants, subject to the milestones set forth in paragraph 6.

Sale Approval Motion Hearing

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

Confidentiality and Access to Information

27. All discussions regarding a Sale Proposal, Investment Proposal, or Bid should be directed through the Monitor. Under no circumstances should the management of the Applicants be contacted directly without the prior consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP process.
28. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Applicants, the Monitor and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Applicants, with the approval of the Monitor and consent of the applicable participants, are seeking to combine separate bids from Potential Bidders or Bidders.

Supervision of the SISP

29. The Monitor shall oversee and conduct the SISP, in all respects, and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out in this

SISP Procedure, the SISP Order, the Initial Order and any other orders of the Court, and is entitled to receive all information in relation to the SISP.

30. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the Applicants or the Monitor and any Potential Bidder, any Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Applicants.
31. Without limiting the preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Bidder, the Successful Bidder, the Applicants, the DIP Lender or any other creditor or other stakeholder of the Applicants, for any act or omission related to the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Monitor. By submitting a bid, each Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Monitor.
32. 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, the Auction and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
33. Without limiting in any way the intent and effect of the applicable provisions of the DIP Facility in respect of the SISP, the Applicants and the Monitor shall have the right to modify the SISP (including, without limitation, pursuant to the Bid Process Letter) with the prior written approval of the Applicants and consultation with the DIP Lender if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the Service List in these CCAA proceedings shall be advised of any substantive modification to the procedures set forth herein.

Schedule “1”

Address of Monitor

To the Monitor:

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

Attention: Alex Morrison, Karen Fung and Allen Yao

Email: alex.f.morrison@parthenon.ey.com
karen.k.fung@parthenon.ey.com
allen.yao@parthenon.ey.com

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 THE
FLOWR CORPORATION, THE FLOWR CANADA HOLDINGS ULC, THE FLOWR
GROUP (OKANAGAN) INC., AND TERRACE GLOBAL INC. (collectively, the
"Applicants")

Court File No.: CV-22-00688966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

**SISP ORDER
(DATED OCTOBER 28, 2022)**

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SCHEDULE "D"

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c.C-36 AS AMENDED
THE FLOWR CORPORATION, THE FLOWR CANADA HOLDINGS ULC, THE FLOWR
GROUP (OKANAGAN) INC., AND TERRACE GLOBAL INC. (the "Applicants")

Court File No. CV-22-00688966-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at TORONTO

NOTICE OF MOTION
(Re Comeback Hearing)
(Returnable on October 28, 2022)

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