SALE AND INVESTMENT SOLICITATION PROCESS

Introduction

1. On January 26, 2023, Acerus Pharmaceuticals Corporation ("**Acerus**") 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 (Commercial List) (the "**Court**"). The Initial Order (which was amended and restated on February 3, 2023), 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 First Generation Capital Inc. (the "**DIP Lender**") pursuant to the DIP facility loan agreement dated January 26, 2023 (the "**DIP Facility Loan Agreement**"), 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, the Monitor will, with the assistance of its advisors and the Applicants and its chief restructuring officer, FAAN Advisors Group Inc. (the "**CRO**"), conduct the sale and investment solicitation process (the "**SISP**") described herein pursuant to a Court order dated March 9, 2023 (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 Monitor, in consultation with the Applicants, intend to provide all qualified interested parties with an opportunity to participate in the SISP.

Opportunity

3. The SISP is intended to solicit interest in the opportunity (the "**Opportunity**") for a sale of or investment in all or part of the Applicants' assets (the "**Property**", which includes Noctiva, Natesto, Strendra (avanafil), Lidbree, Tefina, TriVair and all other products of the Applicants (the "**Products**")) and business operations (the "**Business**").

4. Except to the extent otherwise set forth in a definitive sale or investment agreement with the Successful Bidder (as defined below), 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, financial and monetary claims charges, options and interests therein and thereon pursuant to Court order(s), to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court order(s).

Role of the Monitor

5. The Monitor's responsibilities pursuant to the SISP include:

(a) administering the SISP, in consultation with the Applicants;

(b) consulting with the Applicants in connection with the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s) (as defined below);

(c) assisting the Applicants to facilitate information requests, including assisting the Applicants in preparing or modifying financial information to assist with the bidding procedures described in this SISP;

(d) reporting to the Court in connection with the SISP, including the bidding process described in this SISP, and the closing of the transaction contemplated in the Successful Bid(s);

(e) conducting an Auction (as defined below), if necessary, in accordance with the Auction procedures contemplated herein; and

(f) assisting the Applicants with the closing of the transaction contemplated in the Successful Bid(s).

6. In consultation with the Applicants, the Monitor may seek Court approval of an amendment to the SISP or may seek the Court's directions in respect of the SISP.

Timeline

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

Milestone	Deadline
Deadline to publish notice of SISP, deliver Teaser Letter and NDA to Known Potential Bidders, and set up electronic data room	Five (5) days following issuance of the SISP Order March 14, 2023
Bid Deadline	Fifty (50) days following issuance of the SISP Order April 28, 2023

Monitor to notify each Bidder in writing as to whether its Bid constitutes a Qualified Bid	Within 5 business days following Bid Deadline No later than May 5, 2023
Monitor to notify each Qualified Bidder on whether an Auction will take place	Two (2) business days prior to the commencement of the Auction No later than May 5, 2023
Auction Date (if required)	Sixty-one (61) days following issuance of the SISP Order May 9, 2023
Hearing of the Sale Approval Motion	No later than seventy-one (71) days following issuance of the SISP Order, subject to the availability of the Court No later than May 19, 2023

8. Subject to any order of the Court, the dates set out in the SISP, including the Bid Deadline and Auction Date, may be amended or extended by the Monitor, in consultation with the Applicants.[1]

Solicitation of Interest: Notice of the SISP

9. As soon as reasonably practicable, but, in any event, by no later than five (5) days from the SISP Order:

(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, (ii) local and international strategic and financial parties who the Monitor, in consultation with the Applicants, believe may be interested in purchasing all or part of the Business or Property or investing in the Applicants pursuant to the SISP, and (iii) parties that showed an interest in the Applicants and/or their assets by way of the previous, out-of-court strategic review process, in each case whether or not such party has submitted a letter of intent or similar document (collectively, the "**Known Potential Bidders**");

(b) the Monitor will cause a notice of the SISP (and such other relevant information that the Monitor, in consultation with the Applicants, considers appropriate) (the "**Notice**") to be published in The Globe and Mail (National Edition), and any other

[1] The term Applicants as referred to in paragraphs 8 to 40 shall be read to include the Chief Restructuring Officer, Naveed Z. Manzoor, on behalf of FAAN Advisors.

newspaper or journal as the Monitor, in consultation with the Applicants, considers appropriate, if any;

(c) the Monitor will cause a press release to be issued with Canada Newswire or comparable newswire entity setting out the information contained in the Notice and such other relevant information that the Monitor, in consultation with the Applicants, considers appropriate; 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 Monitor and Applicants and their respective counsel which shall inure to the benefit of any purchaser of the Business or Property or any part thereof (an "**NDA**").

10. The Monitor will cause the Teaser Letter and NDA to be sent to each Known Potential Bidder by no later than five (5) days from the SISP Order and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Potential Bidders and Due Diligence Materials

11. Any party who wishes to participate in the SISP (a "**Potential Bidder**") must provide to the Monitor (i) an NDA executed by it, (ii) 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, and (iii) any other information that the Monitor may reasonably request. The Monitor, in its discretion, may accept an NDA executed by a Potential Bidder during the previous, out-of-court strategic review process in satisfaction of the requirement set out in (i).

12. The Monitor, in consultation with the Applicants, subject to competitive and other business considerations, afford each Potential Bidder who has satisfied the conditions set out in paragraph 11 above such access to due diligence material and information relating to the Applicants, the Property and the Business as the Monitor in consultation with the Applicants deems appropriate. Due diligence may include access to an electronic data room containing information about the Applicants, the Property and the Business, and may also include management presentations, and other matters which a Potential Bidder may reasonably request and as to which the Monitor, in its judgment and in consultation with the Applicants, may agree. The Monitor will designate a representative or representatives 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 Monitor nor the Applicants will be obligated to furnish any information relating to the Applicants, the Property or Business to any person other than as is expressly provided for in the SISP. Furthermore and for the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders if the Monitor and the Applicants, determine such information to represent proprietary or sensitive competitive information / disclosure could impair the Applicants or their Business or the integrity of the SISP. None of the Monitor, the Applicants, or any of their respective agents, advisors or estates shall be held responsible for, and none of them will bear any liability with respect

to, any information obtained by any person in connection with a sale of the Property or Business or investment in the Applicants.

13. Without limiting the generality of any term or condition of any NDA between the Applicants, on the one hand, and any Potential Bidder or Bidder (as defined below), on the other, unless otherwise agreed by the Monitor and Applicants or ordered by the Court, no Potential Bidder or Bidder shall be permitted to have any discussions with (a) any counterparty to any contract with the Applicants (or any of them), any secured creditor of the Applicants, any current or former director, manager, shareholder, officer (other than the CRO), member or employee of the Applicants (or any of them), other than in the normal course of business and wholly unrelated to the Applicants, the potential transaction, the confidential information, the SISP or the CCAA Proceedings, and (b) any other Potential Bidder or Bidder regarding the SISP or any bids submitted or contemplated to be submitted pursuant thereto. Notwithstanding the foregoing, where any such communications are agreed to with the Monitor's consent, such discussions shall be made in the presence of the Monitor. For greater certainty at no time shall such secured creditors (including in the capacity as a director of the Applicants) be entitled to communicate or discuss with one another or with any other Potential Bidder or Bidder regarding the SISP or any bids submitted or contemplated to be submitted pursuant thereto.

14. Potential Bidders and 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 (or any of them).

Formal Binding Offers

15. Potential Bidders that wish to make a formal offer to purchase, or make an investment in, the Applicants or their Property or Business, or any part thereof (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), which Bid shall be delivered by such Bidder by no later than 5:00 p.m. (Toronto Time) on fifty (50) days following issuance of the SISP Order or such later date as may be communicated by the Monitor to Potential Bidders via a Bid Deadline Letter (as defined below) (the "**Bid Deadline**"):

(a) the Bid must be a binding offer to:

(i) acquire all, substantially all or a portion of the Property or the shares of the Applicants pursuant to a reverse vesting order (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 must include a duly authorized and executed definitive transaction document;

(c) the definitive transaction document in respect of a Sale Proposal or Investment Proposal shall include, among other things:

(i) that the Bid is not conditioned upon (A) the outcome of unperformed due diligence by the Bidder, or (B) obtaining financing, but may be conditioned upon the Applicants receiving the required approvals or amendments relating to the licences required to operate the business, and/or transfer of the Products, if necessary;

(ii) any and all conditions and approvals required to complete the closing of the transaction; and

(iii) all terms in respect of such Sale Proposal or Investment Proposal, as applicable;

(d) the Bid (either individually or in combination with other bids that make up one Bid) shall be an offer to purchase or make an investment in some or all of the Applicants or their Property or Business and shall be consistent with the necessary terms and conditions established by the Monitor and the Applicants and communicated to Bidders;

(e) the Bid must include a letter stating that the Bidder's offer is irrevocable until approval of the Successful Bid(s) by the Court, provided that if such Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction contemplated by such Bid;

(f) the Bid must include written evidence of a firm, irrevocable commitment for financing or other evidence of the Bidder's ability to consummate the proposed transaction that will allow the Monitor and Applicants to make a determination as to the Bidder's financial and other capabilities to consummate the proposed transaction;

(g) the Bid must include written evidence, in form and substance satisfactory to the Monitor and Applicants, of authorization and approval from the Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of such Bid, and identification of any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated process and time frame and any anticipated impediments for obtaining such approvals;

(h) the Bid must not include any request for or entitlement to any break or termination fee, expense reimbursement or similar type of payment;

(i) the Bid must fully disclose the identity of each entity that will be entering into the transaction or the financing thereof, or that is otherwise participating in or benefiting from such Bid;

(j) without limiting the foregoing, a Sale Proposal Bid must include:

(i) the purchase price in Canadian dollars and a description of any non-cash consideration, including any future royalty payments or other deferred payment, details of any liabilities to be assumed by the Bidder and key assumptions supporting the valuation;

(A) if the purchase price involves a royalty, earn-out or other deferred payment, the Sale Proposal shall include a specific indication of the Bidder's proposal and/or commitments for and relating to obtaining necessary regulatory approvals and the Bidder's commercialization strategy, manufacturing capabilities, proposed sale milestones and minimum sale amounts, budget and/or commitment for capital expenditures, direct marketing and sales initiatives and support and proposed product positioning within the Potential Bidder's current product portfolio;

(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 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; and

(v) 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;

(k) without limiting the foregoing, an Investment Proposal Bid must include:

(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 those liabilities and obligations (including operating liabilities) which the Bidder intends to assume and which liabilities and obligations it does not intend to assume; and

(vi) 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;

(l) the Bid must include acknowledgements and representations of the Bidder that the Bidder:

(i) has, to its satisfaction, had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its Bid;

(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 may be expressly stated in the definitive transaction agreement(s) signed by the Applicants;

(m) the Bid must contain such other information as may be reasonably requested by the Monitor in consultation with the Applicants;

(n) the Bid must be received by the Bid Deadline;

(o) the Bid must contemplate closing the transaction set out therein on or before May 31, 2023.

16. Following the Bid Deadline, the Monitor, and the Applicants will assess the Bids received. The Applicants, in consultation with the Monitor, may designate the most competitive Bids that comply with the requirements set out herein to be "**Qualified Bids**". The Applicants and the Monitor shall be under no obligation to designate the highest or otherwise best Bid, or any Bid, as a Qualified Bid. Only Bidders whose Bids have been designated as Qualified Bids shall be eligible to participate in the Auction and/or become the Successful Bidder(s).

17. The Monitor, in consultation with the Applicants, may waive strict compliance with any one or more of the requirements set out herein and deem such non-compliant Bids to be a Qualified Bid.

18. The Monitor may, in consultation with the Applicants, may aggregate separate Bids from unaffiliated Bidders to create one Qualified Bid.

19. The Monitor and the Applicants shall be entitled to discuss and negotiate the Bid and form of any Sale Proposal or Investment Proposal prior to the Bid Deadline for purposes of amending or clarifying the terms and form thereof.

20. The Monitor shall cause each Bidder to be notified in writing as to whether its Bid constituted a Qualified Bid within five (5) business days of the Bid Deadline, or at such later time as the Monitor deems appropriate.

21. The Monitor, in consultation with the Applicants, may extend the Bid Deadline. Any such extension of the Bid Deadline shall be communicated to Potential Bidders by bid deadline extension letter (a "**Bid Deadline Letter**") from the Monitor delivered by email and posted on the Monitor's case website.

Evaluation of Competing Bids

22. Bids shall be evaluated based upon several factors including, without limitation: (i) the purchase price and the net value of the consideration provided by such Bid (with the value of any non-cash consideration being determined by the Applicants in their business judgment, in consultation with the Monitor), (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 and liabilities included or excluded from the Bid, (vi) any related restructuring costs, (vii) the manufacturing capabilities of the Bidder and (viii) the likelihood and timing of consummating such transaction, each as determined by the Applicants in their business judgment, in consultation with the Monitor.

23. At any stage of the SISP, the Monitor, in consultation with the Applicants, may ascribe monetary values to non-monetary terms in any Bid, Qualified Bid, Initial Bid, or Overbids for the purposes of assessing and/or valuing such bids, including without limitation, the value to be ascribed to any liabilities or contracts to be assumed or not assumed.

24. If the Monitor receives one or more Bids that are designated as Qualified Bids (the "**Qualified Bidders**"), the Applicants, in consultation with the Monitor, may:

   (a) select one or more of such Qualified Bids as the successful bid (the "**Successful Bid(s)**", and the Qualified Bidder(s) making such bid, the "**Successful Bidder(s)**"), with or without negotiation of Qualified Bids with Qualified Bidders; and/or

   (b) direct such Qualified Bidders to participate in an Auction to be conducted and administered by the Monitor, with the assistance of its advisors and the Applicants, in accordance with the terms of this SISP (the "**Auction**").

Auction

25. Following the evaluation of the Qualified Bid(s), the Applicants, in consultation with the Monitor must determine whether the Auction will be held not less than two (2) business days prior to the commencement of the Auction. The Monitor shall notify and provide instructions to participate in the Auction to each Qualified Bidder not less than two (2) business days prior to the commencement of the Auction.

26. Only Qualified Bidders shall be eligible to participate in the Auction. No later than 5:00 p.m. (Toronto time) on the business day prior to the Auction, each Qualified Bidder must inform the Monitor whether it intends to participate in the Auction. The Monitor will promptly thereafter inform in writing, or cause to be informed in writing, each Qualified Bidder who has expressed its intent to participate in the Auction (the "**Auction Participants**") of the identity of all other Qualified Bidders that have indicated their intent to participate in the Auction.

Auction Procedure

27. The Auction shall be governed by the following procedures:

(a) **Participation at the Auction.** Only the Applicants, the Auction Participants, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Auction Participants will be entitled to make any subsequent Overbids (as defined below) at the Auction. The Monitor shall provide all Auction Participants with the details of the Initial Bid (as defined below) by 5:00 p.m. (Toronto Time) two (2) business day before the Auction Date;

(b) **No Collusion.** Each Auction Participant 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 SISP; and (ii) its bid and each subsequent Overbid is a good-faith *bona fide* offer, which, if accepted by the Applicants on the record of the Auction forms a binding agreement between the parties, and that the Auction Participant intends to consummate the proposed transaction if selected as the Successful Bidder;

(c) **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Applicants, in consultation with, and with the approval of, the Monitor (the "**Initial Bid**"), and any bid made at the Auction by a Auction Participant subsequent to the Monitor's announcement of the Initial Bid (each, an "**Overbid**"), must proceed in minimum additional increments of $100,000.00, or as otherwise declared by the Monitor during the Auction with the approval of the Applicants;

(d) **Bidding Disclosure.** The Auction shall be conducted such that all Overbids will be made and received in one group video-conference, on an open basis, and all Auction Participants will be entitled to be present for all bidding with the understanding that the true identity of each Auction Participant will be fully disclosed to all other Auction Participants and that all material terms of each subsequent bid will be fully disclosed to all other Auction Participants throughout the entire Auction; provided, however, that the Monitor, in its discretion, may establish separate video conference rooms to permit interim, technical, or clarifying discussions between the Monitor and individual Auction Participants with the understanding that all formal Overbids 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 Auction Participant has had and refused the opportunity to submit an Overbid with full knowledge of the then-existing highest Qualified Bid(s) or Overbid(s)s, at which time the Monitor will declare the Auction to be concluded;

(f) **No Post-Auction Bids.** No Overbids will be considered for any purpose after the Monitor has declared the Auction to be concluded; and

(g) **Auction Procedures.** The Monitor, in consultation with the Applicants, shall be at liberty to modify or to set additional procedural rules for the Auction as it sees fit.

28. During the Auction, the Applicants, in consultation with, and with the approval of, the Monitor, will:

(a) review Qualified Bids and Overbids, as the case may be, considering the factors set out in paragraph 22, among others; and

(b) identify the highest or otherwise best Qualified Bid or Overbid received at any given time during the Auction, with the highest or otherwise best such bid or bids at the conclusion of the Auction being the Successful Bid(s), and the Qualified Bidder(s) making such bid the Successful Bidder(s).

Deposits

29. Any deposit made by the Successful Bidder(s) pursuant to this SISP shall be held by the Monitor in a single interest bearing account designated solely for such purpose and such deposit shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid(s).

Sale Approval Motion Hearing

30. The Successful Bidder(s) shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid(s) was made within two (2) business days of the Successful Bid(s) being selected as such, unless extended by the Monitor, in consultation with the Applicants.

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

Consultation with the Secured Lenders

32. The Monitor, in consultation with the Applicants, may, as it deems appropriate, consult with secured creditors of the Applicants throughout the SISP upon such assurances as to confidentiality as the Monitor may require. To the extent any secured creditor is or is related to a Potential Bidder, the Monitor and Applicants shall not provide such secured lender with information that might create an unfair advantage or jeopardize the integrity of the SISP unless such secured creditor irrevocably confirms in writing to the Monitor that it shall not submit or participate directly or indirectly in the submission of a Bid. Except as set forth in this paragraph, nothing in this SISP shall prohibit a secured creditor of the Applicants (i) from participating as a Bidder in the SISP, or (ii) committing to bid its secured debt, including a credit bid of all outstanding indebtedness under any DIP loan facility (inclusive of interest and all amounts payable under any DIP loan agreement to and including the date of closing of a definitive transaction) in the SISP.

Confidentiality and Access to Information

33. Unless expressly provided for herein, 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 Bidders, or Successful Bidder(s), or the details of any bids submitted or the details of any confidential discussions or correspondence between the Applicants, the Monitor and such

other Potential Bidders, Bidders, Qualified Bidders, or Successful Bidder(s) in connection with the SISP, except to the extent that the Applicants (in consultation with, and with the approval of, the Monitor and with the consent of the applicable bidders) are seeking to combine separate Bids to form a Qualified Bid.

34. All discussions regarding Bids 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 Potential Bidder or Bidder or Qualified Bidder, as applicable, from the SISP.

Supervision of the SISP

35. 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, 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. In the event that there is disagreement as to the interpretation or application of the SISP, the Court will have the jurisdiction to hear and resolve such dispute.

36. 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, Bidder, Qualified Bidder, Successful Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Applicants.

37. Without limiting the generality of preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including, without limitation, any Potential Bidder, Bidder, Qualified Bidder, Successful Bidder, the Applicants, or any other creditor or other stakeholder of the Applicants, for any act or omission related to the process contemplated by this SISP. By submitting a Bid, each Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever.

38. 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.

39. The Applicants, with the approval of the Monitor, shall have the right to modify the SISP (including, without limitation, pursuant to any Bid Deadline Letter) 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.

40. Notwithstanding anything to the contrary in this SISP, the Applicants, in consultation with, and with the approval of, the Monitor, may attempt to negotiate a stalking horse bid (a "**Stalking Horse Bid**") prior to the Bid Deadline to provide certainty for the Applicants during the SISP. If the Applicants, in consultation with, and with the approval of, the Monitor, accept a Stalking Horse Bid, such Stalking Horse Bid shall be subject to approval by the Court and the Applicants shall bring a motion before the Court on notice to the service list in these CCAA Proceedings seeking the approval of the Stalking Horse Bid,

together with approval of necessary amendments to the SISP. All Potential Bidders shall be promptly informed of any Court approval of a Stalking Horse Bid and any related amendments to the SISP.

Schedule "1"

Address of Monitor

<u>**To the Monitor:**</u>

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

Attention: Alex Morrison, Michael Hayes and Allen Yao

Email: alex.f.morrison@parthenon.ey.com

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