Court File No. CV-23-00693595-00CL

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 ACERUS PHARMACEUTICALS CORPORATION, ACERUS BIOPHARMA INC., ACERUS LABS INC., AND ACERUS PHARMACEUTICALS USA, LLC

REPORT OF THE MONITOR

DATED February 2, 2023

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

REPORT OF THE MONITOR

DATED FEBRUARY 2, 2023

INTRODUCTION

1. On January 26, 2023, the Applicants brought an application (the "**Initial 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 that same day, the Court granted an Initial Order (the "**Initial Order**") in these CCAA proceedings (the "**CCAA Proceedings**") that, among other things, appointed Ernst & Young Inc. ("**EYI**") as monitor of the Applicants (in such capacity, the "**Monitor**"), approved the engagement of FAAN Advisors Group Inc. as Chief Restructuring Officer ("**CRO**"), ordered a stay of proceedings in favour of the Applicants through to February 3, 2023 (the "**Stay Period**"), granted certain Court-ordered charges, and approved an interim financing facility (the "**DIP Facility**") provided by First Generation Capital Inc. ("**FGC**", and in its capacity as the DIP Facility lender, the "**DIP Lender**").

3. The Applicants' comeback motion is scheduled to be heard on February 3, 2023.

4. In connection with the Initial Application, the Monitor filed a Pre-Filing Report dated January 25, 2023 (the "**Pre-Filing Report**"). The First Report supplements the information contained in the Pre-Filing Report, for the purposes of the comeback motion.

PURPOSE

5. The purpose of this First Report of the Monitor (the "**First Report**") is to provide information to the Court on:

   a) The Applicants' operations and activities since the granting of the Initial Order;

   b) Update on the commencement of the Chapter 15 Cases (as defined herein);

   c) The Monitor's activities since its appointment;

   d) The Applicants' motion for an amended and restated Initial Order (the "**ARIO**"), substantially in the form attached to the Applicants' Initial Application Record dated January 26, 2023, among other things:

      i. approving a key employee retention plan (the "**KERP**") and granting a charge in respect of the beneficiaries of the KERP (the "**KERP Charge**");

      ii. increasing certain of the Court-ordered charges granted pursuant to the Initial Order;

      iii. authorizing the Applicants to cease making any expenditures in respect of securities filings; and

      iv. extending the Stay Period to and including April 5, 2023.

TERMS OF REFERENCE

6. In preparing this First 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**"). Except as described in this First Report in respect of the Cash Flow Forecast:

a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with 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; and

b) some of the information referred to in this First Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.

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

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

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

BACKGROUND INFORMATION

Overview

10. This First Report should be read in conjunction with the Affidavit of Naveed Z. Manzoor sworn January 25, 2023 (the "**Manzoor Affidavit**") in support of the Applicants' Initial Application.

11. Headquartered in Mississauga, Ontario, the Applicants carry on a specialty pharmaceutical business focused on the research, development, commercialization and distribution of innovative prescription products primarily in the fields of urology and men's health.

12. As described in greater detail in the Manzoor Affidavit, the Applicants' portfolio of products include:

a) two prescription drugs that have been approved by the U.S. Food and Drug Administration ("**FDA**"): Natesto^{TM} and Noctiva^{TM}, which represent the most valuable assets of the Applicants;

b) the exclusive licensing and commercial agreements with respect to distributing Avanafil^{TM} in the Canadian market; and

c) Other pipeline products in research and development stages.

Corporate Structure

13. Acerus Pharmaceuticals Corporation ("**APC**") was incorporated under the *Ontario Business Corporations Act* (the "**OBCA**"). APC is listed on the Toronto Stock Exchange (the "**TSX**") under the ticker "ASP.TO" and the OTCQB Exchange in the United States under the ticker "ASPCF". FGC holds approximately 89.3% of APC's outstanding shares. FGC is affiliated with the Chairman of the Board of Directors of APC (the "**Board**").

14. As summarized below, the other three Applicants are APC's wholly-owned subsidiaries and are financially dependant on APC:

a) Acerus Biopharma Inc. ("**ABI**") **-** Incorporated under the OBCA, ABI is the principal operating entity holding intellectual rights to Natesto^{TM} and certain early-stage research and development projects.

b) Acerus Labs Inc. ("**ALI**") - Incorporated under the OBCA, ALI is the principal operating entity holding certain early-stage research and development projects related to the intranasal delivery of various botanical and synthetic cannabinoids formulations.

c) Acerus Pharmaceuticals USA, LLC ("**APL**") - Incorporated under the laws of the State of Delaware, U.S.A. APL owns the global rights to Noctiva™.

Employees

15. As outlined in the Manzoor Affidavit, the Applicants currently employ ten employees and contractors. Nine of these individuals are employed or contracted in Canada, and one is employed in the United States.

UPDATE ON THE APPLICANTS' ACTIVITIES

16. On January 26, 2023, the Applicants sent out a press release announcing the commencement of the CCAA proceedings, among other things. A copy of the press release is attached hereto as **Appendix "A".**

17. Since the issuance of the Initial Order, the Applicants, with the assistance of the CRO, and under the supervision of the Monitor, have engaged in discussions with certain vendors, customers, and other key stakeholders with respect to the Applicants' continued operations in the CCAA proceedings. The Canada Revenue Agency has contacted APC with respect to audit requests and the company is coordinating with them.

18. At the time of this First Report, the Applicants are continuing the distribution of Natesto^{TM} in the U.S. and Canadian markets

19. The Applicants also continue to advance the commercialization of Noctiva^{TM} toward a relaunch of the product in the U.S. market.

Continued Discussions with Interested Parties

20. As described in the Pre-Filing Report, the Applicants received expressions of interest from certain interested parties ("**Known Parties**") in a strategic review process conducted with the assistance of EYI and Ernst & Young Corporate Finance Inc. (collectively, "**EY**"), although no actionable transactions could be concluded prior to the CCAA filing.

21. After the Initial Order was granted, the Applicants, with the assistance of EY, have had discussions with the Known Parties regarding the CCAA filing and the status of the strategic review process to canvas ongoing interest and potential transactions.

22. The Applicants are in the process of developing a potential sale and investment process (the "**SISP**") in the CCAA proceedings based upon information and feedback received from the

Strategic Review Process, as well as post filing communications with Known Parties. The Applicants intend to seek court approval of the SISP following the comeback hearing.

CHAPTER 15 CASES

23. On January 29, 2023, the Applicants commenced ancillary insolvency proceedings under Chapter 15 of Title 11 of the United States Code (the "**Chapter 15 Cases**") in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**"). On January 31, 2023, the U.S. Bankruptcy Court granted an Order recognizing the Initial Order on a provisional basis, among other relief. The U.S. Bankruptcy Court has scheduled a hearing for March 3, 2023 to address the Applicants' motion requesting recognition of the CCAA Proceedings as "foreign main proceedings." Copies of the Chapter 15 filings and related documents filings are available on the U.S. Bankruptcy Court's Electronic Case Filing System, which can be accessed from the U.S. Bankruptcy Court's website at http://www.ecf.deb.uscourts.gov (a PACER login and password are required). Copies of certain key materials in the Chapter 15 Cases will also be posted on the Monitor's Website (as defined and described below).

THE MONITOR'S ACTIVITIES SINCE ITS APPOINTMENT

24. Following the CCAA filing, the Monitor has:

a) held discussions with the Applicants, the CRO and certain stakeholders with respect to the Applicants' operations;

b) responded to inquiries received from creditors and other parties with respect to these CCAA proceedings; and

c) reviewed the Applicants' disbursements.

25. The Monitor has established a case website at www.ey.com/ca/acerus (the "**Monitor's Website**") to disseminate information to stakeholders. Pursuant to the Initial Order:

a) the Monitor posted copies of the Initial Order, the Pre-Filing Report and the Service List on the Monitor's Website;

b) on or around January 30, 2023, the Monitor mailed a notice of these CCAA Proceedings to creditors with claims greater than $1,000 appearing in the Applicants' books and records as at the date of the Initial Order (collectively, the "**Known Creditors**");

c) on or around January 30, 2023, the Monitor posted on the Monitor's Website a list showing the Known Creditors and the estimated amount of their claims; and

d) the Monitor arranged for notice of these CCAA Proceedings to be published in The Globe and Mail (National Edition) on February 7, 2023. A copy of the notice is attached hereto as **Appendix "B".**

26. In addition to the Monitor's Website and the communications noted above, the Monitor has set up an email address (acerus.monitor@ca.ey.com) and hotline phone number (613-598-4841) that are specific to these CCAA Proceedings in order to respond to inquiries from creditors and other stakeholders.

KERP

27. As set out in the Manzoor Affidavit, the Applicants seek Court approval of the proposed KERP. The Applicants developed the proposed KERP, with input from the Board and the Monitor, in order to retain certain key management members that are considered essential to the stability of the operations, pursuing the potential SISP, and to facilitate a successful restructuring of the Applicants (the "**KERP Participants**").

28. The KERP Participants are comprised of three senior executives, which were selected by the Applicants based on the Applicants' assessment, as reviewed and approved by the Board, the Monitor and the DIP Lender.

29. The KERP contemplates certain milestone payments based upon completing the sale of one or multiple of the Applicants' key products, achieving an important operational target and concluding a restructuring or sale in respect of substantially all of the Applicants' assets. In one instance the KERP is designed to retain the services of a KERP Participant until March 31, 2023 and to secure part-time ongoing assistance thereafter to achieve the KERP milestones. The Board has determined that the ongoing participation of this KERP Participant is critical to a potential sale or restructuring transaction, and the Board has recommended that this individual's

KERP be approved. The milestone payments currently contemplated by the KERP total approximately $425,000, and the Applicants do not expect the total amount of actual payments to exceed the proposed KERP Charge amount. A schedule that sets out each of the KERP Participants with their roles and proposed payments is attached hereto as **Confidential Appendix "C".** The Applicants are also seeking an order sealing Confidential Appendix "C" as it contains personal and confidential information in respect of the Applicants' employees.

30. The Applicants are seeking, among other things, the Court's approval of the KERP Charge, which is proposed to rank immediately behind the Director's Charge. The ranking of the various priority charges is summarized further herein, should the proposed KERP Charge be approved by this Court.

31. The Monitor provided input to the Applicants in formulating the KERP. The Monitor attended the Board meeting where the KERP was considered and discussed, and had discussions with the CRO and the Chair of the Compensation Committee of the Board regarding the formulation of the KERP. The corporate governance process followed by the Applicants in developing the KERP appears sound and appropriate.

32. The Monitor is satisfied with the basis on which the KERP was formulated and how the amounts payable to each KERP Participant were determined. The Monitor is also of the view that the structure of the KERP and the quantum of the amounts payable to the KERP participants are reasonable in the circumstances. The KERP is based on the Applicants achieving either transactions, critical milestones or an overall restructuring or sale of the business. The Monitor is of a view that the KERP will incentivize management in alignment with creating value for the stakeholders of the Applicants. Accordingly, the Monitor recommends that this Court approve the proposed KERP and the KERP Charge as discussed above.

SECURITIES RELIEF

33. Following obtaining the Initial Order, on January 26, 2023, APC received a letter from the Toronto Stock Exchange ("**TSX**") indicating that the TSX is reviewing APC's eligibility for continued listing on the exchange and a committee meeting is scheduled for February 3, 2023 to consider delisting securities of APC. The Applicants expect that following such meeting APC's securities will be delisted from the TSX. A copy of the letter from the TSX is attached as **Appendix "D"**.

34. As described in greater detail in the Manzoor Affidavit, APC is subject to certain reporting, filing and disclosure requirements pursuant to applicable securities legislation and the rules and policies of the TSX, among other things (the "**Reporting Requirements**").

35. APC, in consultation with its legal counsel, is seeking exemptions from the Reporting Requirements on the basis of, among other things, the fact that the time and costs associated with the Reporting Requirements will detract from the Applicants' successful restructuring, and that detailed financial information and other information regarding the Applicants will be made publicly available through the materials filed in these CCAA proceedings. All materials will be posted on the Monitor's Website and be available to the public.

36. The Monitor understands that the Applicants were in negotiations with the Ontario Securities Commission and its legal counsel with respect to the requested exemptions, and that a consensual resolution has been reached.

AMENDMENT TO COURT-APPROVED CHARGES

37. Certain Court-ordered charges were granted pursuant to the Initial Order. The proposed ARIO amends certain of those charges and incorporates certain new charges (collectively, the "**Charges**"). The proposed ARIO provides that the Charges granted thereunder shall have the following priorities:

a. First - The Administration Charge (to the maximum amount of $300,000);

b. Second - The DIP Lender's Charge;

c. Third - The Directors' Charge (unchanged from the Initial Order at a maximum amount of $200,000); and

d. Fourth – the proposed KERP Charge (to the maximum aggregate amount of $455,250).

Administration Charge

38. The Initial Order provides for the Administration Charge in the amount of up to $150,000 in favour of counsel to the Applicants, the Monitor and the Monitor's independent legal counsel, and the CRO (the "**Restructuring Professionals**") in respect of its monthly work fee as security

for the professional fees and disbursements incurred prior to and after the commencement of the CCAA proceedings.

39. The Applicants seek to increase the quantum of the Administration Charge from $150,000 to $300,000 under the proposed ARIO. This increase in quantum reflects the estimated financial exposure of the Restructuring Professionals during the proposed extended Stay Period.

40. The increased quantum of the Administration Charge has been established based on the Applicants' estimated payment cycles and the Restructuring Professionals' experience with restructurings of similar scope and complexity. The Monitor believes that such a charge is required and reasonable in the circumstances.

DIP Lender's Charge

41. Pursuant to the Initial Order, this Court approved the DIP Facility with a borrowing limit of US$500,000 and granted the DIP Lender's Charge in favour of the DIP Lender to secure all of the actual advances, interest and obligations under the DIP Facility. The Applicants have not made any draws under the DIP Facility as of the date of this First Report.

42. The Applicants seek to increase the borrowing limit to US$7 million, being the maximum principal amount available under the DIP Facility. The cash flow forecast set out in Appendix "A" to the Pre-Filing Report (the "**Cash Flow Forecast**") reflects that the Applicants are projected to incur a negative cash flow of US$6.213 million in the period from January 23, 2023 to April 9, 2023 ("**Forecast Period**").[1] Therefore, full access to the US$7 million borrowing capacity is crucial for the Applicants to maintain liquidity and fund operations during the Forecast Period. The Monitor recommends the approval of the increased borrowing limit under the DIP Facility. For ease of reference, a copy of the Cash Flow Forecast is re-attached hereto as **Appendix "E".**

EXTENSION TO THE STAY PERIOD

43. The Stay Period is currently set to expire on February 4, 2023. The Applicants are requesting an extension of the Stay Period until April 5, 2023.

[1] Note that the Cash Flow Forecast does not reflect the proposed KERP payments assuming the milestones will likely fall outside of the Forecast Period.

44. The Monitor is of the view that the requested stay extension is appropriate for the following reasons: (i) the Applicants require the extension in order to develop and execute a potential SISP which would leverage off the work already performed in the strategic review process; (ii) the Monitor will work closely with the Applicants with respect to the potential SISP; and (iii) the Applicants have continued to operate in good faith and with due diligence since the date of the Initial Order.

45. Based on the Cash Flow Forecast and the availability of advances under the DIP Facility, the Monitor believes that the Applicants will have sufficient liquidity for the duration of the extended Stay Period.

CONCLUSIONS AND RECOMMENDATIONS

46. The Monitor supports the relief sought by the Applicants in the ARIO with regard to:

- approving the KERP and granting the KERP Charge;
- amending certain of the Charges; and
- extending the Stay Period to April 5, 2023.

All of which is respectfully submitted this 2nd day of February 2023.

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

per:

Alex Morrison, CPA, CA
Senior Vice-President

Appendix “A”

to the First Report of the Monitor

View all Press Releases

ACERUS FILES FOR CCAA PROTECTION

01/26/2023

TORONTO, Jan. 26, 2023 (GLOBE NEWSWIRE) -- Acerus Pharmaceuticals Corporation (the "**Company**" or "**Acerus**") (TSX: ASP; OTCQB: ASPCF) today announced that the Company and its subsidiaries, Acerus Biopharma Inc., Acerus Labs Inc. and Acerus Pharmaceuticals USA, LLC (collectively, the "**Acerus Group**"), have received an order for creditor protection (the "**Initial Order**") from the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**").

As previously disclosed on September 21, 2022, Acerus undertook a strategic review of its business including possible debt and equity financings, assets sales, M&A and licensing transactions which was overseen by a committee of independent directors. Following such strategic review and after careful consideration of all under the CCAA.

The Initial Order includes, among other things: (i) a stay of proceedings in favour of the Acerus Group; (ii) approval of the DIP Loan (as described below); and (iii) the appointment of Ernst & Young Inc. as monitor of the Acerus Group (in such capacity, the "**Monitor**").

The Acerus Group sought creditor protection under the CCAA in order to receive a stay of proceedings that will allow the Acerus Group to work with the Monitor to facilitate the development of an orderly process designed to maximize the value of the Acerus Group's assets, for the benefit of its creditors and other stakeholders. The DIP Loan (as described below) is anticipated to fund the operations of the Acerus Group in the ordinary course during this process.

The Acerus Group intends to also file petitions commencing proceedings under Chapter 15 of the United States Bankruptcy Code at the United States Bankruptcy Court for the District of Delaware for creditor protection in the United States.

Management of the Company will remain responsible for the day-to-day operations of the Company, under the general oversight of the Monitor. FAAN Advisors Group Inc. has been appointed as Chief Restructuring Officer of the Company.

In order to fund the CCAA proceedings and other short-term working capital requirements, the Acerus Group has executed a facility agreement with First Generation Capital Inc. (the "**DIP Lender**"), a company affiliated with the Chairman of the Board of Directors of Acerus, pursuant to which the DIP Lender has agreed to advance a debtor-in-possession loan in the amount of US$7,000,000 (the "**DIP Loan**"). The continued availability of the DIP Loan is conditional on, among other things, certain conditions being satisfied, including the Initial Order remaining in effect.

It is anticipated that the Toronto Stock Exchange (the "**TSX**") will place the Company under delisting rev and there can be no assurance as to the outcome of such review or the continued qualification for listing on

Acerus Pharmaceuticals Corporation is a specialty pharmaceutical company focused on the commercialization and development of innovative prescription products that improve patient experience, with a primary focus in the field of men's health.

Acerus' shares trade on TSX under the symbol ASP and on OTCQB under the symbol ASPCF.

For further information regarding the CCAA proceedings you can refer to the Monitor's website at www.ey.com/ca/acerus.

Notice regarding forward-looking statements

Information in this press release that is not current or historical factual information may constitute forward-looking information within the meaning of securities laws. Implicit in this information are assumptions regarding our future operational results. These assumptions, although considered reasonable by the company at the time of preparation, may prove to be incorrect. Readers are cautioned that actual performance of the Company is subject to a number of risks and uncertainties, including the Acerus Group's intention to complete proceedings under the CCAA, the results of the proceedings under the CCAA and any potential recovery for stakeholders of the Company, and results could differ materially from what is currently expected as set out above. For more exhaustive information on these risks and uncertainties you should refer to our annual information form dated March 14, 2022 that is available on www.sedar.com. Forward-looking information contained in this press release is based on our current estimates, expectations and projections, which we believe are reasonable as of the current date. You should not place undue importance on forward-looking information and should not rely upon this information as of any other date. While we may elect to, we are under no obligation and do not undertake to update this information at any particular time, whether as a result of new information, future events or otherwise, except as required by applicable securities laws.

Chief Restructuring Officer
ir@aceruspharma.com

ACERUS PHARMA Source: Acerus Pharmaceuticals Corporation

Contact Us

Acerus Pharmaceuticals Corporation
7025 Langer Drive Suite 205, Mississauga, ON, L5N 0E8 CANADA
416.679.0771

Appendix "B"

to the First Report of the Monitor

Court File No. CV-23-00693595-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED (the "CCAA")

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ACERUS PHARMACEUTICALS CORPORATION, ACERUS BIOPHARMA INC., ACERUS LABS INC. AND ACERUS PHARMACEUTICALS USA, LLC.

(collectively, the "Applicants")

PLEASE TAKE NOTICE that on January 26, 2023, the Applicants commenced court-supervised restructuring proceedings under the Companies' Creditors Arrangement Act ("**CCAA**"). Ernst & Young Inc. has been appointed as monitor of the Applicants for these CCAA proceedings ("**Monitor**") pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 26, 2023 (the "**Initial Order**").

Copies of the Initial Order and other related documents in connection with these CCAA proceedings have been posted on the Monitor's website at: http://www.ey.com/ca/acerus.

The Initial Order grants, among other things, a stay of proceedings for an initial 10-day period (the "**Stay Period**") which may be extended by further Order of the Court from time-to-time.

During the Stay Period, all parties are prohibited from commencing or continuing any legal proceedings against the Applicants, and all rights and remedies of all parties against or in respect of the Applicants, their assets, business or respective officers and directors are stayed and suspended except with the written consent of the Monitor or with leave of the Court.

No claims procedure has yet been submitted to, or approved by, the Court and creditors are therefore not required to file proofs of claim at this time.

The Applicants have also commenced ancillary insolvency proceedings under Chapter 15 of Title 11 of the United States Code (the "**Chapter 15 Cases**") in the United States Bankruptcy Court for the District of Delaware. Copies of the Chapter 15 filings and related documents in the Chapter 15 Cases are available on the U.S. Bankruptcy Court's Electronic Case Filing System, which can be accessed from the U.S. Bankruptcy Court's website at http://www.ecf.deb.uscourts.gov (a PACER login and password are required). Certain key documents will also be posted on the Monitor's website.

The Monitor's contact details for additional information relating to these CCAA proceedings are:

Ernst & Young Inc., in its capacity as Court-Appointed Monitor of the Applicants

100 Adelaide Street West, P.O. Box 1
Toronto, ON, M5H 0B3
Canada

Telephone: 613-598-4841
Email: acerus.monitor@ca.ey.com
Website: www.ey.com/ca/acerus

EY Parthenon

Confidential Appendix "C"
to the First Report of the Monitor

Appendix “D”
to the First Report of the Monitor

January 26, 2023

Kai Chu, MBA, CPA, CMA
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VIA E-MAIL ONLY:
mdevereux@stikeman.com

Mike Devereux
Stikeman Elliott LLP
5300 Commerce Court W.
199 Bay St.
Toronto, ON
M5L 1B9

Dear Mike Devereux:

Re: Acerus Pharmaceuticals Corporation (the "Company") – Delisting Review

Please be advised that Toronto Stock Exchange ("TSX") is reviewing the eligibility for continued listing on the TSX of the securities of the Company pursuant to Part VII of the *TSX Company Manual* (the "Manual") pursuant to the Expedited Review Process. Specifically, TSX is reviewing whether any of the delisting criteria outlined in Part VII of the Manual (the "Delisting Criteria") are applicable to the Company and has identified the Delisting Criteria noted in the attached worksheet as applicable to the Company. Trading in the Company's securities has been suspended.

A meeting of the Continued Listing Committee of TSX is scheduled to be held on **February 3, 2023 at 3:30 p.m. EST** at the office of TSX to consider whether or not to delist the securities of the Company. The Company can make submissions regarding this matter at such hearing. **Please provide the Company's written submissions, if any, addressing the noted deficiencies by 9:00 a.m. EST on February 2, 2023**.

We would like to remind those persons in a "special relationship" with the Company (as defined in the Ontario Securities Act) of their legal obligations regarding trading of the Company's securities with the knowledge of material information regarding the Company that has not been generally disclosed to the public.

Should TSX decide to delist the securities of the Company, you are reminded that these securities may qualify for listing on TSX Venture Exchange or NEX. TSX encourages the Company to contact Sylvain Martel, sylvain.martel@tmx.com, as soon as possible to discuss the Company's qualifications for listing on TSX Venture Exchange or NEX.

Sincerely,

TORONTO STOCK EXCHANGE

Kai Chu
(s) Kai Chu

Attachment: Review Worksheet

DELISTING
REVIEW WORKSHEET

The following table summarizes the continued listing requirements and related sections of the Manual. An "X" denotes the Delisting Criteria determined to be applicable to the Company, based on a review of available information.

Company Name: Acerus Pharmaceuticals Corp. Symbols: **ASP**

DELISTING CRITERIA	***APPLICABLE***
General	
Insolvency or bankruptcy proceedings (S.708)	X
Financial condition and/or operating results (S.709, 710(a)(i))	X
Ceased to be actively engaged in ongoing business (S.710(a)(ii))	
Discontinued or divested a substantial portion of operations (S.710(a)(iii))	
Industrial Companies	
Total assets of $3.0 million OR annual revenue from ongoing operations of $3.0 million in the most recent year (S. 710(b))	
$1.0 million on acceptable research and development in the most recent year (R&D companies only) (S. 710(b))	
Resource Companies	
Expenditures of $350,000 on exploration and/or development work OR $3.0 million from the sale of commodities in the most recent year (S.710(c)(i))	
Adequate working capital and appropriate capital structure (S.710(c)(ii))	
Market Value & Public Distribution	
Public distribution, price, or trading activity of the company's securities has been so reduced as to not warrant continued listing (S.711)	
Market Value of listed securities of $3.0 million for 30 previous consecutive trading days (S.712(a))	
Market Value of publicly held listed securities of $2.0 million for 30 previous consecutive trading days (S.712(b))	
500,000 freely tradeable, publicly held securities (S.712(c))	
150 public security holders of a board lot or more (S.712(d))	
Management, Corporate Governance and Other Issues	
Compliance with Listing Agreement (S.713)	
Disclosure Issues (S.714)	
Payment of Fees (S.715)	
Management Deficiencies or Corporate Governance (S.716)	
Change of Business (717)	

Appendix “E”

to the First Report of the Monitor

Acerus Pharmaceuticals Corporation and Subsidiaries (collectively, the "Applicants")
Cash Flow Forecast for the Period January 23, 2023 to April 9, 2023
$CDN in Thousands

	Week #	1	2	3	4	5	6	7	8	9	10	11	
	Ending	**Jan 29**	**Feb 05**	**Feb 12**	**Feb 19**	**Feb 26**	**Mar 05**	**Mar 12**	**Mar 19**	**Mar 26**	**Apr 02**	**Apr 09**	**Total**
	Notes												
Receipts													
Product Sales	*1*	$ -	$ 449	$ 536	$ 199	$ 203	$ 224	$ 176	$ 163	$ 149	$ 170	$ 122	$ 2,391
Total Receipts		**$ -**	**$ 449**	**$ 536**	**$ 199**	**$ 203**	**$ 224**	**$ 176**	**$ 163**	**$ 149**	**$ 170**	**$ 122**	**$ 2,391**
Disbursements													
Direct Selling Costs	*2*	210	240	-	-	291	375	140	142	133	123	114	1,768
Payroll & Contractor costs	*3*	92	37	4	92	-	129	4	92	-	196	4	650
Contract manufacturing costs	*4*	-	261	-	-	-	72	-	-	-	838	-	1,172
Other Product Related Expenses	*5*	529	551	563	20	20	551	20	20	20	557	529	3,382
Other SG&A	*6*	5	24	-	5	-	24	-	5	-	24	-	88
Professional Fees	*7*	462	125	234	50	45	147	170	45	75	147	45	1,545
Total Disbursements		1,299	1,238	801	168	356	1,298	334	305	228	1,885	692	8,604
Net cash receipts/(disbursements)		**$ (1,299)**	**$ (789)**	**$ (265)**	**$ 31**	**$ (152)**	**$ (1,074)**	**$ (158)**	**$ (143)**	**$ (79)**	**$ (1,715)**	**$ (570)**	**$ (6,213)**
Cash Balance													
Opening Balance	8	$ 1,662	$ 363	$ 252	$ 1,343	$ 1,375	$ 1,222	$ 1,504	$ 1,347	$ 1,204	$ 1,125	$ 2,123	$ 1,662
Net Cash Receipts/(disbursements)		(1,299)	(789)	(265)	31	(152)	(1,074)	(158)	(143)	(79)	(1,715)	(570)	$ (6,213)
DIP draws/(repayment)		-	678	1,356	-	-	1,356	-	-	-	2,713	678	$ 6,782
Ending Cash Balance		**$ 363**	**$ 252**	**$ 1,343**	**$ 1,375**	**$ 1,222**	**$ 1,504**	**$ 1,347**	**$ 1,204**	**$ 1,125**	**$ 2,123**	**$ 2,231**	**$ 2,231**
DIP Facility													
Opening Balance	9	$ -	$ -	$ 678	$ 2,035	$ 2,035	$ 2,035	$ 3,391	$ 3,391	$ 3,391	$ 3,391	$ 6,104	$ -
DIP Draws/(Repayment)	9	-	678	1,356	-	-	1,356	-	-	-	2,713	678	$ 6,782
Closing Balance		**$ -**	**$ 678**	**$ 2,035**	**$ 2,035**	**$ 2,035**	**$ 3,391**	**$ 3,391**	**$ 3,391**	**$ 3,391**	**$ 6,104**	**$ 6,782**	**$ 6,782**

In the Matter of the CCAA of Acerus Pharmaceuticals Corporation, Acerus Biopharma Inc., Acerus Labs Inc., and Acerus Pharmaceuticals Usa, LLC (collectively, the "Applicants")

Notes to the Unaudited Cash Flow Forecast of the Applicants

Disclaimer:

In preparing this cash flow forecast (the "**Cash Flow Forecast**"), the Applicants with the assistance of FAAN Advisors Group Inc. ("**FAAN"**), and in consultation with Ernst & Young Inc. (the "**Proposed Monitor**"), have relied upon unaudited financial information and the Applicants have not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the Applicants and additional assumptions discussed below with respect to the requirements and impact of a *Companies' Creditors Arrangement Act* ("**CCAA**") filing (the "**Probable and Hypothetical Assumptions**" or the "**Assumptions**"). Since the Cash Flow Forecast is based on Assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Cash Flow Forecast period will vary from the Cash Flow Forecast, even if the Assumptions materialize, and such variation may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court appointed Monitor pursuant to section 23(1)(b) of the CCAA, which requires a Monitor to review the debtor's cash flow statements as to its reasonableness and to file a report with the Court on the Monitor's findings.

Pursuant to this standard, the Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of the Applicants and other employees of the Applicants. Since the Probable and Hypothetical Assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposed Monitor also reviewed the support provided by the Applicants for the Probable and Hypothetical Assumptions and the preparation and presentation of the Cash Flow Forecast.

Based on the Proposed Monitor's review, nothing has come to the Monitor's attention that causes the Proposed Monitor to believe, in any material respect, that:

(a) The Probable and Hypothetical Assumptions are not consistent with the purpose of the Cash Flow Forecast;
(b) As at the date of this report, the Probable and Hypothetical Assumptions are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast, given the Probable and Hypothetical Assumptions; or
(c) The Cash Flow Forecast does not reflect the Probable and Hypothetical Assumptions.

Overview:

The Cash Flow Forecast includes the receipts and disbursements of the Applicants during the Cash Flow Forecast period. The Applicants, with the assistance of FAAN, and in consultation with the Proposed Monitor, have prepared the Cash Flow Forecast based primarily on estimated receipts and disbursements related to the ongoing operations and the CCAA proceedings.

Assumptions:

1. **Product Sales**
   The Cash Flow Forecast reflects the continued sale of Natesto™ during the CCAA Proceedings. Cash receipts are forecast based on accounts receivable and projected sales during the forecast period, before rebates and other direct selling costs, as described in Note 2.

2. **Direct Selling Costs**
   Represents rebates to health plans and co-pay card holders, fees charged by wholesalers and incentives offered to pharmacy partners.

3. **Payroll and Contractor Costs**
   Payroll and contractor payments are forecast based on historical run rates and anticipated staffing levels. Salaried employees receive semi-monthly pay. Included in Week 13 are anticipated payments under a proposed key employee retention plan, subject to court approval.

4. **Contract Manufacturing Costs**
   Represents estimated payments to third party contract manufacturers for the production of commercial batches of the Applicants' products.

5. **Other Product Related Expenses**
   Included in these expenses are fees charged by regulatory agencies, clinical trial costs, and costs to maintain intellectual property rights, and certain indirect selling costs.

6. **Other SG&A**
   Includes office lease, insurance and other administrative expenses.

7. **Restructuring Costs**
   Restructuring costs include primarily professional fee payments and expenses to the Applicants' Canadian and U.S. legal counsel, the proposed Monitor and its counsel and the proposed Chief Restructuring Officer in connection with the Applicants' restructuring proceedings.

8. **Beginning Balance**
   Represents the projected opening cash balance as at January 23, 2023.

9. **Debt in Possession Facility ("DIP") Draws and Repayments**
   Reflects projected draws and repayments under the DIP facility, subject to Court approval.