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

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.
(each an **"Applicant"** and collectively, the **"Applicants"**)

FOURTH REPORT OF THE MONITOR
DATED JANUARY 27, 2023

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FOURTH REPORT OF THE MONITOR
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INTRODUCTION

1. On October 20, 2022, the Applicants brought an application before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**") to, among other things, obtain a stay of proceedings to allow them an opportunity to restructure their business and affairs.

2. On October 20, 2022, the Court granted an Initial Order, as amended and restated by the Amended and Restated Initial Order granted on October 28, 2022 (as amended and restated, the "**Initial Order**") in these CCAA proceedings (the "**CCAA Proceedings**") that, among other things:

    a. appointed Ernst & Young Inc. as monitor of the Applicants (in such capacity, the "**Monitor**");

    b. ordered a stay of proceedings in favour of the Applicants through to January 13, 2023;

c. granted certain Court-ordered charges, including a charge of $800,000 in favour of certain beneficiaries under a key employee retention plan (the “**KERP**”); and

d. approved an interim financing facility up to $2 million (the “**DIP Facility**”) provided by 1000343100 Ontario Inc. (the “**DIP Lender**”).

3. On October 28, 2022, the Court granted an order (the “**SISP Order**”), authorizing the Monitor to conduct a sale and investment solicitation process (the “**SISP**”) in respect of the Applicants.

4. On November 3, 2022, the Court granted an order that, among other things, authorized The Flowr Canada Holdings ULC (“**Flowr Holdings**” or the “**Vendor**”) and The Flowr Group (Okanagan) Inc. (“**Flowr Okanagan**” or the “**Company**”) to enter into a stalking horse purchase agreement dated October 31, 2022 (the “**Stalking Horse Purchase Agreement**”) between the Vendor, the Company and 1000343100 Ontario Inc. (in such capacity, the “**Stalking Horse Bidder**”), and approved the Break Fee (as defined in the Stalking Horse Purchase Agreement) in the amount of $185,000.

5. The SISP successfully concluded with an amended and restated Stalking Horse Purchase Agreement dated December 1, 2022 (the “**Sale Agreement**”) in respect of the share sale transaction (the “**Transaction**”) between the Vendor, the Company and Avant Brands K1 Inc. (formerly, the Stalking Horse Bidder) (the “**Purchaser**”) pursuant to which all of the Vendor’s right, title and interest in and to all of the issued and outstanding common shares of Flowr Okanagan (the “**Purchased Shares**”) will vest in the Purchaser.

6. On December 16, 2022, the Court granted:

    a. an order (the “**Approval and Vesting Order**”) that approved the Sale Agreement and Transaction and ordered that, among other things, upon closing of the Transaction:

        i. the Vendor’s right, title and interest in the Purchased Shares, along with any other Transferred Assets, free and clear from any Encumbrances, except for the Permitted Encumbrances (as such terms are defined in the Sale Agreement) will vest in the Purchaser;

ii. all Excluded Assets, Excluded Contracts and Excluded Liabilities (all as defined in the Sale Agreement) will vest absolutely and exclusively in a residual company, 14588495 Canada Inc. ("**ResidualCo**");

iii. ResidualCo will be added as an Applicant to the CCAA Proceedings;

iv. releases (the "**Releases**") in favour of (1) the current and former directors, officers, employees, legal counsel and advisors of the Flowr Group and ResidualCo, (2) the Monitor and its legal counsel, and (3) the Purchaser and its current and former directors, officers, employees, legal counsel and advisors (collectively, the "**Released Parties**") will take effect; and

v. the Monitor's powers regarding ResidualCo will be expanded; and

b. an order (the "**Ancillary Order**"), granting an extension of the Stay Period to February 26, 2023.

PURPOSE

7. The purpose of this fourth report of the Monitor (the "**Fourth Report**") is to provide information to the Court in respect of:

a. the activities of the Applicants since the third report of the Monitor dated December 13, 2022 (the "**Third Report**");

b. the additional steps included in Exhibit "A" to the Sale Agreement, which describes the Pre-Closing Reorganization (as defined in the Sale Agreement);

c. the Applicants' receipts and disbursements for the period from December 5, 2022 to January 22, 2023, as compared to the cash flow forecast appended as Appendix "K" to the Third Report (the "**December Cash Flow Forecast**");

d. the Monitor's recommendations with respect to the Applicants' motion for an order (the "**Amended and Restated Approval and Vesting Order**"), that, among other things:

i. amends paragraph 5 of the Approval and Vesting Order to incorporate certain additional steps in the Pre-Closing Reorganization that were not settled between the Applicants and the Purchaser prior to the granting of the Approval and Vesting Order;

ii. expands the enhanced powers of the Monitor, effective upon the filing of the Monitor's Certificate, such that the Monitor shall have the authority, among other things, to exercise any powers which may be properly exercised by a board of directors of the Applicants and ResidualCo and to cause the Applicants and ResidualCo to retain the services of any person as an employee, consultant, or other similar capacity all under the supervision and direction of the Monitor and on the terms as agreed with the Monitor; and

iii. amends the Encumbrances set out in Schedule "B" of the Approval and Vesting Order.

TERMS OF REFERENCE

8. In preparing this Fourth Report and making the comments herein, the Monitor has been provided with, and has relied upon, audited and unaudited financial information, books and records prepared by the Applicants, discussions with management of the Applicants ("**Management**"), and information from other third-party sources (collectively, the "**Information**").

9. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CAS in respect of the Information. Some of the information referred to in this Fourth Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as

outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.

10. Future oriented financial information referred to in this Fourth Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

11. Unless otherwise indicated, the Monitor's understanding of factual matters expressed in the Fourth Report concerning the Applicants and their business is based on the Information, and not independent factual determinations made by the Monitor.

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

13. Further information regarding the CCAA Proceedings, including all of the Monitor's reports to the Court previously filed, is available on the Monitor's website at https://ey.com/ca/flowr (the "**Monitor's Website**").

14. Capitalized terms not otherwise defined herein have the meanings attributed to them in the Initial Order or Sale Agreement, as applicable.

BACKGROUND INFORMATION WITH RESPECT TO THE APPLICANTS

15. Detailed background information in respect of the Applicants was provided in the Monitor's previous reports to the Court, which are available on the Monitor's Website.

16. The Flowr Corporation ("**Flowr**"), a public entity listed on the TSX Venture Exchange under the ticker symbol "FLWR", is a holding company.

17. The Applicants' operations are conducted substantially through Flowr's indirect subsidiary, Flowr Okanagan, which is the main operating entity that holds the necessary licenses and certifications to operate and leases a cultivation facility in Kelowna, British Columbia.

18. There are four Applicants in these CCAA Proceedings. In addition to Flowr and Flowr Okanagan, the other two Applicants are Flowr Holdings and Terrace Global Inc. A summary of these entities is as follows:

a. Flowr Holdings is a holding company and is a majority-owned subsidiary (76.6%) of Flowr that was incorporated under the laws of British Columbia. Core Flow Canada Holdings Inc. owns the remaining 24.4% of Flowr Holdings; and

b. Terrace is a wholly-owned subsidiary of Flowr that was incorporated under the laws of the Province of Ontario. Terrace is a shell corporation with minimal assets or liabilities.

APPLICANTS' ACTIVITIES SINCE THE THIRD REPORT

19. Since the issuance of the Third Report, the Applicants have continued to maintain their operations in the ordinary course without any significant disruptions. In addition, the Applicants performed the following activities:

a. discussions with the employees with respect to the Transaction and transition of ownership upon closing of the Transaction;

b. preparation and detailing the items necessary for the closing of the Transaction such as culminating agreements and contracts to transfer, retain or disclaim, and identifying Assumed Liabilities;

c. provided the necessary documentation and information to Health Canada to allow Health Canada to undertake its compliance assessment of the change of control as a result of the Transaction. It is the Monitor's understanding that the Applicants have satisfied all information requirements needed by Health Canada and, as at the date of this Fourth Report, the compliance assessment is in its final level of review with Health Canada;

d. with the Monitor's assistance, provided weekly updates to the DIP Lender on actual cash flow as compared to cash flow projections pursuant to the terms of the DIP Facility;

e. discussions with the Monitor and the Purchaser on post-closing wind-down activities of ResidualCo and the Applicants;

f. supported the Purchaser with the development of the additional steps for the Pre-Closing Re-Organization; and

g. satisfied all audit requests from Canada Revenue Agency ("**CRA**").

AMENDMENTS TO THE PRE-CLOSING REORGANIZATION STEPS

Background

20. As discussed in the Third Report, the Transaction in respect of the sale of the Purchased Shares shall be completed pursuant to a reverse vesting structure whereby the Excluded Assets and Excluded Liabilities will be vested out of Flowr Okanagan and into ResidualCo. Flowr Okanagan holds several non-transferable licenses, which are described in the Affidavit of Darren Karasiuk sworn December 9, 2022. These licenses are essential to the Flowr Group's business and ability to cultivate, produce, package and sell cannabis products, along with other activities.

21. The need for a reverse vesting structure in the circumstances follows from the highly regulated nature of the Applicants' business, and that the value of their business is dependant on maintaining such non-transferable licenses.

Tax Restructuring

22. As further described in the affidavit of Darren Karasiuk sworn on January 23, 2023 (the "**Karasiuk Affidavit**"), the Purchaser and the Vendor have settled on the additional steps to be taken as part of the Pre-Closing Reorganization that were not settled prior to the granting of the Approval and Vesting Order.

23. The additional steps are further detailed in the Karasiuk Affidavit and are included in the proposed amendments to Exhibit "A" of the Sale Agreement. Copies of the amended Exhibit

"A" and a blackline of the Exhibit "A" approved under the Approval and Vesting Order to the proposed amended Exhibit "A" are attached as **Appendix "A"** to this Fourth Report.

24. The additional steps are being implemented for tax purposes to deal with intercompany liabilities of Flowr Okanagan and are required by the Purchaser as part of the Transaction.

25. Currently, the intercompany liabilities are as follows:

    a. intercompany payable of $87,018,000 due from Flowr Okanagan to the Vendor;

    b. intercompany payable of $5,900,000 due from Flowr Okanagan to Flowr; and

    c. intercompany payable of $4,035,827 due from Flowr to Flowr Okanagan.

26. The additional steps taken in the Pre-Closing Reorganization:

    a. offsets the intercompany payables between Flowr Okanagan and Flowr, to a net payable from Flowr Okanagan to Flowr, which is then to be excluded from the Transaction and transferred to ResidualCo; and

    b. results in the preserving of tax losses of $87,018,000 at Flowr Okanagan at the opportunity cost of the Vendor's capital loss accruing in respect of the intercompany receivable being eliminated.

27. The Applicants engaged MNP LLP to review the proposed additional steps taken in the Pre-Closing Reorganization and to advise them thereon. MNP LLP based their opinion on information that was available from CRA's current published commentary and guidelines. The Applicants provided the Monitor with a copy of the memorandum from MNP LLP, which concludes that the Pre-Closing Reorganization should be considered acceptable under the *Income Tax* Act (Canada).

28. It is the Monitor's understanding that these additional steps are necessary for the consummation of the Transaction by the Purchaser.

29. The Monitor and its counsel have reviewed the revised Exhibit “A” and the memorandum provided by MNP LLP and such amendments appear appropriate in the context of the Transaction.

30. **EXPANDING THE POWERS OF THE MONITOR OVER THE APPLICANTS**

31. The Applicants, in consultation with the Monitor have considered the options for the conclusion of the CCAA Proceedings post-closing, taking into consideration, among other things, that:

a. upon filing of the Monitor’s Certificate, the Approval and Vesting Order releases, among other parties, the current and former directors and officers of the Applicants. However, there would be continued potential liability for directors and officers post-Transaction until the termination of the CCAA Proceedings; and

b. there will not be any operating entity post-Transaction as the remaining Applicants are holding or shell corporations with no operations.

32. After considering their options, and in consultation with the Monitor, the Applicants have determined that:

a. the directors and officers of the remaining Applicants, will resign immediately prior to the Closing Time; and

b. with no board of directors, it is appropriate to seek to expand the Monitor’s powers currently approved for ResidualCo under the Approval and Vesting Order to all the Applicants, thereby overseeing all the Applicants until the completion of the CCAA Proceedings.

33. The Monitor is of the view that the relief provided is appropriate in the circumstances for the following reasons:

a. the resignation of the officers and directors eliminates the potential for any director and officer claims to arise for the period between post-Transaction and termination of the CCAA Proceedings; and

b. the authority granted to the Monitor in the proposed Approval and Vesting Order will ensure that the Monitor has the requisite authority to deal with the winding-down of all the Applicants, in an orderly and efficient manner.

ADDITIONAL ENCUMBRANCE TO BE VESTED OFF

34. A search of the Applicants in the Canadian Intellectual Property Office was recently undertaken which showed an existing registration for a security agreement filed by ATB Financial on June 22, 2020, with security against trademarks.

35. The Monitor understands that the amounts owing to ATB Financial had been paid prior to the commencement of the CCAA Proceedings and therefore, such registration should have been removed.

36. All intellectual property, including any trademarks, form part of the Transferred Assets in the Sale Agreement and therefore require to be vested free and clear of any encumbrances as part of the Sale Agreement.

37. The Monitor is of the view that amending the Approval and Vesting Order to vest this additional encumbrance is appropriate in this circumstance.

THE APPLICANTS' RECEIPTS AND DISBURSEMENTS

38. A summary of the Applicants' actual receipts and disbursements during the period from December 5, 2022 to January 22, 2023 (the "**Reporting Period**") as compared to the December Cash Flow Forecast (the "**Variance Analysis**") is attached hereto as **Appendix "B"**. The Variance Analysis indicates a positive variance of approximately $1,132,000 as a result of timing differences set out in the Variance Analysis.

39. The DIP Facility was fully drawn as at January 22, 2023.

CONCLUSIONS AND RECOMMENDATIONS

40. The Monitor supports the relief sought by the Applicants pursuant to the proposed Amended and Restated Approval and Vesting Order for the reason stated herein.

All of which is respectfully submitted this 27th day of January 2023.

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

per:

Alex Morrison, CPA, CA
Senior Vice-President

Karen Fung, CPA, CA
Senior Vice-President

Appendix “A”
Blackline of Exhibit "A" Amendments

EXHIBIT "A"
PRE-CLOSING REORGANIZATION

The following steps will occur at least 3 days prior to the Closing Date:

1. ResidualCo shall be incorporated by the Vendor with nominal consideration for common shares and shall be added to the CCAA Proceeding as an Applicant, but shall take no other steps or actions in respect thereof.

2. A subsidiary ("**Subco**") shall be incorporated by the Company with nominal consideration for common shares.

The following steps will occur in the order indicated on the day immediately prior to the Closing Date:

3. The liability owed by the Company to The Flowr Corporation in the amount of $5,900,000 shall be set-off against the liability owed by The Flowr Corporation to the Company in the amount of $4,035,827 such that after such set-off the Company will be indebted to The Flowr Corporation in the amount of $1,864,173.

4. The Vendor will transfer the intercompany receivable owed by the Company to the Vendor in the amount of $87,018,000 to Subco in consideration of a non-interest bearing promissory note in the amount of $1 (being the fair market value of the transferred receivable). The Company will make an election under subsection 80.01(4) of the *Income Tax Act* to deem the note settled for the cost amount as determined under subsection 80.01(4) and subsection 53(1)(f.1).

5. Subco will be wound up into the Company and dissolved.

The following steps will occur in the order indicated on the Closing Date pursuant to the Vesting Order and agreements to be entered between the Vendor, the Company, and ResidualCo, as applicable:

6. The Vendor will transfer the Transferred Assets to the Company in consideration for 100 common shares of the Company. The Vendor and the Company agree that, at the request of the Vendor, an election pursuant to subsection 85(1) of the *Income Tax Act* (Canada) shall be made in respect of such transfer, the elected amount under that subsection to be determined in the Vendor's absolute discretion.

7. The Excluded Assets shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order in exchange for the Excluded Asset Promissory Note.

8. The Excluded Liabilities shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order in exchange for the Excluded Liability Promissory Note.

EXHIBIT “A”
PRE-CLOSING REORGANIZATION

~~1.~~ ~~-~~The ~~Transferred Assets shall be transferred~~following steps will occur at least 3 days prior to the ~~Company.~~Closing Date:

~~2.~~1. ResidualCo shall be incorporated by the Vendor with nominal consideration for common shares and shall be added to the CCAA Proceeding as an Applicant, but shall take no other steps or actions in respect thereof.

2. ~~The Excluded Assets and~~A subsidiary (“**Subco**”) shall be incorporated by the Company with nominal consideration for common shares.

The following steps will occur in the order indicated on the day immediately prior to the Closing Date:

3. The liability owed by the Company to The Flowr Corporation in the amount of $5,900,000 shall be set-off against the liability owed by The Flowr Corporation to the Company in the amount of $4,035,827 such that after such set-off the Company will be indebted to The Flowr Corporation in the amount of $1,864,173.

4. The Vendor will transfer the intercompany receivable owed by the Company to the Vendor in the amount of $87,018,000 to Subco in consideration of a non-interest bearing promissory note in the amount of $1 (being the fair market value of the transferred receivable). The Company will make an election under subsection 80.01(4) of the *Income Tax Act* to deem the note settled for the cost amount as determined under subsection 80.01(4) and subsection 53(1)(f.1).

5. Subco will be wound up into the Company and dissolved.

The following steps will occur in the order indicated on the Closing Date pursuant to the Vesting Order and agreements to be entered between the Vendor, the Company, and ResidualCo, as applicable:

6. The Vendor will transfer the Transferred Assets to the Company in consideration for 100 common shares of the Company. The Vendor and the Company agree that, at the request of the Vendor, an election pursuant to subsection 85(1) of the *Income Tax Act* (Canada) shall be made in respect of such transfer, the elected amount under that subsection to be determined in the Vendor’s absolute discretion.

7. The Excluded Assets shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order in exchange for the Excluded Asset Promissory Note.

8. The Excluded Liabilities shall be transferred to, and vested in, ResidualCo pursuant to the Approval and Vesting Order~~.~~ in exchange for the Excluded Liability Promissory Note.

~~3.~~

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Appendix “B”
Variance Analysis

The Flowr Corporation and Certain Affiliated CCAA Filing Entities (collectively the "Applicants")
Cash Flow Variance Analysis for the Period December 5, 2022 to January 22, 2023
$CDN in Thousands

	Actual	Forecast	Variance	Notes
Receipts				
Sales collections	$ 1,378	$ 1,513	$ (135)	1
Other receipts	20	434	(414)	2
Total Receipts	**1,398**	**1,947**	**(549)**	
Disbursements				
Payroll and Benefits	(691)	(696)	5	
Operating Expenses	(400)	(510)	110	3
Other SG&A and taxes	(329)	(1,419)	1,090	4
Restructuring Costs	(386)	(862)	476	5
Total Disbursements	**(1,806)**	**(3,487)**	**1,681**	
Net cash receipts/(disbursements)	**$ (408)**	**$ (1,540)**	**$ 1,132**	
Cash Balance				
Beginning Balance	$ 732	$ 732	-	
Net cash receipts/(disbursements)	(408)	(1,540)	1,132	
DIP draws/(repayment)	1,000	1,000	-	
Ending Cash Balance	**$ 1,324**	**$ 192**	**$ 1,132**	
DIP Facility				
Opening Balance	$ 1,000	$ 1,000	$ -	
DIP draws/(repayment)	1,000	1,000	-	
Closing Balance	**$ 2,000**	**$ 2,000**	**$ -**	

In the Matter of the CCAA of The Flowr Corporation, The Flowr Canada Holdings ULC, The Flowr Group (Okanagan) Inc., and Terrace Global Inc. (collectively, the "Applicants")

Cash flow variance analysis for the period December 5, 2022 to January 22, 2023

Disclaimer:

This variance analysis sets out the significant variances between the Applicants' actual receipts and disbursements compared to the cash flow forecast appended to the Third Report of the Monitor dated December 13, 2022.

1. **Sales Collections**
   The Applicants' collection of receipts during the forecast period was lower than anticipated as a result of lower than projected sales volumes.

2. **Other Receipts**
   Certain collections have been delayed due to a timing difference. This timing difference is expected to reverse in the coming weeks upon the receipt of sublease payments and certain property insurance refunds.

3. **Operating Expenses**
   This variance is a timing difference and is expected to reverse in the coming weeks.

4. **Other SG&A and Taxes**
   The variance represents a timing difference related to the payment of certain HST and Excise duty remittances. This variance is expected to reverse in the coming weeks.

5. **Restructuring Costs**
   The variance is primarily due to the timing of professional fee payments and is expected to reverse in the coming weeks.

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FOURTH REPORT OF THE MONITOR
January 27, 2023

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