



COURT FILE NUMBER 2001-05482

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JS
Aug 26 2020
Justice Eidsvik

JUDICIAL CENTRE CALGARY

APPLICANT 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
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC.
AND 2161889 ALBERTA LTD.

DOCUMENT FOURTH REPORT OF FTI CONSULTING CANADA
INC., IN ITS CAPACITY AS MONITOR OF JMB
CRUSHING SYSTEMS INC. AND 2161889 ALBERTA
LTD.

August 25, 2020

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

MONITOR

FTI Consulting Canada Inc.
1610, 520, 5th Ave. SW
Calgary, AB T2P 3R7
Deryck Helkaa / Tom Powell
Telephone: (403) 454-6031 / (604) 484-9525
Fax: (403) 232-6116
E-mail: deryck.helkaa@fticonsulting.com
tom.powell@fticonsulting.com

COUNSEL

McCarthy Tétrault LLP
Suite 4000, 421 7th Avenue S.W.
Calgary, AB T2P 4K9
Sean Collins / Pantelis Kyriakakis
Telephone: (403) 260-3531 / (403) 260-3536
Fax: (403) 260-3501
E-mail: scollins@mccarthy.ca
pkyriakakis@mccarthy.ca

FOURTH REPORT OF THE MONITOR

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INTRODUCTION

1. On May 1, 2020, JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (“**JMB**” or the “**Applicants**”) commenced proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an order granted by this Honourable Court which was subsequently amended and restated on May 11, 2020 (the “**ARIO**”).
2. The ARIO provides for, among other things:
 - a. a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until July 31, 2020;
 - b. the appointment of FTI Consulting Canada Inc. as Monitor in the CCAA Proceedings (the “**Monitor**”); and
 - c. the approval of a sale or investment solicitation process (“**SISP**”).
3. On July 28, 2020, this Honourable Court granted an order extending the Stay of Proceedings until September 4, 2020.
4. On August 21, 2020, the Applicants filed a Notice of Application for an order extending the Stay of Proceedings for one week until September 11, 2020 (the “**Extension Order**”).
5. On August 25, 2020, the Monitor filed a Notice of Application for a sale and vesting order (the “**McDonald SAVO**”) which provides for:
 - a. the approval of the sale of certain pieces of crushing equipment to McDonald Aggregates Inc. (“**McDonald**”); and
 - b. the vesting of the subject equipment free and clear of any security interests or other claims.

6. The purpose of this report is to provide this Honourable Court and the Applicants' stakeholders with information with respect to:
 - a. an update on the SISP;
 - b. the Monitor's application for the McDonald SAVO;
 - c. the Applicants' actual cash receipts and disbursements for the 15-week period ended August 14, 2020 as compared to the Second Cash Flow Statement filed with the third report of the Monitor (the "**Third Report**");
 - d. an updated cash flow statement (the "**Third Cash Flow Statement**") prepared by the Applicants for the 19 weeks ending September 11, 2020 including the key assumptions on which the Third Cash Flow Statement is based;
 - e. JMB's application for the Extension Order; and
 - f. the Monitor's conclusions and recommendations.

TERMS OF REFERENCE

7. In preparing this report, the Monitor has relied upon certain information (the "**Information**") including JMB's unaudited financial information, books and records and discussions with senior management and the Chief Restructuring Advisor (the "**CRA**" and collectively, "**Management**").
8. Except as described in this report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.

9. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
10. Future oriented financial information reported to be relied on in preparing this report is based on Management's assumptions regarding future events. Actual results may vary from forecast and such variations may be material.
11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

UPDATE ON THE SISP

12. As described in the Third Report of the Monitor, Sequeira Partners, in its capacity as sales agent (the "**Sales Agent**"), has been marketing the business and assets of JMB in accordance with the SISP and the Phase II bid deadline for submitting binding offers was on July 20, 2020.
13. Highlights of the SISP are as follows:
 - a. the Sales Agent contacted 196 potentially interested parties including 90 strategic, 70 financial and 36 other investors;
 - b. 53 potential purchasers executed non-disclosure agreements and were provided with a confidential information memorandum and access to an electronic data room;
 - c. 8 non-binding expressions of interest were received by the Sales Agent and the Monitor on or before the Phase 1 bid deadline, of which 7 potential purchasers were invited to participate in Phase II of the SISP;
 - d. a number of binding bids were received by the Sales Agent and Monitor on or before the Phase II bid deadline for binding bids; and

- e. a summary of the binding bids has been provided to certain affected secured lenders including Fiera Debt Fund VI LLP (“**Fiera**”) and ATB Financial (“**ATB**”).
14. The binding bids include different parcels of assets which in some cases overlap with other offers and some of which include collateral of multiple secured lenders.
 15. The Sales Agent, in consultation with the Monitor, the CRA, and certain secured lenders, has engaged in discussions with the bidders to clarify certain aspects of the bids, negotiate additional consideration in order to select one or more preferred bids and to apportion and segregate assets with multiple bids to maximize value and recoveries for the Applicants’ estates.
 16. The Monitor, in consultation with the affected secured lenders, has accepted the Phase 2 Qualified Bid provided by McDonald (the “**McDonald Offer**”).
 17. The Monitor has engaged in ongoing discussions with other bidders, ATB and Fiera to determine the preferred approach to the remaining bids. The Monitor and JMB have had concurrent discussions with ATB and Fiera regarding possible methodologies for allocating the costs of the CCAA Proceedings to the various stakeholders of JMB. These discussions are ongoing and the Applicants are hopeful that one or more additional bids will be selected during the period of the proposed extension to the Stay of Proceedings.

MCDONALD OFFER

18. A copy of the asset purchase agreement between JMB and McDonald is attached as Appendix “A”.
19. Highlights of the McDonald Offer are provided below:
 - a. McDonald will purchase certain crushing assets from JMB including the following:

- i. a 1998 D8R 1998 with angle blade;
 - ii. a 2009 Lonetrack Power Van;
 - iii. a 2020 KPI 36X70 Stack Pack set of three conveyors; and
 - iv. a Sand Splitter SS200.
- b. the purchase price will be \$264,000 plus applicable taxes;
- c. the target closing date will be 5 days following Court approval; and
- d. contemplates an ultimate outside closing date of September 4, 2020.

20. The Monitor's observations with respect to the SISP and comments with respect to the McDonald Offer are as follows:

- a. the Monitor, with the assistance of the Sales Agent, has marketed the business and assets in accordance with the procedures outlined in the SISP;
- b. the SISP was fair and transparent and all participants were treated consistently and with equal access to information;
- c. the SISP was conducted in a manner that managed against potential conflicts of interest among related parties that chose to participate in the SISP, as described in the second report of the Monitor;
- d. the price and terms of the McDonald Offer represent the highest and best offer in respect of the subject assets and is reasonable and fair, taking into account their market value;
- e. key stakeholders including ATB and Fiera as senior secured creditors in respect of the subject assets are supportive of the Monitor accepting the McDonald Offer;
- f. concluding the McDonald Offer will provide for cash consideration to fund estate costs and potential distributions to secured creditors;

- g. the sale of the equipment subject to the McDonald Offer would be more beneficial to the Applicants' creditors than a sale or disposition under a bankruptcy; and
- h. overall, concluding the transaction contemplated by the McDonald Offer is in the best interests of the creditors of JMB.

CASH FLOW VARIANCE ANALYSIS

21. The Monitor has undertaken weekly reviews of JMB's actual cash flows in comparison to those contained in the Second Cash Flow Statement. JMB's actual cash receipts and disbursements as compared to the Cash Flow Statement for the period of May 1, 2020, to August 14, 2020, are summarized below:

(\$000's)	Weeks 1 - 15		
	Actual	Forecast	Variance
Operating Receipts			
Collection of Pre-Filing AR - Ellis Don	\$ 2,032	\$ 2,032	\$ -
Collection of Pre-Filing AR - MD of Bonnyville	1,478	1,478	-
Collection of Post Filing AR - MD of Bonnyville	1,042	1,566	(524)
Other Receipts	745	698	47
Total Operating Receipts	5,296	5,773	(477)
Operating Disbursements			
Payroll And Source Deductions	(1,212)	(1,211)	(1)
Pre-filing Lienable Payables	-	-	-
Royalties	(408)	(408)	-
Fuel	(204)	(204)	-
Repair & Maintenance	(49)	(49)	-
Office Administration	(21)	(29)	8
Insurance & Benefits	(139)	(139)	-
Jobsite Lodging	(21)	(23)	2
Equipment Loan & Lease Payments	(133)	(132)	(1)
Occupancy	(127)	(142)	15
Other	(24)	(35)	11
Total Operating Disbursements	(2,337)	(2,371)	34
Non-Operating Receipts & Disbursements			
Interim Financing (Repayment)	(211)	(211)	-
CARC Repayment	-	-	-
Professional Fees	(1,087)	(1,322)	236
Total Disbursements	(3,635)	(3,904)	270
Net Cash Flow	1,661	1,869	(207)
Opening Cash Balance	-	-	-
Ending Cash	\$ 1,661	\$ 1,869	\$ (207)

22. Overall, the Applicants realized an unfavourable net cash flow variance of approximately \$207,000. The key components of the variance are as follows:

- a. post-filing accounts receivable from the MD of Bonnyville are approximately \$524,000 lower than forecast as a result of a delay in collections. Management has advised that the delayed receivable was subsequently collected on August 18, 2020; and

- b. professional fees are approximately \$236,000 lower than forecast as a result of timing differences.

THIRD CASH FLOW STATEMENT

- 23. Management has prepared the Third Cash Flow Statement which includes forecast results for the four weeks ending September 11, 2020 (the “**Forecast Period**”). A copy of the Third Cash Flow Statement is attached as Appendix “B”.
- 24. The Third Cash Flow Statement is limited to the period of the short extension being sought by the Applicants as the ongoing discussions among secured lenders regarding potential transactions, cost allocation methodologies and related matters may impact the amount and nature of costs to be incurred by the Applicants for the remainder of the CCAA Proceedings.
- 25. A summary of the Third Cash Flow Statement is set out in the below table:

(\$000's)	Weeks 1-15 Actual	Weeks 16-19 Forecast	Total Pro-Forma
Operating Receipts			
Collection of Pre-Filing AR - Ellis Don	\$ 2,032	\$ -	\$ 2,032
Collection of Pre-Filing AR - MD of Bonnyville	1,478	154	1,632
Collection of Post Filing AR - MD of Bonnyville	1,042	524	1,566
Other Receipts	745	-	745
Total Operating Receipts	5,296	678	5,974
Operating Disbursements			
Payroll And Source Deductions	(1,212)	(77)	(1,289)
Royalties	(408)	-	(408)
Fuel	(204)	(1)	(205)
Repair & Maintenance	(49)	-	(49)
Office Administration	(21)	(14)	(35)
Insurance & Benefits	(139)	(23)	(162)
Jobsite Lodging	(21)	-	(21)
Equipment Loan & Lease Payments	(133)	(2)	(135)
Occupancy	(127)	(33)	(160)
Other	(24)	(4)	(28)
Total Operating Disbursements	(2,337)	(154)	(2,491)
Non-Operating Receipts & Disbursements			
Interim Financing (Repayment)	(211)	-	(211)
Professional Fees	(1,087)	(509)	(1,596)
Total Disbursements	(3,635)	(663)	(4,298)
Net Cash Flow	1,661	15	1,677
Opening Cash Balance	-	1,661	-
Ending Cash	\$ 1,661	\$ 1,677	\$ 1,677

26. The Third Cash Flow Statement is based on the following key assumptions:

- a. lien determination notices with respect to the MD of Bonnyville and EllisDon projects were issued by the Monitor on July 17, 2020 and August 20, 2020, respectively. The notice period for lien claimants of the MD of Bonnyville project to dispute the Monitor's lien determination has now expired, with two parties having filed disputes. Those applications are being scheduled to be heard during the week of October 19, 2020. The Third Cash Flow Statement includes the release to JMB of approximately \$154,000 relating to the portion of the MD of

Bonnyville holdback for those lien claimants that did not dispute the Monitor's determination;

- b. the collection of post-filing accounts receivable from the MD of Bonnyville relates to operating receipts on contract accounts receivable;
 - c. operating disbursements relate primarily to ordinary course payments to fund payroll for the limited amount of staff remaining, basic office needs, insurance, benefits and occupancy costs prior to the approval of a sale. It is assumed that remaining staff are retained through the Forecast period; and
 - d. professional fees are forecast to be approximately \$509,000 during the Forecast Period and include accrued and current fees for the Applicants' legal counsel, the Monitor, the Monitor's legal counsel, certain contract executives of JMB and the Sales Agent's work fee.
27. Overall, the Applicants are forecasting to achieve a net cash flow of approximately \$15,000 during the Forecast Period and have a remaining cash balance of approximately \$1.7 million as at September 11, 2020.

STAY EXTENSION

28. The Monitor has considered JMB's application to extend the Stay of Proceedings and has the following comments:
- a. the proposed extension will provide the Applicants with time to conclude the transaction contemplated by the McDonald Offer and pursue one or more additional Phase 2 Qualified Bids;
 - b. the Applicants require additional time to consider the appropriate methodology for allocating the costs of the CCAA against the assets of JMB;

- c. the Third Cash Flow Statement forecasts that the Applicants have available liquidity during the period of the proposed extension;
- d. the Monitor has been advised that certain stakeholders, including the senior secured creditors, are supportive of the proposed extension;
- e. the Applicants are acting in good faith and with due diligence; and
- f. overall, JMB's prospects of effecting a viable restructuring will be enhanced by an extension of the Stay of Proceedings until September 11, 2020.

MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

29. The McDonald SAVO will allow JMB to conclude the transaction contemplated by the McDonald Offer which is in the best interests of the Applicants' stakeholders.

30. The Extension Order will provide the Monitor with time to negotiate and potentially accept one or more additional offers under the SISP.

31. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the McDonald SAVO as well as the Extension Order.

All of which is respectfully submitted this 25th day of August, 2020.

FTI Consulting Canada Inc.
in its capacity as Monitor of the Applicants



Deryck Helkaa
Senior Managing Director



Tom Powell
Senior Managing Director

Appendix A

**Asset Purchase Agreement Between JMB Crushing
Systems Inc. and McDonald Aggregates Inc.**

ASSET PURCHASE AGREEMENT

BETWEEN

JMB CRUSHING SYSTEMS INC.,
a corporation incorporated pursuant to the laws of the Province of Alberta

(the "Vendor")

- AND -

McDONALD AGGREGGATES INC.,
a corporation incorporated pursuant to the laws of the Province of Alberta

(the "Purchaser")

August 25, 2020

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ASSET PURCHASE AGREEMENT

THIS AGREEMENT made as of the 25th day of August, 2020.

BETWEEN:

JMB CRUSHING SYSTEMS INC., a corporation formed under the laws of the Province of Alberta (the "**Vendor**")

- and -

McDONALD AGGREGATES INC., a corporation formed under the laws of the Province of Alberta (the "**Purchaser**")

WHEREAS the Vendor has agreed to transfer to the Purchaser, and the Purchaser has agreed to purchase and assume, the Acquired Assets from the Vendor upon the terms and subject to the conditions set forth hereinafter.

AND WHEREAS the Vendor has sought and obtained an Order of the Court of Queen's Bench of Alberta (the "**Court**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-35, as amended (the "**CCA Proceedings**");

AND WHEREAS by an order approved by the Court on May 1, 2020, as subsequently amended and restated on May 11, 2020, the Court approved a sale and investor solicitation process (the "**SISP**") for: (a) the solicitation of offers for the sponsorship of a plan of compromise and arrangement under the CCAA; or (b) the purchase and sale of the business and assets of the Vendor;

AND WHEREAS in accordance with the defined terms and procedures of the SISP the Purchaser is a Qualified Bidder, has provided to the Vendor a Qualified Letter of Intent, and is now desirous of submitting to the Vendor a formal Sale Proposal in accordance with Phase 2 of the SISP; and,

AND WHEREAS the Vendor wishes to sell the Acquired Assets to the Purchaser and the Purchaser wishes to purchase the Acquired Assets from the Vendor, all upon and subject to the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

“Acquired Assets” means all of the Vendor’s right, title and interest in and to the Equipment.

“Affiliate” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under common control with, such Person. The term **“control”** (including the terms **“controlled by”** and **“under common control with”**) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” means this asset purchase agreement and the schedules attached hereto, as amended or supplemented from time to time, and the expressions **“hereof”**, **“herein”**, **“hereto”**, **“hereunder”**, **“hereby”** and similar expressions refer to this asset purchase agreement. **“Article”**, **“Section”** and **“Subsection”** mean and refer to the specified article, section and subsection of this Agreement.

“Applicable Law” means, with respect to any Person, property, transaction, event, business or other matter, any federal, state, provincial, local, domestic or foreign constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Permit, order or other requirement of any Governmental Authority whether or not having the force of law relating or applicable to such Person, property, transaction, event, business or other matter.

“Business Day” means any day, other than a Saturday, Sunday or legal holiday in the Province of Alberta.

“CCAA” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-35, as amended.

“CCAA Proceedings” has the meaning ascribed thereto in the recitals.

“Claims” means all past, present and future Proceedings, claims, suits, actions, charges, penalties, causes of action, demands, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees (on a full solicitor and their own client indemnity basis) and other professional fees and disbursements of any nature or any kind whatsoever.

“Closing” means the closing and consummation of the agreement of purchase and sale for the Acquired Assets, including without limitation the payment of the Purchase Price and the delivery of the Closing Documents, on the Closing Date.

“Closing Date” means 12:00 p.m. (Mountain time) on the fifth Business Day immediately following the date that the Sale Order has been issued or on such other Business Day as the Parties may agree in writing.

“Closing Documents” means, collectively, all of the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 6.1 and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendor pursuant to Section 6.3.

“Confidentiality Agreement” means the confidentiality and non-disclosure agreement between Sales Advisor and the Purchaser, dated July 7th, 2020.

“Court” means the Court of Queen’s Bench of Alberta.

“Data Room Information” means all information provided to the Purchaser in relation to the Vendor, or it’s Affiliates, or the Acquired Assets.

“Deposit” has the meaning ascribed thereto in Subsection 3.2.

“Equipment” means those certain items of equipment owned by the Vendor or which the Vendor otherwise has an interest in as explicitly set out in Schedule A.

“Final Order” means an order that is issued by the Court in the CCAA Proceedings that is not: (i) subject to any appeal process; (ii) stayed; or (iii) otherwise enjoined.

“Governmental Authority” means any (i) domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise), (ii) agency, authority, ministry, department, regulatory body, commission, court, central bank, bureau, board or other instrumentality having legislative, judicial (including courts and arbitrators), regulatory, prosecutorial, administrative or taxing authority or powers, or having functions of, or pertaining to, government, (iii) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association, in each case, having requisite jurisdiction or authority in the relevant circumstances, and (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above.

“GST” means goods and services tax and/or harmonized sales tax payable pursuant to the *Excise Tax Act* (Canada).

“Independent Accountant” means any nationally recognized firm of chartered accountants mutually acceptable to the Vendor and the Purchaser, each acting reasonably.

“Letter of Intent” means the Qualified Letter of Intent dated July 15th, 2020, provided by the Purchaser to the Monitor and the Sales Agent in accordance with the SISF.

“Lien” means any lien, mortgage, charge, pledge or security interest, hypothec (including legal hypothecs), encumbrance, servitude, easement, encroachment, right-of-way, restrictive covenant on real or immovable property, contingent rights (including options and rights of first refusal), adverse claims and other encumbrances on ownership rights of any kind or character or agreements to create the same.

“Monitor” means FTI Consulting Canada Inc. in its capacity as the Court appointed monitor of the Vendor.

“Notice” has the meaning ascribed thereto in Section 11.13.

“Parties” means each of the parties hereto collectively, and **“Party”** means any of them, as the case may be.

“Permit” means any permit, license, approval, consent, authorization, registration, or certificate issued by a Governmental Authority.

“Permitted Encumbrances” means any Liens, Claims, or encumbrances as set out in Schedule B hereto as well as those set out or otherwise disclosed in any Schedule hereto or in the Sale Order.

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation (with or without share capital), unincorporated association, trust, trustee, executor, administrator or other legal personal representative, or Governmental Authority.

“Proceeding” means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding) or hearing commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Authority or any arbitrator or arbitration panel.

“Purchase Price” means TWO HUNDRED SIXTY FOUR THOUSAND DOLLARS (\$264,000.00), exclusive of GST.

“Purchaser” has the meaning ascribed thereto in the recitals.

“Representatives” means, with, respect to any Party, its Affiliates, and the respective directors, officers, servants, agents, advisors, employees, consultants and representatives of that Party and its Affiliates.

“Sale Advisor” means Sequeira Partners in its capacity as the sales advisor of the Vendor.

“Sale Order” means an order to be granted by the Court in the CCAA Proceedings that, *inter alia*, authorizes, approves or confirms this Agreement and the sale of the Acquired Assets by the Vendor to the Purchaser, free and clear of all Claims and Liens, in accordance with the terms and conditions of this Agreement and subject only to Permitted Encumbrances, which shall be acceptable to the Purchaser, the Vendor, the Monitor and the Sale Advisor, acting reasonably, or as ultimately approved by the Court.

“SISP” has the meaning ascribed to such term in the recitals.

“Transaction” means the purchase and sale of the Acquired Assets provided for in this Agreement.

“Vendor” has the meaning ascribed thereto in the recitals.

1.2 Interpretation

The following rules of construction shall apply to this Agreement unless the context otherwise requires:

- (a) the headings in this Agreement are inserted for convenience of reference only and shall not affect the meaning, interpretation or construction of this Agreement;
- (b) all documents executed and delivered pursuant to the provisions of this Agreement are subordinate to the provisions hereof and the provisions hereof shall govern and prevail in the event of a conflict;

- (c) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force at the date hereof;
- (d) whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning plural or feminine or referring to a body politic or corporate, and vice versa, as the context requires;
- (e) the words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this Agreement and not to any particular provision of this Agreement;
- (f) reference to any Article, Section, or Schedule means an Article, Section, or Schedule of this Agreement, unless otherwise specified;
- (g) if any provision of a Schedule hereto conflicts with or is at variance with any provision in the body of this Agreement, the provisions in the body of this Agreement shall prevail to the extent of the conflict;
- (h) "include" and derivatives thereof shall be read as if followed by the phrase "without limitation".

1.3 Schedules

The following schedules are attached to and form part of this Agreement:

SCHEDULE A - EQUIPMENT
SCHEDULE B - PERMITTED ENCUMBRANCES

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale of Acquired Assets

Upon and subject to the terms and conditions of this Agreement, the Vendor will sell, transfer, convey, assign and deliver to the Purchaser, and the Purchaser will purchase, acquire and assume from the Vendor, free and clear of all Claims and Liens other than Permitted Encumbrances, all of the Vendor's respective right, title, benefit, estate and interest in and to the Acquired Assets in consideration of the payment of the Purchase Price. This Agreement shall be completed on the Closing Date, subject to the terms and conditions contained herein.

2.2 Binding Agreement

The agreements of the Vendor and the Purchaser set forth in Section 2.1 create and constitute a binding agreement of purchase and sale for the Acquired Assets upon and subject to the terms and conditions set forth in this Agreement notwithstanding the inclusion herein of (but subject to) any condition or conditions the satisfaction of which is to be determined in the sole and absolute discretion of either Party or otherwise on a subjective basis.

2.3 Acknowledgement of the Purchaser as Condition of Acquired Assets

Notwithstanding the foregoing or anything contained herein or elsewhere, the Purchaser acknowledges and agrees that:

- (a) on Closing, title to the Acquired Assets shall be subject to the Permitted Encumbrances;
- (b) in entering into this Agreement, the Purchaser has had an opportunity to conduct any and all due diligence regarding the Acquired Assets and the Vendor, it has relied and will continue to rely solely upon its own independent review, investigations and inspection of any documents and the Acquired Assets, including, without limitation, the physical and environmental condition of the Acquired Assets and its review of the Data Room Information;
- (c) the Acquired Assets are being purchased and assumed by the Purchaser on an "as is, where is" basis as of the Closing Date;
- (d) in entering into this Agreement, the Purchaser has not relied upon any written or oral statements, representations, warranties or guarantees whatsoever made by the Sale Advisor, the Vendor, or the Monitor, whether express, implied, statutory, or otherwise, regarding the Acquired Assets, or the Vendor, or the accuracy or completeness of any information provided in connection therewith;
- (e) except for its express rights under this Agreement, the Purchaser hereby waives all rights and remedies (whether now existing or hereinafter arising and including all equitable, common law, tort, contractual, and statutory rights and remedies) against the Vendor, the Monitor, the Sales Advisor and their Representatives or in respect of the Acquired Assets or the Transaction or any representations or statements made, direct or indirect, express or implied, or information or data furnished to the Purchaser or its Representatives, in connection therewith (whether made or furnished orally or by electronic, faxed, written, or any other means);
- (f) the Vendor, the Sale Advisor and the Monitor shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Acquired Assets or the condition thereof; and
- (g) this Section 2.3 shall survive and not merge on Closing.

ARTICLE 3 PURCHASE PRICE AND PAYMENT

3.1 Purchase Price

The purchase price to be paid by the Purchaser to the Vendor for the Acquired Assets shall be TWO HUNDRED SIXTY FOUR THOUSAND DOLLARS (\$264,000) (the "**Purchase Price**"), exclusive of GST.

3.2 **Deposit**

The Purchaser shall pay to the Monitor, by wire transfer, a deposit of TWENTY SIX THOUSAND FOUR HUNDRED DOLLARS (\$26,400.00) on or before the date that it executes this Agreement (referred to hereinafter as the “**Deposit**”). The Deposit shall be held by the Monitor in trust and applied in accordance with the following terms:

- (a) if Closing occurs, the Deposit Amount paid shall be applied to payment of the Purchase Price;
- (b) if Closing does not occur due to a breach of this Agreement by the Purchaser, the Deposit Amount shall be forfeited to the Vendor on account and as part of the damages suffered by the Vendor as a consequence of the Purchaser’s breach.
- (c) if Closing does not occur for any reason or circumstance other than that described in Subsection 3.2(b), the Monitor shall refund the Deposit Amount to the Purchaser within ten (10) Business Days.

3.3 **Payment of Purchase Price**

The Purchase Price shall be satisfied on Closing by the Purchaser as follows:

- (a) by the crediting of the Deposit; and
- (b) by payment to the Vendor or as the Vendor may otherwise direct in writing, by wire transfer on Closing the remaining portion of Purchase Price plus any and all applicable taxes and fees (including GST) payable under Section 3.4.

3.4 **Taxes and Fees**

- (a) The Purchase Price does not include GST. At Closing, the Purchaser shall pay to the Vendor an amount equal to the statutory rate of GST. The Purchaser shall be liable for the payment and remittance of any additional amount of GST payable in respect of the purchase of the Acquired Assets pursuant hereto, including any interest, penalties, or any other costs payable in respect of such additional GST, and shall indemnify and save harmless the Vendor in respect thereof. The GST Registration Number of the Vendor is 102665056 RT0001. The GST Registration Number of the Purchaser is 851730283 RT0001.
- (b) The Purchaser shall also be liable for and shall pay any and all, federal or provincial sales taxes and all other taxes, duties, or other similar charges properly payable upon and in connection with the conveyance and transfer of the Acquired Assets by the Vendor to the Purchaser and the Purchaser shall be responsible for all recording charges and registration fees payable in connection therewith, this Agreement, the Acquired Assets and the Transaction.
- (c) The Parties shall work together and cooperate reasonably to minimize any taxes that may be imposed on any Vendor and the Purchaser as a result of the Transaction, including by cooperating and the filing of necessary elections, documents and other records in accordance with Applicable Law to minimize taxes imposed.

ARTICLE 4 PRE-CLOSING MATTERS

4.1 Operation Before Closing

Subject to any terms imposed by the Court in the CCAA Proceedings, from the date hereof until Closing the Vendor shall operate and maintain the Acquired Assets in accordance with its business and management practices as at the date hereof.

4.2 Title to Acquired Assets

The Purchaser acknowledges and agrees that title to the Acquired Assets will be subject to the Permitted Encumbrances and the Purchaser agrees to accept title to the Acquired Assets subject to the Permitted Encumbrances. Any Lien registered against title to an Acquired Asset that is not a Permitted Encumbrance shall be discharged pursuant to the Sale Order by the Vendor at its sole expense, or arrangements satisfactory to the Purchaser acting reasonably, shall have been made in respect of the discharge thereof as soon as practicable following Closing.

ARTICLE 5 CLOSING CONDITIONS

5.1 Conditions for the Benefit of the Vendor

The obligation of the Vendor to complete sale of the Acquired Assets pursuant to this Agreement is subject to the satisfaction at Closing of the following conditions precedent:

- (a) payment by the Purchaser to the Vendor of the balance of the Purchase Price in its entirety along with the unconditional release of the Deposit to the Vendor;
- (b) all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser shall have been complied with or performed in all material respects;
- (c) the representations and warranties of the Purchaser set out in Section 7.2 shall be true and accurate in all material respects; and
- (d) the Sale Order shall have been obtained and shall constitute a Final Order.

Each of the foregoing conditions has been inserted for the benefit of the Vendor and may, without prejudice to any of the rights of the Vendor hereunder excluding reliance on or enforcement of any representations, warranties or covenants dealing with the subject of or similar to the condition waived, be waived by it in writing, in whole or in part, at any time, provided that the Vendor is not entitled to waive the Sale Order condition contained in Section 5.1(d). The Vendor shall proceed diligently and in good faith and use all reasonable efforts to fulfill and assist in the fulfillment of the foregoing conditions in case any of the said conditions shall not be complied with, or waived by the Vendor, at or before the Closing Date, the Vendor may terminate this Agreement by written notice to the Purchaser.

5.2 Conditions for the Benefit of the Purchaser

The obligation of the Purchaser to complete the purchase of the Acquired Assets pursuant to this Agreement is subject to the satisfaction, at Closing of the following conditions precedent:

- (a) all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor shall have been complied with or performed in all material respects;
- (b) the representations and warranties of the Vendor set out in Section 7.1 shall be true and accurate in all material respects; and
- (c) the Sale Order shall have been obtained and shall constitute a Final Order.

Each of the foregoing conditions has been inserted for the benefit of the Purchaser and may, without prejudice to any of the rights of the Purchaser hereunder (excluding reliance on or enforcement of any representations, warranties, or covenants dealing with the subject of or similar to the condition waived), be waived by it by notice to the Vendor in writing, in whole or in part, at any time, provided that the Purchaser is not entitled to waive the Sale Order condition contained in Section 5.2(c). The Purchaser shall proceed diligently and in good faith and use all reasonable efforts to fulfill and assist in the fulfillment of the foregoing conditions. In case any of the said conditions shall not be complied with, or waived by the Purchaser at or before the Closing Date, the Purchaser may terminate this Agreement by written notice to the Vendor.

ARTICLE 6 CLOSING

6.1 Closing

Closing shall take place at the offices of McCarthy Tétrault LLP, Suite 4000, 421 7th Avenue SW, Calgary, Alberta, on the Closing Date.

6.2 Vendor's Closing Deliveries

On or before Closing, but subject to the provisions of this Agreement, the Vendor shall prepare, execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser the following:

- (a) a certified copy of the Sale Order; and
- (b) any and all such other documentation, instruments, and records required: (i) pursuant to the Sale Order; or (ii) pursuant to this Agreement.

6.3 Purchaser's Closing Deliveries

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor the following:

- (a) the balance of the Purchase Price plus all taxes, fees, and GST; and

- (b) any and all such other documentation, instruments, and records required: (i) pursuant to the Sale Order; or (ii) pursuant to this Agreement.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Vendor's Representations and Warranties

Each Party comprising the Vendor jointly and severally hereby represents and warrants to and in favour of the Purchaser that:

- (a) the Vendor is a corporation duly organized, validly subsisting and in good standing under the laws of the jurisdiction of its incorporation, continuance or amalgamation (as the case may be) and is duly registered and authorized to carry on business in Alberta;
- (b) except for the Sale Order, it has taken all action and has full power and authority to enter into this Agreement and the other documents and agreements executed and delivered hereunder and it has taken all necessary action to consummate the Transaction and to perform its obligations hereunder and the other documents and agreements executed and delivered hereunder;
- (c) provided the Sale Order is obtained and constitutes a Final Order, this Agreement has been, and all documents and agreements to be executed and delivered by it at Closing pursuant to this Agreement shall be, duly executed and delivered by it, and upon execution by the Vendor, this Agreement constitutes, and all documents and agreements required to be executed and delivered by it at Closing will constitute legal, valid, and binding obligations of it enforceable against it in accordance with their respective terms, subject to bankruptcy, insolvency, preference, reorganization, moratorium and other similar laws affecting creditor's rights generally and the discretionary nature of equitable remedies and defences; and
- (d) the Vendor is not a "non-resident" for the purposes of Section 116 of the *Income Tax Act* (Canada) and such Vendor shall receive its share of the Purchase Price on its own account and not as agent, trustee or nominee for any other person who is a non-resident of Canada.

7.2 No Additional Representations and Warranties

Notwithstanding anything to the contrary in this Agreement, the Vendor makes no representations or warranties except as expressly set forth in Section 7.1 and, in particular, and without limiting the generality of the foregoing, the Vendor disclaims and shall not be liable for any representation or warranty express or implied, of any kind, at law or in equity, which may have been made or alleged to be made in any instrument or document relative hereto, or in any statement or information made or communicated to the Purchaser in any manner including any opinion, information, or advice which may have been provided to the Purchaser by the Vendor in connection with the Acquired Assets or in relation to the Transaction. For greater certainty, the Vendor does not make any representation or warranty, express or implied, of any kind, at law or in equity, with respect to:

- (a) the accuracy or completeness of the Data Room Information or any other data or information supplied by the Vendor or any of its Representatives in connection with the Acquired Assets;
- (b) the quality, condition, fitness, suitability, serviceability, or merchantability of any of the Acquired Assets; or,
- (b) the right, title, estate or interest of the Vendor in and to the Acquired Assets.

7.3 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to and in favour of the Vendor that, as of the date of this Agreement and as of the Closing Date:

- (a) it is a valid and subsisting corporation under the laws of its jurisdiction of registration and is authorized to carry out business in the jurisdiction where the Acquired Assets are located;
- (b) it has taken all action and has full power and authority to enter into this Agreement and the other documents and agreements executed and delivered hereunder and it has taken all necessary action to consummate the Transaction and to perform its obligations hereunder and the other documents and agreements executed and delivered hereunder;
- (c) provided the Sale Order is obtained and constitutes a Final Order, this Agreement has been, and all documents and agreements to be executed and delivered by it at Closing pursuant to this Agreement shall be, duly executed and delivered by it, and upon execution by the Vendor and it, this Agreement constitutes, and all documents and agreements required to be executed and delivered by it at Closing will constitute legal, valid, and binding obligations of it enforceable against it in accordance with their respective terms, subject to bankruptcy, insolvency, preference, reorganization, moratorium and other similar laws affecting creditor's rights generally and the discretionary nature of equitable remedies and defences;
- (d) to its knowledge after due inquiry, and provided that the Sale Order is obtained, no authorization or approval or other action by, and no notice to or filing with, any Government Authority exercising jurisdiction over the Acquired Assets is required by it or on its behalf for the due execution and delivery of this Agreement;
- (e) provided the Sale Order is obtained, the consummation of the Transaction will not constitute or result in a material violation, breach, or default by it under any provision of any agreement or instrument to which it is a party or by which it is bound or any judgment, law, decree, order, or ruling applicable to it;
- (f) it has not received notice of any Claims in existence, contemplated, pending or threatened against it seeking to prevent the consummation of the Transaction;
- (g) it has sufficient funds available to it to enable it to pay in full the Purchase Price to the Vendor as herein provided and otherwise to fully perform its obligations under this Agreement;

- (h) the Person or Persons who at Closing purchase the beneficial interests in the Acquired Assets will be registrants for the purposes of Part IX of the *Excise Tax Act* (Canada); and
- (i) the Purchaser is and will be on Closing a “Canadian” within the meaning of the *Investment Canada Act*.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

This Agreement may be terminated at any time prior to Closing;

- (a) by mutual written agreement of the Vendor and the Purchaser;
- (b) by either the Vendor or the Purchaser, pursuant to the provisions of Section 5.1 or Section 5.2, as applicable; or
- (c) by the Vendor, if Closing has not occurred on or before September 4, 2020.

8.2 Effect of Termination

If this Agreement is terminated by the Vendor or the Purchaser, as permitted under Section 8.1, Article 10 and Section 11.10 shall remain in full force and effect following any such permitted termination. Furthermore, the Purchaser and the Vendor hereby covenant, acknowledge, and agree that, notwithstanding anything to the contrary in this Agreement, in addition to the forfeiture and release of the Deposit, as contemplated in Section 3.2 herein, in the event this Agreement is terminated as a result of 3.2(b), the Vendor shall be entitled to pursue any and all additional claims, rights, remedies, and damages associated with the Transaction, this Agreement, and the Purchaser’s default hereunder.

ARTICLE 9 CONFIDENTIALITY, PUBLIC ANNOUNCEMENTS AND SIGNS

9.1 Confidentiality

Each Party agrees to keep in strict confidence:

- (a) subject to Section 9.2, all information regarding the terms of this Agreement and the Purchase Price; and
- (b) any information exchanged or received in connection with:
 - (i) the performance of due diligence by the Purchaser prior to or after the date hereof (including due diligence conducted under or in connection with the Letter of Intent); or
 - (ii) negotiation or drafting of this Agreement;

provided that the Vendor shall be entitled to disclose all information as may be required or desirable in connection with obtaining the Sale Order. If this Agreement is terminated, each Party

upon request will promptly return to the other Party all documents, contracts, records or other information received by it that disclose or embody confidential information of the other Party.

In addition to the foregoing, the Purchaser shall continue to be bound by the Confidentiality Agreement in accordance with the terms thereof.

9.2 Public Announcements

- (a) If a Party intends to issue a press release or other public disclosure of this Agreement, the terms hereof or the transactions contemplated herein, the disclosing Party shall provide the other Party with an advance copy of any such press release or other public disclosure with sufficient time to enable the other Parties to review such press release or other public disclosure and advise of any comments they may have with respect thereto.
- (b) Notwithstanding Section 9.1 or 9.2(a), a Party may release or provide information about the Transaction insofar as is required by Applicable Law (including as may be required to obtain the Sale Order) or stock exchange requirements applicable to the disclosing Party or its Affiliates; provided that such disclosing Party shall make reasonable commercial efforts to provide the other Party with the details of the nature and substance of such required disclosure as soon as practicable and in any event prior to such disclosure. A Party may provide information about the Transaction to a bank or other financial institution to obtain financing on any required consent of the bank or other financial lender of such Party or any of its Affiliates. A Party may also disclose such information pertaining to this Agreement, including the identity of the Parties, insofar as is required to enable such Party to fulfil its obligations under this Agreement, including obtaining any approvals or consents to the Transaction required from Governmental Authorities (including the Sale Order) or Third Parties.

ARTICLE 10 GOVERNING LAW AND DISPUTE RESOLUTION

10.1 Governing Law

This Agreement shall, in all respects, be subject to and be interpreted, construed and enforced in accordance with the laws in effect in the Province of Alberta and to the laws of Canada applicable therein.

10.2 Resolution of Disputes

- (a) Each Party hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court, and waives any defences it might have regarding jurisdiction in any action or proceeding arising out of or relating to this Agreement or any ancillary agreement to which it is a Party, or for recognition or enforcement of any judgment in respect thereof, and each Party hereto hereby irrevocably and unconditionally agrees that all Claims in respect of any such action or proceeding may be heard and determined by the Court.
- (b) Each Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have

to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any ancillary agreement to which it is a Party in any court of competent jurisdiction in the Province of Alberta. Each of the Parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

ARTICLE 11 GENERAL

11.1 Obligations as Covenants

Each agreement and obligation of any of the Parties hereto in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

11.2 Currency

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

11.3 Invalidity

If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any person, Party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

11.4 Amendment of Agreement

No supplement, modification, waiver or termination of this Agreement (other than a termination permitted to be unilaterally made by the Vendor or Purchaser pursuant to the terms of this Agreement) shall be binding unless executed in writing by the Parties hereto in the same manner as the execution of this Agreement.

11.5 Time of the Essence

Time shall be of the essence of this Agreement.

11.6 Personal Information

The Purchaser covenants and agrees to use and disclose any personal information contained in any of the books, records, or files transferred to the Purchaser or otherwise obtained by the Purchaser in connection with the Transaction only for those purposes for which it was initially collected from or in respect of the individual to which such information relates or as otherwise permitted or authorized by Applicable Law. The Purchaser's obligations set forth in this Section 11.6 shall survive the Closing Date indefinitely.

11.7 Assignment

- (a) Neither Party may assign their interest in or under this Agreement or to the Acquired Assets without the prior written consent of the other Party, which consent may be withheld in such other Party's sole and unfettered discretion.
- (b) No assignment, transfer, or other disposition of this Agreement or the Acquired Assets or any portion of the Acquired Assets shall relieve the Purchaser from its obligations to the Vendor herein. The Vendor shall have the option to claim performance or payment of the obligations from the Purchaser or the assignee or transferee, and to bring proceedings in the event of default against either or all of them, provided that nothing herein shall entitle the Vendor to receive duplicate performance or payment of the same obligation.

11.8 Further Assurances

From time to time, as and when reasonably requested by a Party, each Party shall execute and deliver or cause to be executed and delivered all such documents and instruments and shall take or cause to be taken all such further or other actions to implement or give effect to the Transaction, provided such documents, instruments, or actions are consistent with the provisions of this Agreement. All such further documents, instruments, or actions shall be delivered or taken at no additional consideration other than reimbursement of any expenses reasonably incurred by the Party providing such further documents or instruments or performing such further acts, by the Party at whose request such documents or instruments were delivered or acts performed.

11.9 Entire Agreement

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the Parties hereto constitute the entire agreement between the Parties hereto pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, including the Letter of Intent, and there are no other warranties or representations and no other agreements between the Parties hereto in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the schedules attached hereto.

11.10 Costs

Except as otherwise specified in this Agreement, each Party shall pay its respective costs incurred in connection with the preparation, negotiation, and execution of this Agreement and the consummation of the Transaction, subject to Section 11.8 of this Agreement.

11.11 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

11.12 Merger

Except as otherwise provided in this Agreement: (a) this Agreement shall merge with the closing of the Transaction contemplated herein; and (b) no representations, warranties, covenants or agreements of either the Vendor or the Purchaser shall survive and all such representations, warranties, covenants, or agreements shall merge on Closing, unless otherwise indicated herein. The provisions of this Section 11.12 shall survive and not merge on Closing.

11.13 Notice

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "**Notice**") must be in writing, sent by personal delivery, electronic mail, courier or facsimile and addressed:

(a) to the Vendor at:

JMB Crushing Systems Inc.
PO Box 6977 Bonnyville, AB T9N 2H4

Email: blakeelyea@jmbcrush.com
Attention: Blake Elyea

with a copy to:

Sequeira Partners
520 5 Ave SW, #400
Calgary, AB T2P 3R7

Facsimile: 1-877-790-6172
Email: asequeira@sequeirapartners.com
Attention: Aroon Sequeira

with a copy to:

FTI Consulting Canada Inc.
520 5 Ave SW, #400
Calgary, AB T2P 3R7

Facsimile: 1 403 232 6116
Email: Deryck.Helkaa@fticonsulting.com and
Tom.Powell@fticonsulting.com
Attention: Deryck Helkaa & Powell, Tom

(b) to the Purchaser at:

McDonald Aggregates Inc.
Box 1017
Camrose, AB T4V 4E7

E-mail: Brad@mcagg.ca
Attention: Brad McDonald

A Notice is deemed to be given and received (i) if sent by personal delivery, electronic mail or same-day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (Mountain time) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day if the delivery was made prior to 5:00 p.m. (local time in place of receipt) on such Business Day and otherwise on the next Business Day, or (iii) if sent by facsimile or email, on the Business Day of confirmation of transmission by the originating facsimile or email if such confirmation of transmission indicates that such facsimile or email was received prior to 5:00 p.m. (Mountain time) on a Business Day and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a party's address that is not specifically changed in a Notice will be assumed not to be changed. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

11.14 Non-Business Days

Whenever payments are required to be made or an action is required to be taken on a day which is not a Business Day, such payment shall be required to be made or such action shall be required to be taken on and not later than the next succeeding Business Day.

11.15 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the Parties hereto and their respective successors and assigns and shall enure to the benefit of and be enforceable by the Parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

11.16 Electronic and Counterpart Execution

All Parties agree that this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or electronic form and the Parties adopt any signatures received by email or other electronic delivery as original signatures of the Parties, provided, however, that any Party providing its signature in such manner shall promptly forward to the other Party an original of the signed copy of this agreement which was so electronically delivered.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF the Vendor and the Purchaser have duly executed this Agreement as evidenced by their properly authorized officers as of the day and year first above written.

JMB CRUSHING SYSTEMS INC.

Per: Byron Levkulich
Name: Byron Levkulich
Title: Director

Per: Aaron M. Patsch
Name: Aaron M. Patsch
Title: Director

McDONALD AGGREGATES INC.

Per: _____
Name: Brad McDonald
Title: President

SCHEDULE A
EQUIPMENT

1. D8R 1998 with angle blade - 7XM02813 – \$67,000
2. Lonetrack Power Van 2009 - 1JJV533W99L314662 – \$128,000
3. Set of three (3) KPI 36X70 Stack Pack 2010 Conveyors - 410244, 410245, 410246 – \$56,000
4. Sand Splitter – SS200 – \$13,000

SCHEDULE B
PERMITTED ENCUMBRANCES

None.

Appendix B

**Third Cash Flow Statement
for the 19 Weeks Ending September 11, 2020**

Second Cash Flow Statement (Notes 1)

	<i>Actual</i>	<i>Forecast</i>	<i>Forecast</i>	<i>Forecast</i>	<i>Forecast</i>			
Week #	Weeks 1 - 15	Week 16	Week 17	Week 18	Week 19	Weeks 16-19	Weeks 1 -19	
Week Ending		21-Aug-20	28-Aug-20	4-Sep-20	11-Sep-20	Total	Total	Notes
Opening Cash	\$ -	\$ 1,661,419	\$ 1,922,590	\$ 2,037,590	\$ 1,715,090	\$ 1,661,419	\$ -	
Cash Receipts								
Collection of Canadian Emergency Wage Subsidy	612,786	-	-	-	-	-	612,786	
Collection of Pre-Filing AR - EllisDon (net of lien payouts)	2,031,521	-	-	-	-	-	2,031,521	2
Collection of Pre-Filing AR - MD of Bonnyville	1,477,612	-	154,000	-	-	154,000	1,631,612	3
Collection of Post Filing AR - MD of Bonnyville	1,041,734	524,011	-	-	-	524,011	1,565,745	4
Other Receipts	132,489	-	-	-	-	-	132,489	
Total Receipts	5,296,142	524,011	154,000	-	-	678,011	5,974,153	
Operating Disbursements								
Payroll And Source Deductions	(1,211,670)	(12,000)	(26,500)	(12,000)	(26,500)	(77,000)	(1,288,670)	5,6
Royalties	(407,629)	-	-	-	-	-	(407,629)	
Fuel	(204,404)	-	(500)	-	-	(500)	(204,904)	5
Repair & Maintenance	(48,916)	-	-	-	-	-	(48,916)	
Office Administration	(20,896)	(3,500)	(3,500)	(3,500)	(3,500)	(14,000)	(34,896)	5
Insurance & Benefits	(138,553)	-	-	(23,000)	-	(23,000)	(161,553)	7
Jobsite Lodging	(20,605)	-	-	-	-	-	(20,605)	5
Equipment Loan & Lease Payments	(133,151)	(2,340)	-	-	-	(2,340)	(135,491)	8
Occupancy	(127,345)	-	-	(33,000)	-	(33,000)	(160,345)	9
Other	(23,680)	(1,000)	(1,000)	(1,000)	(1,000)	(4,000)	(27,680)	10
Total Disbursements	(2,336,849)	(18,840)	(31,500)	(72,500)	(31,000)	(153,840)	(2,490,689)	
Non-Operating Receipts & Disbursements								
DIP Financing (Repayment)	(211,188)	-	-	-	-	-	(211,188)	
Professional Fees	(1,086,687)	(244,000)	(7,500)	(250,000)	(7,500)	(509,000)	(1,595,687)	11
Total Disbursements	(1,297,875)	(244,000)	(7,500)	(250,000)	(7,500)	(509,000)	(1,806,875)	
Net Cash Flow	1,661,419	261,171	115,000	(322,500)	(38,500)	15,171	1,676,590	
Ending Cash Balance	\$ 1,661,419	\$ 1,922,590	\$ 2,037,590	\$ 1,715,090	\$ 1,676,590	\$ 1,676,590	\$ 1,676,590	

Notes

- 1 The Third Cash Flow Statement has been prepared to set out the post filing liquidity requirements of JMB Crushing Systems Inc. during the four weeks ending September 11, 2020 under the Companies' Creditors Arrangement Act proceeding (the "CCAA Proceedings") which commenced effective May 1, 2020.
- 2 Cash receipts and timing of payment of pre-filing amounts due from Ellis Don and held by the Monitor are based upon the issuance of the Monitor's Lien Determination Notices and are dependent upon the outcome of any potential disputes.
- 3 Cash receipts and timing of payment of pre-filing amounts due from MD of Bonnyville and held by the Monitor are dependent on the outcome of a Court hearing tentatively being scheduled the week October 19, 2020 in respect of two appeals to the Monitor's Lien Determination Notices.
- 4 Post-filing amounts due from MD of Bonnyville relate to the collection of invoiced amounts for work completed with the timing of receipt of payment based on recent payment terms.
- 5 Active business operations ceased on June 26, 2020 with the completion of the MD of Bonnyville project and the majority of the company's employees were terminated. Forecast operating expenses are based on necessary costs to maintain operations to complete the SISP.
- 6 Payroll and source deductions represent forecast payments to remaining employees for wages.
- 7 Insurance represents monthly payments for the company's general insurance policy which is anticipated to be extended to October 31, 2020.
- 8 Equipment Loan and Lease payments represent scheduled payments for automotive equipment currently being utilized.
- 9 Occupancy represents scheduled monthly payments for the company's Edmonton and Bonnyville premises.
- 10 Other disbursements include miscellaneous payments and contingent costs.
- 11 Professional fees relate to the Company's legal counsel, the Monitor, the Monitor's legal counsel, sale consultant, operational consultant and Chief Restructuring Advisor.