

COURT FILE NUMBER **25-2868952**
 25-2868957
 25-2868949

COURT COURT OF KING'S BENCH OF
 ALBERTA

JUDICIAL CENTRE CALGARY



COM

MATTER IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*
 ACT, R.S.C. 1985, c. B-3, AS AMENDED,

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF SUGARBUD CRAFT GROWER
CORP.

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF TRICHOME HOLDINGS CORP.

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF 1800905 ALBERTA LTD.

APPLICANTS SUGARBUD CRAFT GROWER CORP., TRICHOME
 HOLDINGS CORP., and 1800905 ALBERTA LTD.

DOCUMENT: **ORDER (APPROVAL OF PROCEDURAL CONSOLIDATION,
INTERIM FINANCING CHARGE, KERP CHARGE, SISP,
D&O CHARGE, AND ADMINISTRATION CHARGE)**

ADDRESS FOR SERVICE MLT AIKINS LLP
AND CONTACT 2100 Livingston Place
INFORMATION OF 222 - 3rd Avenue S.W.
PARTY FILING THIS Calgary, AB T2P 0B4
DOCUMENT Solicitor : Ryan Zahara/Chris Nyberg
 Phone Number: 403-693-5420/2636
 Email: rzahara@mltaikins.com/cnyberg@mltaikins.com
 Fax Number: 403.508.4349
 File No.: 0158011/00001

DATE ON WHICH ORDER WAS PRONOUNCED: SEPTEMBER 29, 2022

LOCATION OF HEARING OR TRIAL: CALGARY, ALBERTA

JUSTICE WHO MADE THIS ORDER: HONOURABLE JUSTICE D.B. NIXON

UPON THE APPLICATION of Sugarbud Craft Grower Corp. ("**SCGC**"), Trichome Holdings Corp. ("**THC**"), and 1800905 Alberta Ltd. ("**Op Co**", and together with SCGC and THC, "**Sugarbud**" or the "**Applicants**") served on September 26 2022; AND UPON reading Affidavit of Daniel T. Wilson sworn September 26 2022 (the "**Wilson Affidavit**") and the First Report of the Proposal Trustee dated September 27, 2022 (the "**First Report**"); AND UPON hearing submissions by counsel for Sugarbud, counsel for Alvarez & Marsal Canada Inc., in its capacity as proposal trustee of the Applicants (the "**Proposal Trustee**") and counsel for Connect First Credit Union Ltd. and any other counsel or other interested parties present,

IT IS HEREBY ORDERED THAT:

Service

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other than those persons served is entitled to service of the notice of application.

Defined Terms

2. Unless otherwise indicated, all capitalized terms used herein and not otherwise defined shall have the meanings used in the Wilson Affidavit or the IF Term Sheet (as defined below).

Procedural Consolidation

3. The bankruptcy estates of the Applicants, SCGC (Estate No. 25-2868952), THC (Estate No. 25-2868957) and Opco (Estate No. 25-2868949) and, collectively, the "**Estates**" shall, subject to further order of the Court, be procedurally consolidated and shall continue under Estate No. 25-2868952 such capacity the "**Consolidated Proposal Proceeding**".
4. Without limiting the generality of the foregoing, the Proposal Trustee of the Applicants is hereby authorized and directed to administer the Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as proposal trustee under the BIA as if the Consolidated Proposal Proceeding were a single proceeding under the BIA, including without limitation:
 - (a) the meeting of creditors of the Applicants may be convened and conducted jointly;

- (b) the Proposal Trustee is authorized to issue consolidated reports in respect of the Applicants; and
 - (c) the Proposal Trustee is authorized to deal with all filings and notices relating to the proposal proceedings of the Applicants, each as required under the BIA on a consolidated basis.
- 5. Any pleadings or other documents served or filed in the Consolidated Proposal Proceeding by any party shall be deemed to have been served or filed in each of the proceedings comprising the Consolidated Proposal Proceeding.
- 6. A copy of this Order shall be filed by the Applicants in the court file for each of the Estates but any subsequent document required to be filed will be hereafter only be required to be filed in the Consolidated Proposal Proceeding in Estate No. 25-2868952.
- 7. The procedural consolidation of the Estates pursuant to this Order shall not:
 - (a) affect the legal status or corporate structure of the Applicants; or
 - (b) cause any of the Applicants to (i) be liable for any claim for which they are otherwise not liable, or (ii) have an interest in an asset to which it otherwise would not have.
- 8. The Estates are not substantially consolidated, and nothing in this Order shall be construed to that affect.
- 9. The Proposal Trustee or the Applicants may apply to this Court for advice and directions with respect to the implementation of this Order or with respect to any other matter relating to the procedural and or substantive consolidation of the Estates.

Extension of Time to File Proposal

- 10. Pursuant to subsection 50.4(9) of the BIA, the period within which the Applicants are required to file a proposal to its creditors with the Official Receiver under subsection 62(1) of the BIA shall be and is hereby extended until December 10, 2022.

Approval of the SISP

11. The SISP and the SISP Procedures, substantially in the form attached as Schedule "A" hereto, shall be and are hereby approved and the Applicants and the Proposal Trustee are authorized and directed to carry out the SISP in accordance with the SISP Procedures and this Order, and are hereby authorized and directed to take such steps as they consider necessary or appropriate in carrying out each of their obligations thereunder, subject to prior to approval of this Court being obtained before the completion of any transaction(s) resulting from the SISP.

Administration Charge

12. Legal counsel to the Applicants, MLT Aikins LLP, and the Proposal Trustee and its legal counsel Burnett, Duckworth and Palmer LLP, (collectively, the "**Administrative Professionals**") as security for their respective professional fees and disbursements incurred both before the commencement of the NOI proceeding and before or after the granting of this Order, shall be entitled to the benefit of, and are hereby granted, a first ranking charge (the "**Administration Charge**") on all of the Applicants' present and after-acquired assets, property and undertakings (the "**Property**"), which charge shall not exceed \$500,000 as security for the Administrative Professionals' professional fees and disbursements incurred at normal rates and charges, both before and after the commencement of the NOI Proceedings and the making of this Order.

Interim Financing and Interim Lender's Charge

13. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Connect First Credit Union Ltd. (the "**Interim Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$2,000,000 unless permitted by further order of this Court.
14. Such credit facility shall be substantially on the terms and subject to the conditions set forth in the term sheet between the Applicants and the Interim Lender (the "**IF Term Sheet**"), a copy of which is appended at Exhibit "J" to the Wilson Affidavit.
15. The Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and

other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the IF Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the IF Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

16. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Lender's Charge**”) on the Property of the Applicants to secure all obligations under the IF Term Sheet and Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the IF Term Sheet and Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before the commencement of the NOI Proceeding, except as otherwise noted in the IF Term Sheet. The Interim Lender's Charge shall have the priority set out in paragraphs 24 and 26 hereof.
17. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon 5 days notice to the Applicants and the Proposal Trustee, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the IF Term Sheet, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lender to the Applicants against the obligations of the Applicants to the Interim Lender under the IF Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the

Applicants and for the appointment of a trustee in bankruptcy of the Applicants;
and

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

- 18. The Interim Lender shall be treated as unaffected in any proposal filed by the Applicants under the BIA, with respect to any advances made under the IF Term Sheet and Definitive Documents.

Directors' Charge

- 19. The Applicants shall indemnify their directors and officers (collectively, the "**Directors and Officers**") against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
- 20. The Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$200,000, as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraphs 24 and 26 herein.
- 21. Notwithstanding any language in any applicable insurance policy to the contrary:
 - (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
 - (b) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

KERP and KERP Charge

22. The terms and conditions of the KERP are hereby approved and the Applicants are authorized to perform its obligations thereunder, including making all payments required in accordance with the terms thereof.
23. The employees eligible under the KERP shall be entitled to the benefit of and are hereby granted a charge on the Property to the extent of an aggregate amount of \$140,000 (the "**KERP Charge**") as security for the payment of the obligations of the Applicants provided thereunder. The KERP Charge shall have a priority set out in paragraphs 24 and 26 of this Order.

Validity and Priority of Charges

24. The priorities of the Administration Charge, the Interim Lender's Charge, the Directors' Charge, and the KERP Charge (collectively, the "**Charges**"), as among them, shall be as follows:
 - (a) First – Administration Charge (to the maximum amount of \$500,000);
 - (b) Second – Interim Lender's Charge;
 - (c) Third – Directors' Charge (to the maximum amount of \$200,000); and
 - (d) Fourth – KERP Charge (to the maximum amount of \$140,000).
25. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
26. Each of the Administration Charge, the Interim Lender's Charge, the Directors' Charge and the KERP Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person. On a without prejudice basis, for the purposes of this NOI Proceeding only, and solely in respect of SCGC's Property, SCGC hereby agrees that the Charges shall rank subsequent to any amounts outstanding and owed by SCGC to His Majesty the King in the right of Canada, as represented by the Minister of National Revenue and the Canada Revenue Agency (collectively, the "**CRA**")

pursuant to subsection 227(4.1) of the Income Tax Act, subsection 23(4) of the Canada Pension Plan, and subsection 86(2.1) of the Employment Insurance Act by SCGC (collectively, the “**Source Deductions**”). The agreement regarding the ranking of the Charges between SCGC and the CRA in respect of the Source Deductions is not determinative of the ranking of any charges granted by the Court in any other proceedings and shall not be used as a precedent for future matters.

27. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the Interim Lender's Charge, Directors' Charge and the KERP Charge unless the Applicant also obtains the prior written consent of the Proposal Trustee, the Interim Lender, and the beneficiaries of the Directors' Charge, the Administration Charge, the KERP Charge, or further order of this Court.
28. The Administration Charge, IF Term Sheet, the Definitive Documents, the Interim Lender's Charge, Directors' Charge and the KERP Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or
 - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof [, including

the IF Term Sheet or the Definitive Documents,] shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which they are a party;

- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the IF Term Sheet or the execution, delivery or performance of the Definitive Documents; and
- (iii) the payments made by the Applicants pursuant to this Order, [including the IF Term Sheet or the Definitive Documents,] and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

29. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, the Directors' Charge and the KERP Charge amongst the various assets comprising the Property.

GENERAL

30. Any interested party (including the Applicants and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

J.C.K.B.A 

Schedule “A” – SISP and SISP Procedure

Sale and Investment Solicitation Process

Introduction

1. On September 23, 2022, each of SugarBud Craft Growers Corp. ("**SugarBud**"), Trichome Holdings Corp. ("**Trichome**") and 1800905 Alberta Ltd. d/b/a 'Sugarbud' ("**180 Alberta**", each a "**Company**" and collectively, the "**Companies**") filed a Notice of Intention to Make a Proposal (each, an "**NOI**") pursuant s.50.4 of the *Bankruptcy and Insolvency Act* (the "**BIA**") in Estate Nos 25-286852, 25-286857 and 25-286849 (the "**NOI Proceedings**").
2. Alvarez & Marsal Canada Inc. is the proposal trustee of each of the Companies in the NOI Proceedings (in such capacity, the "**Proposal Trustee**").
3. On September 29, 2022, the Honourable D.B. Nixon of the Court of King's Bench of Alberta (the "**Court**") granted Orders in the NOI Proceedings, among other things:
 - (a) extending the stay of proceedings in respect of the Companies pursuant to the NOI until December 12, 2022;
 - (b) authorizing the Companies to enter into an interim financing agreement (the "**Interim Financing**") with Connect First Credit Union Ltd. ("**Connect First**" or the "**Interim Lender**") whereby Connect First agreed to provide a maximum principal amount of \$2,000,000 in financing to the Companies, as well as granting a charge over all of the Companies' present and future assets, property and undertakings of every nature and kind whatsoever, and wherever situate including all proceeds thereof; and
 - (c) authorizing the Companies, with the assistance of the Proposal Trustee, to pursue all avenues of sale of their assets or business, in whole or in part, subject to prior approval of the Court before any material sale or refinancing.
4. In this regard, the Proposal Trustee will conduct the sale and investment solicitation process (the "**SISP**") described herein, with the assistance of the Companies and with the approval of the Court pursuant to a Court order dated September 29, 2022 (the "**SISP Order**"). The SISP is intended to solicit interest in an acquisition or refinancing of the business or a sale of the assets and/or the Business (as defined herein) of the Companies by way of sale, merger, reorganization, recapitalization, equity issuance or other similar transaction. The Companies intend to provide all qualified interested parties with an opportunity to participate in the SISP.
5. This document (the "**SISP Procedure**") outlines the SISP, which is comprised of two phases ("**Phase 1**" and "**Phase 2**", respectively).
6. All dollar amounts expressed herein, unless otherwise noted, are in Canadian currency. Unless otherwise indicated herein, any event that occurs on a day that is not a business day in the Province of Alberta (each, a "**Business Day**") shall be deemed to occur on the next Business Day.

Opportunity

7. The SISP is intended to solicit interest in, and opportunities for, a sale of, or investment in, all or part of the Companies' assets and business operations (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Companies as a going concern, or a sale of all, substantially all, or one

or more components of the Companies' assets (the "**Property**") and business operations (the "**Business**") as a going concern or otherwise.

8. Except to the extent otherwise set forth in a definitive sale or investment agreement with a Successful Bidder (as defined herein), 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 Proposal Trustee, the Companies, 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 Companies in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.

Timeline

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

Milestone	Deadline
Proposal Trustee to create list of Known Potential Bidders and distribute Teaser Letters and NDAs to Known Potential Bidders	October 5, 2022
Proposal Trustee to prepare and have available for Potential Bidders the CIM and Data Room	October 7, 2022
Phase 1 Bid Deadline	November 4, 2022
Phase 2 Bid Deadline	December 9, 2022
Transaction Approval Application Hearing	December 28, 2022
Closing Date Deadline	January 19, 2023

The dates set out in the SISP may be extended by the Proposal Trustee with the consent and approval of the Interim Lender.

SOLICITATION OF INTEREST: NOTICE OF THE SISP

10. As soon as reasonably practicable, but in any event by no later than October 5, 2022:
- (a) the Companies, in consultation with the Proposal Trustee, will prepare a list of Potential Bidders (as defined herein), including:
 - (i) parties that have approached the Companies or the Proposal Trustee indicating an interest in the Opportunity; and
 - (ii) local and international strategic and financial parties who the Companies, in consultation with the Proposal Trustee, believe may be interested in purchasing all or part of the Business and Property or investing in the Companies pursuant to the SISP,
 (collectively, "**Known Potential Bidders**");
 - (b) the Proposal Trustee will arrange for a notice of the SISP (and such other relevant

information which the Proposal Trustee, in consultation with the Companies, considers appropriate) (the "**Notice**") to be published in The Globe and Mail (National Edition), and any other industry publication, website, newspaper or journal as the Companies, in consultation with the Proposal Trustee, consider appropriate, if any;

- (c) the Companies will issue a press release with Canada Newswire setting out the information contained in the Notice and such other relevant information which the Companies, in consultation with the Proposal Trustee, consider appropriate designating dissemination in Canada; and
 - (d) the Companies, in consultation with the Proposal Trustee, will prepare:
 - (i) a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and
 - (ii) a non-disclosure agreement in form and substance satisfactory to the Companies and the Proposal Trustee, and their respective counsel (an "**NDA**").
11. The Proposal Trustee shall send the Teaser Letter and NDA to each Known Potential Bidder by no later than October 7, 2022 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Companies or the Proposal Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

PHASE 1: NON-BINDING LOIS

Qualified Bidders and Delivery of Confidential Information Memorandum

12. Any party who wishes to participate in the SISP (each, a "**Potential Bidder**") must deliver to the Companies and the Proposal Trustee, unless the Proposal Trustee confirms to such Potential Bidder that the below documents were already provided to the satisfaction of, or are already available to, the Companies and the Proposal Trustee:
- (a) an executed NDA which shall inure to the benefit of any purchaser of the Business or Property, or any portion thereof. If the Potential Bidder has previously delivered an NDA and letter of this nature to the Companies or Proposal Trustee and the NDA remains in effect, the Potential Bidder is not required to deliver a new NDA or letter pursuant to this section unless otherwise requested by the Proposal Trustee;
 - (b) a letter setting forth the Potential Bidder's (i) identity, (ii) contact information and (iii) full disclosure of its direct and indirect principals; and
 - (c) a form of financial disclosure and credit quality support or enhancement that allows the Companies and the Proposal Trustee to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a Sale Proposal or Investment Proposal (as each is defined herein), as applicable.
13. If the Companies, in consultation with the Interim Lender and the Proposal Trustee and with the approval of the Proposal Trustee, determine that a Potential Bidder has:
- (a) delivered the documents contemplated in paragraph 12 above; and

- (b) the financial capability based on the availability of financing, experience and other considerations, to be able to consummate a sale or investment pursuant to the SISP,

then such Potential Bidder will be deemed to be a "**Phase 1 Qualified Bidder**". For greater certainty, no Potential Bidder shall be deemed to be a Phase 1 Qualified Bidder without the approval of the Proposal Trustee, in consultation with the Companies.

14. At any time during Phase 1 of the SISP, the Companies may, in their reasonable business judgment and after consultation with the Interim Lender and the Proposal Trustee and with the consent of the Proposal Trustee, eliminate a Phase 1 Qualified Bidder from the SISP, in which case such bidder will be eliminated from the SISP and will no longer be a Phase 1 Qualified Bidder for the purposes of the SISP.
15. The Proposal Trustee, with the assistance of the Companies, shall prepare and send to each Phase 1 Qualified Bidder a confidential information memorandum providing additional information considered relevant to the Opportunity (the "**CIM**"). The Companies and the Proposal Trustee and their respective advisors make no representation or warranty as to the information contained in the CIM or otherwise made available pursuant to the SISP, except to the extent expressly contemplated in any definitive sale or investment agreement with a successful bidder ultimately executed and delivered by the Companies.
16. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with the Companies.

Due Diligence

17. The Proposal Trustee, in consultation with the Companies, shall in its reasonable business judgment and subject to competitive and other business considerations, afford each Phase 1 Qualified Bidder such access to due diligence material and information relating to the Property and Business as they or the Proposal Trustee deem appropriate. Due diligence access may include management presentations, access to electronic data rooms, on-site inspections, and other matters which a Phase 1 Qualified Bidder may reasonably request and as to which the Companies, in their reasonable business judgment and after consulting with the Proposal Trustee, may agree.
18. The Proposal Trustee shall designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. Neither the Companies nor the Proposal Trustee shall be obligated to furnish any information relating to the Property or Business to any person other than to Phase 1 Qualified Bidders. Furthermore, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Phase 1 Qualified Bidders if the Companies, in consultation with and with the approval of the Proposal Trustee, determine such information to represent proprietary or sensitive competitive information.

Non-Binding Letters of Intent from Phase 1 Qualified Bidders

19. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of intent (an "**LOI**") to the Proposal Trustee at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than 5:00 PM (Calgary Time) on November 4, 2022 (the "**Phase 1 Bid Deadline**").

20. Subject to paragraph 44, an LOI will only be considered a qualified LOI (a "**Qualified LOI**") if:
- (a) it is submitted on or before the Phase 1 Bid Deadline by a Phase 1 Qualified Bidder;
 - (b) it contains an indication of whether the Phase 1 Qualified Bidder is offering to:
 - (i) acquire all, substantially all or a portion of the Property (a "**Sale Proposal**"); or
 - (ii) make an investment in, restructure, reorganize or refinance the Business or the Companies (an "**Investment Proposal**");
 - (c) in the case of a Sale Proposal, it identifies or contains the following:
 - (i) the Purchase Price or price range in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
 - (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (iii) a specific indication of the financial capability of the Phase 1 Qualified Bidder and the expected structure and financing of the transaction;
 - (iv) a description of the conditions and approvals required for a final and binding offer;
 - (v) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer; and
 - (vi) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction;
 - (d) in the case of an Investment Proposal, it identifies or contains the following:
 - (i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Companies in Canadian dollars;
 - (iii) the underlying assumptions regarding the *pro forma* capital structure;
 - (iv) a specific indication of the sources of capital for the Phase 1 Qualified Bidder and the structure and financing of the transaction;
 - (v) a description of the conditions and approvals required for a final and binding offer;
 - (vi) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
 - (vii) all conditions to closing that the Phase 1 Qualified Bidder may wish to impose; and

- (viii) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and
- (e) in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Proposal Trustee or the Companies.

Preliminary Assessment of Phase 1 Bids and Subsequent Process

21. Following the Phase 1 Bid Deadline, the Companies, in consultation with the Proposal Trustee and the Interim Lender, will assess the Qualified LOIs and, if it is determined that a Phase 1 Qualified Bidder that has submitted a Qualified LOI:
 - (a) has a *bona fide* interest in completing a Sale Proposal or Investment Proposal (as the case may be); and
 - (b) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided;

then such Phase 1 Qualified Bidder will be deemed a "**Phase 2 Qualified Bidder**", provided that the Companies may, in their reasonable business judgment and, with the approval of the Proposal Trustee, limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process) taking into account the factors identified in paragraph 22 hereof and any material adverse impact on the operations and performance of the Companies. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISF. No Phase 1 Qualified Bidder that has submitted a Qualified LOI shall be deemed not to be a Phase 2 Qualified Bidder without the approval of the Proposal Trustee, in consultation with the Companies and the Interim Lender.
22. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, the Companies, in consultation with the Interim Lender and the Proposal Trustee and with the approval of the Proposal Trustee, shall determine the process and timing to be followed in pursuing Qualified LOIs based on such factors and circumstances as they consider appropriate in the circumstances including, but not limited to:
 - (a) the number of Qualified LOIs received;
 - (b) the extent to which the Qualified LOIs relate to the same Property or Business or involve Investment Proposals predicated on certain Property or Business;
 - (c) the scope of the Property or Business to which any Qualified LOIs may relate; and
 - (d) whether to proceed by way of sealed bid or auction with respect to some or all of the Property.
23. If the Proposal Trustee is not satisfied with the number or terms of the Qualified LOIs, the Proposal Trustee, in consultation with the Companies, may extend the Phase 1 Bid Deadline without further Court approval and, unless otherwise provided for by the Proposal Trustee, the Phase 2 Bid Deadline (as defined herein), and any other deadlines or timeframes hereunder, shall be extended by the same time period, as necessary.

24. Following the determination of the manner in which to proceed to Phase 2 of the SISP in accordance with paragraphs 21 and 22 hereof, the Companies, in consultation with the Proposal Trustee, may prepare a bid process letter for Phase 2 (the "**Bid Process Letter**") to be sent by the Proposal Trustee to all Phase 2 Qualified Bidders as soon as practically possible following the Phase 1 Bid Deadline.

PHASE 2: FORMAL OFFERS AND SELECTION OF SUCCESSFUL BIDDER

25. Paragraphs 27 to 34 below and the conduct of Phase 2 are subject to paragraphs 21 to 24, above, any adjustments made to Phase 2 in accordance with the Bid Process Letter, and any further Court order regarding the SISP.

Formal Binding Offers

26. Phase 2 Qualified Bidders that wish to make a formal offer to purchase or make an investment in the Companies or their Property or Business shall submit a binding offer (a "**Phase 2 Bid**") that complies with all of the following requirements to the Proposal Trustee at the address specified in Schedule "1" hereto (including by e-mail), so as to be received by them not later than 5:00 PM (Calgary Time) on December 9, 2022 or as may be modified in the Bid Process Letter (the "**Phase 2 Bid Deadline**"):
- (a) the bid shall comply with all of the requirements set forth in paragraph 20 above in respect of Phase 1 Qualified LOIs;
 - (b) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Companies or their Property or Business and is consistent with any necessary terms and conditions established by the Companies and the Proposal Trustee and communicated to Phase 2 Qualified Bidders;
 - (c) the bid includes a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined herein), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
 - (d) the bid includes duly authorized and executed transaction agreements, including the purchase price, investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto;
 - (e) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Companies and the Proposal Trustee to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;
 - (f) the bid is not conditioned on (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld in Phase 1 from the Phase 2 Qualified Bidder, or (ii) obtaining financing, but may be conditioned upon the Companies receiving the required approvals or amendments relating to the licences required to operate the Business, if necessary;

- (g) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
 - (h) for a Sale Proposal, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a non-refundable deposit in the form of a wire transfer to a trust account specified by the Proposal Trustee (a "**Deposit**") in the amount of not less than 10% of the Purchase Price offered upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
 - (i) for an Investment Proposal, the bid includes a Deposit in the amount of not less than 10% of the total new investment contemplated in the bid upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
 - (j) the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder:
 - (i) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Companies prior to making its offer (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld in Phase 1 from the Phase 2 Qualified Bidder);
 - (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and
 - (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, the Property, or the Companies or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Companies;
 - (k) the bid is received by the Phase 2 Bid Deadline; and
 - (l) the bid contemplates closing the transaction set out therein on or before January 19, 2023.
27. Following the Phase 2 Bid Deadline, the Companies, together with the Proposal Trustee and the Interim Lender, will assess the Phase 2 Bids received, following which they will designate the most competitive bids that comply with the foregoing requirements to be "**Qualified Bids**". No Phase 2 Bids received shall be deemed to be Qualified Bids without the approval of the Proposal Trustee. Only Phase 2 Qualified Bidders whose bids have been designed as Qualified Bids are eligible to become the Successful Bidder(s).
28. The Proposal Trustee shall notify each Phase 2 Qualified Bidder in writing as to whether its Phase 2 Bid constitutes a Qualified Bid within ten (10) Business Days of the Phase 2 Bid Deadline, or at such later time as the Proposal Trustee deems appropriate.
29. If the Proposal Trustee, in consultation with the Company and the Interim Lender, is not satisfied with the number or terms of the Qualified Bids, the Proposal Trustee may, with the approval of the Interim Lender, elect to (i) extend the Phase 2 Bid Deadline or (ii) seek Court approval to formally amend to the SISP.

30. The Companies may, in consultation with the Interim Lender and the Proposal Trustee and with the approval of the Proposal Trustee, aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

Evaluation of Competing Bids

31. The Companies, in consultation with the Proposal Trustee, and the Interim Lender, will evaluate Qualified Bids based upon several factors including, without limitation:
- (a) the Purchase Price and the net value provided by such bid;
 - (b) the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transactions;
 - (c) the proposed transaction documents;
 - (d) factors affecting the speed, certainty and value of the transaction;
 - (e) the assets included or excluded from the bid;
 - (f) any related restructuring costs; and
 - (g) the likelihood and timing of consummating such transaction.

Selection of Successful Bid

32. The Companies, in consultation with the Interim Lender and with the approval of the Proposal Trustee, will:
- (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among the Companies, in consultation with the Proposal Trustee and the Interim Lender, and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Phase 2 Qualified Bid as a result of such negotiations; and
 - (b) identify the highest or otherwise best bid (the "**Successful Bid**", and the Phase 2 Qualified Bidder making such Successful Bid, the "**Successful Bidder**") for any particular Property or the Business in whole or part. The determination of any Successful Bid by the Companies, with the assistance of the Proposal Trustee and in consultation with the Interim Lender, shall be subject to approval by the Court.
33. The Companies shall have no obligation to enter into a Successful Bid, and it reserves the right, after consultation with the Proposal Trustee and the Interim Lender, to reject any or all Phase 2 Qualified Bids.

Transaction Approval Application Hearing

34. At the hearing of the application to approve any transaction with a Successful Bidder (the "**Transaction Approval Application**"), the Companies shall seek, among other things, approval from the Court to consummate any Successful Bid. All the Phase 2 Qualified Bids other than the Successful Bid, if any, shall be deemed to be rejected by the Companies on and as of the date of approval of the Successful Bid by the Court.

Confidentiality and Access to Information

35. All discussions regarding a Sale Proposal, Investment Proposal, LOI or Phase 2 Bid should be directed through the Proposal Trustee. Under no circumstances should the management of the Companies be contacted directly without the prior consent of the Proposal Trustee. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP process.
36. 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, Phase 1 Qualified Bidders, Phase 2 Qualified Bidders, Phase 2 Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Companies, the Proposal Trustee and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Companies, with the approval of the Proposal Trustee and consent of the applicable participants, are seeking to combine separate bids from Phase 1 Qualified Bidders or Phase 2 Qualified Bidders.
37. In addition to the consultation rights granted to the Interim Lender, the Proposal Trustee may consult with any other parties with a material interest in the BIA proceedings regarding the status of and material information and developments relating to the SISP to the extent considered appropriate by the Proposal Trustee (subject to paragraph 36 and taking into account, among other things, whether any particular party is a Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder or other participant or prospective participant in the SISP or involved in a bid), provided that such parties shall have entered into confidentiality arrangements satisfactory to the Companies and the Proposal Trustee.

Deposits

38. All Deposits shall be retained by the Proposal Trustee in a non-interest-bearing trust account located at financial institution in Canada.
39. If there is a Phase 2 Qualified Bid that constitutes a Successful Bid, the Deposit paid by the person making such Successful Bid shall be applied to the consideration to be paid by such Qualified Bidder upon closing of the transaction constituting the Successful Bid.
40. The Deposit(s) from all Qualified Bidders submitting Phase 2 Qualified Bids that do not constitute a Successful Bid shall be returned to such Qualified Bidder within five (5) Business Days of the earlier of the date that the Companies select a Successful Bid pursuant to section • hereof or the Court declares a Successful Bid pursuant to section • hereof.
41. If the Qualified Bidder making a Phase 2 Qualified Bid is selected as the Successful Bid and breaches or defaults on its obligation to close the transaction in respect of its Successful Bid, it shall forfeit its Deposit to the Proposal Trustee for and on behalf of the Companies; provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Company has in respect of such breach or default.
42. If the Company is unable to complete the Successful Bid as a result of its own actions and not as a result of steps or conditions contained in the Successful Bid (or the actions of the Successful Bidder) than the Deposit shall be returned to the Successful Bidder.

Supervision of the SISP

43. The Proposal Trustee shall oversee, in all respects, the conduct of the SISP by the Companies and, without limitation to that supervisory role, the Proposal Trustee will participate in the SISP in the manner set out in this SISP Procedure, the SISP Order, and any other orders of the Court, and is entitled to receive all information in relation to the SISP. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.
44. The Proposal Trustee, in consultation with the Company, may waive compliance with any one or more of the requirements of this SISP, including, for greater certainty,
 - (a) deem a non-compliant LOI to be a Qualified LOI; and
 - (b) waive strict compliance with any one or more of the requirements specified above and deem a non-compliant Phase 2 Bids to be a Qualified Bid.
45. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the Companies or the Proposal Trustee and any Phase 1 Qualified Bidder, any Phase 2 Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Companies.
46. Without limiting the preceding paragraph, the Proposal Trustee shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, the Successful Bidder, the Companies, the Interim Lender or any other creditor or other stakeholder of the Companies, for any act or omission related to the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from gross negligence or wilful misconduct of the Proposal Trustee. By submitting a bid, each Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Proposal Trustee for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Proposal Trustee.
47. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any LOI, Phase 2 Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
48. Without limiting in any way the intent and effect of the applicable provisions of the Interim Financing in respect of the SISP, and subject to the terms of the SISP Order, the Companies shall have the right to modify the SISP (including, without limitation, pursuant to the Bid Process Letter) with the prior written approval of the Proposal Trustee and the Interim Lender if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the service list in the NOI Proceedings shall be advised of any substantive modification to the procedures set forth herein.
49. In order to discharge its duties in connection with the SISP the Proposal Trustee may engage professional or business advisors or agents as the Proposal Trustee deems fit in its sole discretion.

Disclosure of Information to the Interim Lender

50. The Interim Lender shall have full and complete access to all Qualified LOIs, Phase 2 Qualified Bids and related materials and the Proposal Trustee, in consultation with the Companies, shall periodically update the Interim Lender on the SISP and the prospect of a Successful Bid being completed thereunder.

Further Orders

51. At any time during the SISP, the Proposal Trustee, the Companies, or the Interim Lender may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder, if any.

Schedule "1"

To the Proposal Trustee:

Alvarez & Marsal Canada Inc.
Suite 1110, 250 6th Ave SW
Calgary, AB T2P 3H7

Attention: Orest Konowalchuk
Bryan Krol
Stephen Oosterbaan

Email: okonowalchuk@alvarezandmarsal.com
bkrol@alvarezandmarsal.com
soosterbaan@alvarezandmarsal.com