



**FTI Consulting Canada Inc.**  
1000, Sherbrooke Street West  
Suite 915  
Montréal, QC, H3A 3G4  
Canada

Tel.:514-446-5093  
Fax:514-656-0285  
www.fticonsulting.com

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL  
COURT N<sup>o</sup>:500-11-064451-244

SUPERIOR COURT OF QUEBEC  
(Commercial Division)

**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS  
AMENDED OF:**

**MEDXL INC.**

-and-

**LIEBEL-FLARSHEIM CANADA INC.**

-and-

**9431-0091 QUÉBEC INC.**

-and-

**9190-2395 QUÉBEC INC.**

Debtors

-and-

**FTI CONSULTING CANADA INC.**

Monitor

---

**FIFTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

---

## INTRODUCTION

1. On July 25, 2024, MedXL Inc. ("**MedXL**"), Liebel-Flarsheim Canada Inc. ("**Liebel**"), 9431-0091 Québec Inc. ("**9431**") and 9190-2395 Québec Inc. ("**9190**") (collectively, the "**Debtors**") filed an application (the "**Initial Application**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") seeking the issuance by the Superior Court of Québec (the "**Court**") of (i) an initial order (the "**Initial Order**") ordering, *inter alia*, a stay of proceedings against the Debtors, their properties and their directors and officers, the appointment of FTI Consulting Canada Inc. as monitor ("**FTI**" or the "**Monitor**") in the context of such proceedings (the "**CCAA Proceedings**"), the approval of an interim financing term sheet and corresponding interim financing charge, as well as certain other priority charges further described in the Initial Order; (ii) an order (the "**SISP Order**") approving the conduct by the Monitor of a sale and investment solicitation process (the "**SISP**") in respect of the Debtors' business and assets; and (iii) an amended and restated initial order (the "**ARIO**").
2. On July 25, 2024, FTI, in its capacity as proposed Monitor, issued its pre-filing report to the Court (the "**Pre-Filing Report**") as part of the CCAA Proceedings. The purpose of the Pre-Filing Report was to provide information to the Court with respect to (i) FTI's qualification to act as monitor; (ii) the Debtors business, affairs and financial difficulties; (iii) the proposed restructuring efforts to be implemented during the CCAA Proceedings, including the conduct of a SISP; (iv) the Debtors' cash flow forecast; (v) the proposed interim financing facility; (vi) the charges sought in the proposed Initial Order; (vii) the Debtors' request for a declaration that their center of main interest is in Canada; and (viii) the FTI's conclusions and recommendations on the above in its capacity as proposed Monitor.
3. On July 26, 2024, the Court granted, in part, the Initial Application and rendered the Initial Order sought by the Debtors, which provided for, *inter alia*, (i) a stay of proceedings against the Debtors, their properties and their directors and officers until and including August 5, 2024 (the "**Stay Period**"); (ii) the appointment of FTI as Monitor to the Debtors in the context of the CCAA Proceedings; (iii) the approval of an Interim Financing Term Sheet (the "**Interim Financing Term Sheet**") entered into between Vaxiron Inc. ("**Vaxiron**") and Briva Finance (Équité) S.E.C. ("**Briva**"), as co-interim lenders, and the Debtors, as borrowers, as well as the authorization for the Debtors to borrow thereunder an amount of up to \$1,200,000, to be secured by a "**Interim Lenders' Charge**" of \$1,440,000, and (iv) the establishment of an "**Administration Charge**" of \$300,000, and a "**D&O Charge**" of \$300,000.
4. On July 30, 2024, the Debtors' counsel sent an email to the parties on the Service List prepared for the purpose of these CCAA Proceedings advising them of the Court's limited availability for a "*comeback hearing*" on August 5, 2024, and that the Stay Period would therefore be extended by the Court without a court hearing until August 6, 2024, unless a party notified its objection to the Debtors by August 2, 2024, at 2:30 p.m.
5. Since no party notified any objection to the extension of the Stay Period, on August 5, 2024, the Court rendered an order extending the Stay Period until August 6, 2024, and scheduled on such date a "*comeback hearing*" to hear the Debtors' request for the balance of the reliefs sought in the Initial Application.
6. On August 6, 2024, the Court granted the ARIO sought by the Debtors, and ordered, *inter alia*, (i) an extension of the Stay Period until September 19, 2024; (ii) the authorization for the Debtors to borrow under the Interim Financing Term Sheet an amount of up to \$4,000,000, to be secured by an increased Interim Lenders' Charge of \$4,800,000, and (iii) an increase to the quantum of the Administration Charge to an aggregate amount of \$750K, and to the quantum of the D&O Charge to an aggregate amount of \$600K.

7. On August 6, 2024, the Court also granted the SISP Order and approved the conduct by the Monitor of a SISP in accordance with the procedures annexed to the SISP Order (the “**Bidding Procedures**”).
8. On September 20, 2024, the Court granted a second amended and restated initial order (the “**Second ARIO**”) sought by the Debtors, and ordered, *inter alia*, (i) an extension of the Stay Period until October 25, 2024, (ii) the authorization for the Debtors to borrow, under a Supplemental Interim Financing Term Sheet entered into between the Debtors and Briva, an additional amount of up to \$1,900,000, to be secured by a Supplemental Interim Lender Charge of \$2,280,000, which would be subordinated to the Interim Lenders’ Charge. Since the issuance of the Second ARIO, Vaxiron has assigned its rights under the Interim Financing Term Sheet to Briva, such that as currently stand, Briva is the only Interim Lender in these CCAA Proceedings and shall therefore be referred to herein and going forward as the “**Interim Lender**”.
9. On October 23, 2024, the Debtors’ counsel sent an email to the parties on the Service List prepared for the purpose of these CCAA Proceedings advising them of the Court’s limited availability for a court hearing on October 25, 2024, and that the Stay Period would therefore be extended by the Court without a court hearing until November 22, 2024, unless a party notified its objection to the Debtors by October 24, 2024, at 3:00 p.m.
10. Since no party notified any objection to the extension of the Stay Period, on October 25, 2024, the Court rendered an order extending the Stay Period until November 22, 2024.
11. The purpose of this Fifth Report of the Monitor (the “**Fifth Report**”) is to provide an update to the Court with respect to:
  - (a) Update on the operations of the Debtors;
  - (b) The Debtors’ cash flow results for the period ended November 17, 2024;
  - (c) The Debtor’s weekly cash-flow projections for the period ending on January 26, 2025 (the “**January 26 Forecast**”);
  - (d) Update on the conduct of the SISP;
  - (e) Description of the Proposed Transactions;
  - (f) The Monitor’s observations and recommendations with respect to the Proposed Transactions;
  - (g) The Monitor’s observations and recommendations with respect to the releases sought as part of the Approval and Vesting Order;
  - (h) The Debtors’ Application for an Extension of the Stay of Proceedings; and
  - (i) The Monitor’s conclusions and recommendations on the Debtors’ Application for an Approval and Vesting Order and an Extension of the Stay of Proceedings (the “**Application**”).
12. The present Fifth Report should be read in conjunction with the Monitor’s Pre-Filing Report dated July 25, 2024, its Second Report dated August 5, 2024, its Third Report dated September 18, 2024 and its Fourth Report dated October 23, 2024.

#### **TERMS OF REFERENCE**

13. In preparing this Fifth Report, the Monitor has relied upon unaudited financial information of the Debtors, the Debtors’ books and records, certain financial information prepared by the Debtors and discussions with various parties (the “**Information**”).

14. Except as otherwise described in this Fifth Report:
  - (a) 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; and
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Fifth Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
15. Future oriented financial information reported or relied on in preparing this Fifth Report is based on the assumptions of the management of the Debtors ("**Management**") regarding future events; actual results may vary from forecasts and such variations may be material.
16. Unless otherwise stated, all monetary amounts contained herein are expressed in **Canadian Dollars**.

#### **UPDATE ON THE OPERATIONS OF THE DEBTORS**

17. Since the issuance of the Fourth Report, the Debtors continued to operate their production lines 1 to 5.
18. In fact, as indicated to the Court by the Monitor in previous reports, including in the Fourth Report, one of the proposed restructuring measures of the Debtors was to progressively recall the majority of their employees who were temporarily laid off on July 12, 2024, so as to proceed with a gradual relaunch of their operations. As such, as of the date of this Fifth Report, 132 employees of the Debtors have been recalled, out of approximately 150 employees, and their unpaid wages and salaries for the payroll that was payable on June 28, 2024, have been paid.

#### **THE DEBTORS' CASH FLOW RESULT FOR THE FOUR-WEEK PERIOD ENDED ON NOVEMBER 17, 2024**

19. Appendix B of the Fourth Report set out the Debtors' cash flow projection for the period ending November 24, 2024 (the "**November 24 Forecast**").
20. The Debtors' actual cash flow for the four-week period ended on November 17, 2024, is compared to the November 24 Forecast in the table attached hereto as **Appendix A**.
21. The Debtors' closing cash balance as at November 17, 2024, was \$856K, which constitutes a favourable variance of approximately \$681K. The Monitor has the following comments regarding the key elements of the Debtors' cash flow to November 17, 2024:
  - (a) Net receipts were \$133K lower than projected. This negative variance is mainly due to timing since some clients paid earlier than anticipated in previous weeks.
  - (b) Net disbursements were approximately \$814K lower than projected, primarily due to timing:
    - (i) Raw materials – Other (\$66K), this positive variance is permanent and is mainly due to the fact that raw material requirements were lower than anticipated.

- (ii) Professional fees – MCT and RCGT (\$773K), this positive variance is mainly due to timing because invoices were not received. The payment will be made in the upcoming weeks.

22. As requested by the Court, the following table presents a summary of the professional fees incurred as at November 17, 2024:

MedXL Inc., Liebel-Flarsheim Canada Inc., 9431-0091 Québec Inc. and 9190-2495 Québec Inc.	Paid as at Oct. 13, 2024 <sup>(1)</sup>	Paid between Oct. 14 and Nov. 17, 2024 <sup>(1)</sup>		Total <sup>(1)</sup>	Budget
		To be Paid <sup>(1)</sup>			
Professional fees up November 17, 2024	\$	\$	\$	\$	
Fasken Martineau DuMoulin	386,840	157,249	143,000	687,089	803,000
FTI Consulting Canada	579,732	79,479	98,220	757,431	643,000
FTI Capital Advisors	341,544	98,615	60,115	500,274	681,000
Stikeman Elliott	106,456	-	207,221	313,677	527,000
Other	43,956	4,599	6,000	54,555	36,000
	1,458,528	339,942	514,555	2,313,025	2,690,000
McCarthy Tétrault	277,662	32,385	42,681	352,728	485,000
Raymond Chabot Grant Thornton	91,563	-	28,263	119,826	213,000
	369,225	32,385	70,944	472,554	698,000
	1,827,753	372,327	585,499	2,785,579	3,388,000

<sup>(1)</sup> All amounts include taxes

23. As of the date of this Fifth Report, all post-filing expenses incurred by the Debtors have been or will be paid in the normal course of business out of the existing working capital of the Debtors.

#### THE DEBTORS' WEEKLY CASH-FLOW PROJECTIONS FOR THE PERIOD ENDING ON JANUARY 26, 2025

24. MedXL, with the assistance of the Monitor, has prepared the January 26 Forecast for the ten-week period ending on January 26, 2025 (the "Cash Flow Period") for the purpose of projecting MedXL's estimated liquidity needs during the Cash Flow Period.

25. The January 26 Forecast shows a net cash outflow of approximately \$856K for the Cash Flow Period, as summarized below:

<b>Week starting Week ending</b>	<b>18/Nov 24/Nov</b>	<b>Post closing / Transition period</b>	<b>Total</b>
<b>Receipts</b>			
Canadian receivables	61	-	61
Euro receivables	167	-	167
Accounts receivable beginning balance	-	-	-
<b>Total receipts</b>	<b>228</b>	<b>-</b>	<b>228</b>
<b>Disbursements</b>			
Sterilization - Nordion	41	-	41
Raw materials - Other	10	-	10
Transportation - Containers	2	-	2
Energy	20	-	20
Repair, maintenance & operating supplies	34	-	34
Insurance	60	-	60
Professional fees	670	225	895
Other interim lender expenses and fees	22	-	22
<b>Total Disbursements</b>	<b>859</b>	<b>225</b>	<b>1,084</b>
<b>Net cash variation</b>	<b>(631)</b>	<b>(225)</b>	<b>(856)</b>
Cash balance at beginning	856	225	856
<b>Cash balance at end</b>	<b>225</b>	<b>-</b>	<b>-</b>

26. The forecasted cash balance at the end of the week ending November 24, 2024 will be used to cover the professional fees during the post-closing transition period. This amount excludes the proceeds coming from the Proposed Transactions as defined below, which will be distributed in accordance with a distribution order to be rendered hopefully in the week of November 25, 2024.
27. Since the January 26 Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the January 26 Forecast will be achieved.

#### **UPDATE ON THE CONDUCT OF THE SISP**

28. Since the granting by the Court of the SISP Order, the Monitor and its affiliate, FTI Capital Advisors LLC (“**FTICA**”), with the assistance of the Debtors, and in consultation with the Senior Secured Creditors, have been conducting the SISP in accordance with the Bidding Procedures. Capitalized terms used in this section have the meaning ascribed to them in the SISP Order.

29. Pursuant to the Bidding Procedures, the following milestones were to be implemented as part of the SISP:

Event	Deadline
Approval of the SISP	August 6, 2024
<b>Phase 1</b>	
1. Distribution of Solicitation Letter to potentially interested Parties	August 12, 2024
2. Access to CIM and VDR	August 12, 2024
3. Vaxiron Offer Deadline	August 12, 2024
4. Review by Monitor, Debtors and Secured Creditors and answer on Vaxiron Offer	August 16, 2024
5. Phase 1 Bid Deadline (non-binding LOIs)	September 12, 2024, at 5:00 p.m.
6. Identification and notification in respect of Phase 1 Successful Bids	September 16, 2024
<b>Phase 2</b>	
7. Phase 2 Bid Deadline (firm offers)	October 10, 2024
8. Selection of successful Bids or Auction (if multiple Phase 2 Bids)	October 17, 2024
9. Definitive Documentation	October 24, 2024
10. Approval Application	October 29, 2024
11. Closing	October 30, 2024
12. Outside Closing Date	November 7, 2024

30. As indicated in previous reports, the SISP and the SISP Procedures were developed by the Monitor in consultation and with the support of the Senior Secured Creditors and the Interim Lender.

31. As part of the SISP, an extensive marketing and solicitation process was undertaken by the Monitor and FTICA. The efforts undertaken as part of the SISP are summarized below:

- (a) The Monitor, assisted by FTICA and the Debtors, and in consultation with the Senior Secured Creditors, assembled a list of **249 potential buyers and investors** (the “**Prospective Bidders**”). The Prospective Bidders included both strategic purchasers and financial investors and any additional potential interested parties that were not originally included in the list that came forward during the SISP;
- (b) The Monitor, assisted by FTICA, and together with the Debtors, prepared and sent a “teaser” and NDA to all Prospective Bidders on or about August 12, 2024;
- (c) Prospective Bidders that executed an NDA were provided with a CIM and access to the VDR; in total, **43 interested parties executed the NDA**. The remaining Prospective Bidders either decided not to pursue the opportunity prior to signing an NDA or did not respond despite efforts by the Monitor to follow up;
- (d) As set out in the SISP, the deadline to submit a non-binding letter of intent by any interested bidder was 5:00 p.m. (Eastern Time) on September 12, 2024 (the “**Phase 1 Bid Deadline**”);
- (e) Non-binding letters of intent were received by the Phase 1 Bid Deadline (the “**LOIs**”);

- (f) Following the receipt of the LOIs, the Monitor, together with FTICA, sought certain clarifications with respect to some of the terms and conditions of such LOIs;
- (g) On September 16, 2024, after a review of the LOIs received, the Monitor, in consultation with FTICA, the Debtors and the Senior Secured Creditors, advised the offerors under the LOIs that they had been qualified to proceed to Phase 2 of the SISP;
- (h) As indicated in paragraph 29 above, the Phase 2 Bid Deadline was initially set on October 10, 2024. However, following requests received from certain Phase 2 Qualified Bidders, the Monitor, in consultation with the Debtors and, with the support of the Interim Lender and the Senior Secured Creditors, agreed to extend the Phase 2 Bid Deadline to October 15, 2024 (the “**Revised Phase II Bid Deadline**”) and the deadline to select a successful bid to October 22, 2024. A summary table providing a description of the results of the SISP as at the Revised Phase II Bid Deadline is attached hereto under confidential **Appendix B** (under seal), in respect of which a sealing order will be sought by the Debtors;
- (i) Following the Revised Phase II Bid Deadline, the Monitor and the Debtors reviewed and assessed the results of the SISP and held numerous discussions with the Interim Lender and the Senior Secured Creditors, and, with their support, on October 22, 2024, the Monitor designated Amsino Medical Group Holdings Company Limited (“**Amsino**”) as the Successful Bidder and its offer submitted in the context of the SISP (the “**Amsino Binding Offer**”) as the Successful Bid;
- (j) In the weeks following the designation of the Amsino Binding Offer as the Successful Bid, the Debtors, with the assistance of the Monitor, have worked on finalizing the relevant contractual documents in order to reflect the transactions contemplated under the Amsino Binding Offer (the “**Proposed Transactions**”);
- (k) On November 18, 2024, the Monitor was advised that Amsino had executed a *Subscription Agreement* (the “**Subscription Agreement**”) and an *Asset Purchase Agreement* (the “**APA**”), the materials of which (with the exception of the subscription or purchase price) will be further described below.

32. The Proposed Transaction, if approved by the Court and implemented, will allow the pursuit of the Debtors’ operations as a going concern and ensure the continued employment of approximately 150 employees.

## DESCRIPTION OF THE PROPOSED TRANSACTIONS

### A. Overview of the Proposed Transactions

33. As part of the Proposed Transactions, and subject to the issuance of the Approval and Vesting Order sought by the Debtors as part of the Application (the “**Approval and Vesting Order**”), Amsino, or certain entities affiliated to Amsino, will in essence:
- (a) subscribe to new shares of MedXL, with (i) all of the currently issued and outstanding shares in the share capital of MedXL being cancelled and (ii) all or substantially all of the assets of MedXL being indirectly acquired free and clear of all encumbrances (except permitted encumbrances), by way of a reverse vesting order to be rendered by the Court, all in accordance with the terms and conditions set out in the Subscription Agreement;



- (b) acquire all or substantially all of the assets of LFC, on a free and clear of all encumbrances (except permitted encumbrances), by way of an approval and vesting order to be rendered by the Court, all in accordance with the terms and conditions set out in the APA; and
  - (c) acquire all the immovable property owned by 9431-0091 Québec Inc. located at 7500 Trans-Canada Highway, Pointe-Claire, Québec (the “Trans-Canada Property”), by way of an approval and vesting order to be rendered by the Court, all in accordance with the terms and conditions set out in the APA.
34. Below is a more detailed description of the Proposed Transactions, as contemplated in the Subscription Agreement and in the APA.

**B. The MedXL Share Transaction**

35. Pursuant to the Subscription Agreement, 9528-0509 Quebec Inc. (the “**Hybrid Purchaser**”), a company affiliated to Amsino, and MedXL will implement, through a “*reverse vesting structure*”, the following transactions, all in accordance with the “Closing Sequence” set forth in the restructuring step memorandum annexed to the Subscription Agreement (the “**MedXL Share Transaction**”):
- (a) The Hybrid Purchaser will pay to the Monitor’s trust account the subscription price contemplated in the Subscription Agreement (the “**Share Subscription Price**”);
  - (b) MedXL will repurchase and cancel, for no consideration, all of the issued and outstanding shares in its share capital as at the date of closing of the transaction contemplated in the Subscription Agreement;
  - (c) 9528-0509 Quebec Inc., a company affiliated to Amsino, will then subscribe, on an “as is, where is” to a number of common shares to be issued by MedXL, which, upon closing of the transactions contemplated under the Subscription Agreement, will represent 100% of the equity interest in MedXL;
  - (d) All Excluded Assets and Excluded Contracts (as such terms are defined in the Subscription Agreement) will be transferred to, and vest into, 9528-1986 Québec Inc. (“**ResidualCo2**”), a residual company incorporated for the purpose of the MedXL Share Transaction;
  - (e) All Excluded Liabilities (as such terms are defined in the Subscription Agreement) will be transferred to, and vest into, 9528-1960 Québec Inc. (“**ResidualCo1**”), a second residual company incorporated for the purpose of the MedXL Share Transaction.
36. As part of the MedXL Share Transaction, the Hybrid Purchaser will also cause MedXL to:
- (a) retain substantially all of the employees currently employed by MedXL (the “**MedXL Assumed Employees**”), and assume all unpaid wages and vacations owing to such MedXL Assumed Employees;

- (b) retain several contracts to which MedXL is a party to (the “**MedXL Assumed Contracts**”), excluding, for greater certainty, the “**Excluded Contracts**” listed in the Subscription Agreement, and, where applicable, pay, from the Share Subscription Price, all amounts necessary to cure any monetary defaults under the MedXL Assumed Contracts, other than those monetary defaults arising only by reason of the Debtors’ insolvency, the commencement of the CCAA Proceedings, or the failure to perform a non-monetary obligation, and other amounts expressly provided by the Approval and Vesting Order sought by the Debtors, as the case may be (the “**Cure Costs**”). For a period of forty-five (45) days following the closing of the MedXL Share Transaction, the Hybrid Purchaser shall have the right, subject to the mechanism set out in the Approval and Vesting Order, to designate any additional contracts to which MedXL is a party to and which were not previously designated as MedXL Assumed Contracts (each an “**Additional MedXL Assumed Contract**”), provided that the Hybrid Purchaser assumes and pay any Cure Costs in relation to any such Additional MedXL Assumed Contract, in addition to the Share Subscription Price. The Approval and Vesting Order sought by the Debtors provides for a mechanism (the “**Post-Closing Additional Contract Assumption Mechanism**”), which will allow a co-contracting party to an Additional MedXL Assumed Contract to be advised, if applicable, of the Hybrid Purchaser’s decision to assume any such Additional MedXL Assumed Contract, and to oppose to the assumption of such Additional MedXL Assumed Contract.
37. The MedXL Share Transaction is not subject to any due diligence or financing condition. Rather, it is subject to customary closing conditions (including the issuance by the Court of the Approval and Vesting Order), as well as a condition with respect to the closing of the LFC and 9431 Asset Transaction (as defined below), and a condition that the Hybrid Purchaser receives a confirmation that the lease agreement entered into by MedXL for the property located at 283-285 Labrosse Avenue, in Pointe-Claire, Québec (the “**Labrosse Property**”), may be extended for a term extension of at least one year, on terms and conditions that are at least as favourable to MedXL as those currently set out under such lease. With respect to the latter condition, the Monitor has been advised that there has been several discussions between the Hybrid Purchaser and the landlord of the Labrosse Property, and, based on such discussions, the parties do not expect any issue in meeting such condition.

### C. The LFC and 9431 Asset Transaction

38. Pursuant to the APA, the Hybrid Purchaser and 9528-0475 Québec Inc. (the “**Asset Purchaser**”), another company affiliated to Amsino, will implement, through a traditional “*vesting structure*”, the following transactions with respect to LFC’s assets (the “**LFC and 9431 Asset Transaction**”):
- (a) The Hybrid Purchaser and the Asset Purchaser will pay to the Monitor’s trust account the purchase price contemplated in the APA (the “**Asset Purchase Price**”);
  - (b) The Hybrid Purchaser will acquire all or substantially all of the assets of LFC, free and clear of any and all encumbrances, except for the permitted encumbrances specifically listed in the APA and in the Approval and Vesting Order sought by the Debtors; and
  - (c) The Asset Purchaser will acquire the Trans-Canada Property owned by 9431, free and clear of any and all encumbrances, except for the permitted encumbrances specifically listed in the APA and in the Approval and Vesting Order sought by the Debtors.

39. As part of the LFC and 9431 Asset Transaction, the Hybrid Purchaser will:
- (a) engage substantially all of the employees currently employed by LFC (the “**LFC Assumed Employees**”), and assume all unpaid wages and vacations owing to such LFC Assumed Employees;
  - (b) assume several contracts to which LFC is a party to (the “**LFC Assumed Contracts**”), excluding, for greater certainty, the “**Excluded Contracts**” listed in the APA, and, where applicable, pay, from the Asset Purchase Price, all Cure Costs under the LFC Assumed Contracts. For a period of forty-five (45) days following the closing of the LFC and 9431 Asset Transaction, the Hybrid Purchaser shall also have the right, subject to the Post-Closing Additional Contract Assumption Mechanism set out in the Approval and Vesting Order, to designate any additional contracts to which LFC is a party to and which were not previously designated as LFC Assumed Contracts (each an “**Additional LFC Assumed Contract**”), provided that the Hybrid Purchaser assumes and pay any Cure Costs in relation to any such Additional LFC Assumed Contract, in addition to the Asset Purchase Price.
40. The LFC and 9431 Asset Transaction is not subject to any due diligence or financing condition. Rather, it is only subject to customary closing conditions (including the issuance by the Court of the Approval and Vesting Order), as well as a condition with respect to the closing of the MedXL Share Transaction.

## **THE MONITOR’S OBSERVATIONS & RECOMMENDATIONS ON THE PROPOSED TRANSACTIONS**

### **A. Structure of the Proposed Transactions**

41. As previously mentioned, while the LFC and 9431 Asset Transaction has been structured as an asset transaction pursuant to which the Hybrid Purchaser and the Asset Purchaser, as applicable, will acquire substantially all of the assets of LFC and 9431 on a free and clear basis, with all Excluded Liabilities and Excluded Contracts (as such terms are defined in the APA) left “behind” in the respective estates of LFC and 9431, the MedXL Share Transaction has been structured as a “reverse vesting structure” pursuant to which the Hybrid Purchaser will acquire 100% of the equity interest in MedXL, and all Excluded Liabilities and Excluded Contracts (as such terms are defined in the Subscription Agreement) will be transferred and vest into a residual company incorporated for the purpose of the MedXL Share Transaction.
42. As such, as part of its consideration of the Proposed Transactions, and, more specifically, the MedXL Share Transaction, the Monitor has reviewed the following questions:
- (a) Why is the “reverse vesting structure” necessary in this case?
  - (b) Does the “reverse vesting structure” produce an economic result at least as favourable as any other viable alternative (including, for example, an asset transaction)?
  - (c) Is any stakeholder worse off under the “reverse vesting structure” than it would have been under any other viable alternative (including, for example, an asset transaction)?
  - (d) Does the consideration being paid for MedXL’s business reflect the importance and value of the licenses and permits (or other intangible assets) being preserved under the “reverse vesting transaction”?

43. In the matter at hand, the Monitor understands and is of the view that the “reverse vesting structure” contemplated in the MedXL Share Transaction is necessary, namely for the following reasons:
- (a) The sector in which MedXL operates requires the maintenance of several licenses, permits and certifications issued by various local and foreign governmental agencies, without which MedXL cannot operate and sell pre-fill syringes in over 60 countries;
  - (b) For instance, MedXL holds several licenses and permits issued by Health Canada (“HC”), CE Certification in the European Union (“CE”) and the Food and Drug Administration (“FDA”) in the USA;
  - (c) Should the purchaser be required to apply for the issuance of new licenses, permits and certifications, it is expected that significant delays will be encountered. In fact, as indicated in the Monitor’s Pre-Filing Report, approvals from HC, CE and the FDA have taken, in certain instances, more than a year for MedXL to obtain;
  - (d) In this case, any delay in the closing and implementation of the MedXL Share Transaction will, *inter alia*:
    - (i) negatively impact the ability of MedXL to secure orders from their respective clients or potential clients for the sale of prefilled syringes, thereby compromising their respective operations in the months to come;
    - (ii) require additional interim financing to be advanced, thereby reducing (potentially significantly) the recovery for the Debtors’ creditors; and
    - (iii) delay the implementation of the LFC and 9401 Asset Transaction as the closing thereof is conditional upon, *inter alia*, the closing of the MedXL Share Transaction.
44. As such, the “reverse vesting structure” is necessary to allow MedXL (and the successor to LFC) to continue its operations uninterrupted, whereas under a traditional vesting structure, there will be significant delays and risks associated with transferring those licenses, permits and certifications, which the purchaser is not willing to entertain.
45. In addition, the reverse vesting order structure will also avoid any delays or significant costs associated with the assignment of the retained contracts and the purchaser will assume any liabilities in respect of such assumed contracts.
46. With respect to the economic results which are expected to be produced by the “reverse vesting structure” contemplated as part of the MedXL Share Transaction, the Monitor notes that:
- (a) “reverse vesting structure” produce an economic result at least as favourable as any other viable alternative (including, for example, a traditional asset transaction); and
  - (b) No stakeholder is worse off under the “reverse vesting structure” than it would have been under any other viable alternative (including, for example, a traditional asset transaction).
47. As an example, as previously discussed, although none of the Assumed Contracts (as such terms are defined in the Subscription Agreement) will be assigned, *per se*, as part of the “reverse vesting structure” contemplated in the MedXL Share Transaction, the Hybrid Purchaser has nonetheless agreed to pay, as part of the Share Subscription Price, the applicable Cure Costs in relation to such Assumed Contracts so as to allow the co-contracting parties to such contracts to be in the same position than they would have been under a traditional asset transaction.

48. In this case, the Monitor believes that the “reverse vesting structure” contemplated in the MedXL Share Transaction will in fact produce a more favourable economic result for all stakeholders, given the delays in which such transaction may be implemented, in comparison with another viable alternative such as a traditional asset transaction which could require, as previously discussed, up to a year in delay as well as additional interim financing.
49. Ultimately, the SISP has demonstrated that the net realizable value of the business and assets of MedXL and of the other Debtors does not exceed the amount of their secured debt such that there is no prospect for recovery for any of the Debtors’ unsecured creditors, regardless of the structure employed.
50. Moreover, it should be noted that the “reverse vesting structure” is supported by the Debtors’ Senior Secured Creditors and the Interim Lender, which are the principal parties with an economic interest in the Proposed Transactions.
51. Finally, considering the results of the SISP, the Monitor is of the view that the Share Subscription Price payable for MedXL’s business reflects the importance and value of the licenses, permits, certifications, regulatory approval, intellectual property (and other intangible assets) being preserved under the “reverse vesting transaction”.
52. For these reasons, the Monitor is of the opinion that the “reverse vesting structure” is not only reasonable and justified in the circumstances, but it is also more appropriate and beneficial than a traditional vesting structure.

**B. The Effects of the Proposed Transactions on the Debtors’ Creditors and Other Stakeholders**

53. The Monitor believes that the Proposed Transactions provide for the following benefits to the Debtors’ creditors and other stakeholders:
  - (a) The consideration payable by the purchaser as part of the Proposed Transactions will allow the Debtors’ secured creditors to maximize their respective recoveries;
  - (b) The assumption by the purchaser of the Assumed Contracts (as such terms are defined in both the Subscription Agreement and the APA) will allow for a payment of all Cure Costs owing to the co-contracting parties to such contracts;
  - (c) The implementation of the Proposed Transactions will result in the continuation of MedXL’s and LFC’s respective businesses as a going concern which, in turn, will allow, *inter alia*:
    - (i) a substantial portion of MedXL and LFC’s employees to maintain their employment (152 out of 154);
    - (ii) the pursuit of MedXL and LFC’s economic activities to be maintained (and further developed), which will benefit their respective suppliers and clients, who will all benefit from an uninterrupted supply of essential products.

**C. The Consideration Payable as Part of the Proposed Transactions and Comparison with a sale in bankruptcy**

54. The Monitor has considered the Share Subscription Price and the Asset Purchase Price payable as part of the Proposed Transactions, and whether such transactions would be more beneficial to the Debtors' creditors and stakeholders generally, in comparison with a sale or disposition of their assets in the context of a bankruptcy liquidation.
55. Given the result of the SISP and the nature of MedXL and LFC's assets, the Monitor is of the view that:
- (a) the Share Subscription Price and the Asset Purchase Price payable as part of the Proposed Transactions are reasonable and fair, taking into account their market value; and that
  - (b) a bankruptcy liquidation is unlikely to result in a better outcome for the Debtors' creditors and other stakeholders.
56. In fact, although certain secured creditors of the Debtors will suffer a shortfall following the implementation of the Proposed Transactions, the Monitor is of the view that such creditors (and potentially other secured creditors) would suffer an even greater shortfall, should the Debtors' assets be liquidated in the context of a bankruptcy scenario, without mentioning the fact that such bankruptcy would, *inter alia*:
- (a) Put an end to the going concern operations of MedXL and LFC;
  - (b) Result in approximately 150 employees to lose their employment; and
  - (c) Cause additional delays and uncertainty in connection with the realization of MedXL and LFC's assets, and significantly diminish their market value.
57. Accordingly, it is the Monitor's view that a sale or disposition of MedXL and LFC's assets in a bankruptcy would not be more beneficial than proceeding with the implementation and closing of the Proposed Transactions.

**D. Reasonableness of the SISP**

58. As previously discussed in prior reports of the Monitor, including the Second Report to the Court, the SISP and related SISP Procedures were prepared by the Monitor and FTICA, in consultation with the Debtors' Senior Secured Creditors and the Interim Lenders (at the time of the preparation of the SISP, the Interim Lenders included Briva and Vaxiron).
59. The SISP (including its milestones) was prepared taking into consideration the nature of the Debtors' business and assets, as well as the limited liquidities of the Debtors and the funding made available to them as part of the Interim Financing Agreement. Based on the foregoing, the Monitor was (and remains) of the opinion that the SISP (including its milestones), which was recommended by the Monitor and approved by the Court, was reasonable in the circumstances.

**E. Consultation with Creditors**

60. Since the commencement of the CCAA Proceedings, and throughout the conduct of the SISP, the Debtors Senior Secured Creditors have been consulted and kept apprised of all material development in connection with the Debtors' restructuring efforts, including their efforts to sell their respective assets and businesses, as a going concern.

61. In fact, as previously mentioned, prior to designating Amsino as the Successful Bidder in the context of the SISP, and prior to executing the Subscription Agreement and the APA, the Debtors and the Monitor consulted with and sought the approval of the Senior Secured Creditors, which approval was confirmed.
62. As such, the Monitor is of the view that the degree of creditor consultation was appropriate in the circumstances, particularly in the context where the Senior Secured Creditors hold more than 85% of the Debtors' secured debt.

**F. The Monitor's Recommendation with respect to the Proposed Transactions**

63. The Monitor is of the view that the market was canvassed adequately and extensively through the SISP during the CCAA Proceedings.
64. At the conclusion of the Phase 2 Bid Deadline, the Amsino Binding Offer was determined to be the best option available in the circumstances.
65. The Monitor is further of the view that:
  - (a) The aggregate consideration provided for under the Subscription Agreement and the APA is fair and reasonable in the circumstances as it has been established via a SISP, which is the best available indicator of the market value of the Debtors' business and assets; and
  - (b) There is no evidence to suggest that any viable alternative exists that would deliver a better outcome for the Debtors' creditors and other stakeholders.
66. Based on the foregoing, the Monitor considers that the approval of the Proposed Transactions on the terms set forth in the Subscription Agreement and the APA is in the best interests of the stakeholders generally and the Monitor supports the Debtors' request for the issuance of an Approval and Vesting Order.
67. The Monitor understands that the Debtors will request to pay the amounts owing to the Interim Lender as soon as the Court approves the Proposed Transactions (if applicable) and these Proposed Transactions closed in order to limit the accrual of interest on the Interim Financing Term Sheet.
68. The Senior Secured Creditors have been consulted and the Monitor understands that such Senior Secured Creditors support the approval of the Subscription Agreement and of the APA, as well as the implementation of the Proposed Transactions contemplated thereunder.

**THE MONITOR'S OBSERVATIONS & RECOMMENDATIONS ON THE RELEASES SOUGHT AS PART OF THE APPROVAL AND VESTING ORDER**

69. As appears from the Application and from the draft Approval and Vesting Order sought by the Debtors, the Debtors also seek the issuance of a release in favour of, *inter alia*, their directors and officers of the Applicants and the Monitor.
70. The Monitor is supportive of such relief, which it considers justified, fair and appropriate, for the reasons summarized below and as detailed in the Application.
71. The directors and officers who are still presently acting in such capacities ("**D&Os**"), together with the other proposed beneficiaries of the aforementioned releases, have been instrumental in the context of these CCAA Proceedings, including with respect to the conduct of the SISP.

72. More specifically, such parties have played a significant role in:
- (a) Securing the interim financing required to maintain the Debtors' operations during the CCAA Proceedings and to implement the SISP;
  - (b) Continuing to maintain the Debtors' business as a going concern notwithstanding the pendency of the CCAA Proceedings, including maintaining relationships with employees, suppliers and customers;
  - (c) Implementing the SISP; and
  - (d) Securing the Proposed Transactions which, if approved by the Court, will result in a successful outcome for the Debtors and, more importantly, for the Debtors' creditors and other stakeholders, including their employees.
73. The D&Os and the other beneficiaries of the above-mentioned releases have clearly contributed a considerable time, energy and resources to achieve this successful outcome.
74. The Monitor has also been advised by the purchaser that it believes that the releases sought in favour of the D&Os are an important part of the Proposed Transactions given that:
- (a) The releases will allow the discharge of the D&O Charge and therefore allow for the immediate release of a portion of the cash purchase price to the Debtors' secured creditors, subject to a distribution order to be rendered by this Court; and
  - (b) The purchaser count on Mr. Parisien to play an important role in the restructured business and its future success, which would be compromised if Mr. Parisien had to live under the cloud of potential past liabilities.
75. The scope of the releases is also sufficiently narrow as the releases carve out any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA and claims arising from fraud or willful misconduct.
76. In light of the foregoing, the Monitor believes that the above-mentioned releases are appropriate in the circumstances and an important component of the Proposed Transactions.

#### **EXTENSION OF THE STAY PERIOD**

77. The Stay Period is currently set to expire on November 22, 2024.
78. The Debtors are seeking an extension of the Stay Period until January 23, 2025, in order to:
- (a) Finalize the Proposed Transactions and allow the purchaser to designate any additional contracts to which MedXL or LFC are a party to and which were not previously designated as MedXL Assumed Contracts or LFC Assumed Contracts;
  - (b) The distribution of the proceeds resulting from the Proposed Transactions in accordance with a distribution order to be sought from the Court.



## THE MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

79. In light of the foregoing, the Monitor recommends that the Proposed Transactions be approved by the Court in accordance with the Approval and Vesting Order sought by the Debtors.
80. The Monitor is also of the view that the extension of the Stay Period up to January 23, 2025, is appropriate to allow the Debtors to finalize the Proposed Transactions (if applicable).

The Monitor respectfully submits to the Court this Fifth Report.

DATED AT MONTRÉAL, this 19th day of November 2024

**FTI Consulting Canada Inc.**

In its capacity as Monitor of MedXL Inc.,  
Liebel-Flarsheim Canada Inc., 9431-0091 Québec Inc. and  
9190-2395 Québec Inc.



---

Martin Franco, CPA, CIRP, LIT  
Senior Managing Director

## Appendix A

MedXL Inc., Liebel-Flarsheim Canada Inc.,  
9431-0091 Québec Inc. and 9190-2495 Québec Inc.  
For the four-week period ended November 17, 2024  
Budget to Actual

Actual	Budget	Variance
--------	--------	----------

### Receipts

Canadian receivables	892	1,137	(245)
Euro receivables	192	80	112

<b>Total receipts</b>	<b>1,084</b>	<b>1,217</b>	<b>(133)</b>
-----------------------	--------------	--------------	--------------

### Disbursements

Sterilization - Nordion	145	142	(3)
Raw materials - Other	34	100	66
Transportation - Containers	2	8	6
Payroll	511	535	24
Rent	298	297	(1)
Energy	28	52	24
Repair, maintenance & operating supplies	234	176	(58)
Insurance	62	58	(4)
Professional fees	340	991	651
Professional fees - MCT and RCGT	33	155	122
Bank fees	1	1	-
DIP interest	61	61	-
Other interim lender expenses and fees	5	-	(5)
Foreign exchange loss (gain)	8	-	(8)

<b>Total disbursements</b>	<b>1,762</b>	<b>2,576</b>	<b>814</b>
----------------------------	--------------	--------------	------------

<b>Net cash variance</b>	<b>(678)</b>	<b>(1,359)</b>	<b>681</b>
--------------------------	--------------	----------------	------------

DIP Funding	-	-	-
-------------	---	---	---

Cash balance at beginning	1,534	1,534	-
---------------------------	-------	-------	---

<b>Cash balance at end</b>	<b>856</b>	<b>175</b>	<b>681</b>
----------------------------	------------	------------	------------

**Appendix B**  
**(under seal)**