

SUPERIOR COURT
(Commercial Division)

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

NO: 500-11-065405-256

DATE: March 19, 2025

PRESIDING: THE HONOURABLE ANDRES C. GARIN, J.S.C.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC
1985, C C-36 OF:**

PELICAN INTERNATIONAL INC.

-and-

PELICAN US TOPCO LLC

-and-

CONFLUENCE OUTDOOR INC.

Debtors

AND

NATIONAL BANK OF CANADA

Applicant

AND

FTI CONSULTING CANADA INC.

Monitor

COPIE CERTIFIÉE CONFORME AU
DOCUMENT DÉTENU PAR LA COUR



PERSONNE DÉSIGNÉE PAR LE GREFFIER
EN VERTU DE 67 C.P.C.

SALE AND INVESTMENT SOLICITATION PROCESS ORDER

- [1] **CONSIDERING** the *Application for the Issuance of an Initial Order, an Amended and Restated Initial Order and a Sale and Investment Solicitation Process Order* (the "**Application**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") dated March 18, 2025 of National Bank of Canada, in its capacity as

lender and administrative agent, collateral agent and hypothecary representative (the "**Agent**") of Bank of Montreal, Fédération des Caisses Desjardins du Québec and The Toronto-Dominion Bank, in their capacity as lenders, and the exhibits in support thereof;

- [2] **CONSIDERING** the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**" or the "**Monitor**") dated March 18, 2025, in its capacity as proposed Monitor;
- [3] **CONSIDERING** the submissions of counsel present at the hearing on the Application and the testimony of the witnesses heard;
- [4] **GIVEN** the Initial Order rendered this day (the "**Initial Order**") with respect to Pelican International Inc. ("**Pelican International**"), Pelican US Topco LLC and Confluence Outdoor Inc (the "**Debtors**");
- [5] **CONSIDERING** that the Applicant has agreed to provide sufficient funding to maintain the Debtors' going concern operations for a period of three (3) weeks in order to allow the Monitor to implement a targeted, structured and expedited going concern sale and investment solicitation process;
- [6] **GIVEN** the provisions of the CCAA;

THE COURT HEREBY:

- [7] **GRANTS** the Application.

Definitions

- [8] **DECLARES** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the SISP Procedures (as defined below).

Service

- [9] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.
- [10] **DECLARES** that sufficient prior notice of the presentation of the Application has been given by Applicant to interested parties.
- [11] **PERMITS** the service of the present Order (this "**Order**") at any time and place and by any means whatsoever, including by email.

SISP Approval

- [12] **APPROVES** and **RATIFIES** the conduct of a sale and investment solicitation process (the "**SISP**") in respect of the Debtors, as set forth in the Procedures for the Sale and Investment Solicitation Process attached as **Schedule A** hereto (the "**SISP Procedures**").
- [13] **AUTHORIZES** the Monitor, with the assistance of the SISP Advisor (as defined herein) and in consultation with the Interim Lender (as defined in the Initial Order), to conduct and implement the SISP and **AUTHORIZES** the Monitor to take such steps and execute such documentation as may be necessary or incidental thereto, the whole in accordance with the SISP Procedures.
- [14] **DECLARES** that if the SISP fails to provide satisfactory results, at the sole discretion of the Monitor, the Monitor has the discretion, with the consent of the Agent, to pivot the SISP into a broader liquidation sale and investment solicitation process.
- [15] **ORDERS** that the Debtors, the Applicant, the Monitor and the SISP Advisor are authorized and permitted under applicable law to disclose and transfer to Potential Bidders and to their Representatives (as defined below) information in the custody or control of the Debtors relating to the assets, operations and business of the Debtors, including personal information such as human resources and payroll information, records pertaining to the Debtors' past and current employees, and information about any consumer, website visitor or other individual (collectively, "**Confidential Information**"), but only to the extent necessary to negotiate, determine whether to proceed with, and attempt to complete a transaction in accordance with the SISP (a "**Transaction**"). Each Potential Bidder to whom any Confidential Information is disclosed shall maintain and protect the Confidential Information with security safeguards appropriate to the sensitivity of the Confidential Information and as may otherwise be required by applicable federal or provincial privacy legislation and limit the use of such information to its evaluation, negotiation and completion of a Transaction, and if it does not complete a Transaction, shall return all such information to the Debtors and the Monitor, or in the alternative permanently destroy all such information.
- [16] **ORDERS** and **DECLARES** that contractual rights and remedies of third parties specifically restricting the disposition of any of Debtors' present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof and all bank accounts (the "**Property**") and/or any part of the Debtors' business operations and activities (the "**Business**"), including but not limited to, provisions with respect to rights of first refusal, rights of first offer, rights to match an offer, options to purchase, or other restrictive covenants with respect to the sale of an interest in any of the Property and/or any part of the Business (collectively, the "**Restrictive Sale Provisions**")

are stayed and unenforceable in the context of the SISP, may not be enforced against a potential bidder in the context of the SISP, and shall not limit or impair the Monitor's ability to conduct the SISP and to implement any transaction thereunder.

[17] **ORDERS** and **DECLARES** that the Monitor is authorized and permitted to market any of the Property and/or any part of the Business without complying with the Restrictive Sale Provisions.

[18] **ORDERS** that the Debtors, the Applicant, Monitor and the SISP Advisor, and each of their respective affiliates, related persons or entities, partners, directors, officers, employees, agents, controlling persons, lenders, legal counsel and advisors (collectively, the "**Representatives**") shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the conduct of the SISP or the performance of their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from gross negligence or willful misconduct of any such person or entity, as applicable, as determined by this Court.

[19] **DECLARES** that in addition to any other protections afforded under any Order of this Court, no action or other proceedings shall be commenced against the Debtors, the Applicant, the Monitor, the SISP Advisor or any of their Representatives in connection with the SISP, its conduct thereunder or the carrying out of the provisions of any order of this Court, except with prior leave of this Court, on at least ten (10) days' notice to the Debtors, the Applicant, the Monitor, the SISP Advisor and their respective counsel.

[20] **ORDERS** that, subject to the terms of the SISP Procedures and the restrictions set out therein, the Interim Lender shall be entitled to receive copies of any and all offers received in the context of the SISP.

Engagement of the SISP Advisor

[21] **AUTHORIZES** FTI Capital Advisors – Canada ULC. to act as SISP advisor (the "**SISP Advisor**") in the context of the SISP in accordance with the SISP Procedures.

[22] **AUTHORIZES** the SISP Advisor to perform any obligations under the SISP Process Order and to take any action that could be necessary or useful to give full effect to the terms of the SISP Process Order.

General

- [23] **ORDERS** that the Monitor and the Interim Lender may from time to time apply to this Court for advice and directions in respect of the SISP and/or the discharge of their respective powers and duties hereunder or under the SISP.
- [24] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America and any court or administrative body elsewhere, to give effect to this Order and to assist the Applicant, the Monitor and their respective Representatives in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Applicant or the Monitor as may be necessary or desirable to give effect to this Order, and to act in aid of and to be complementary to this Court, in carrying out the terms of this Order.
- [25] **DECLARES** that the Monitor, as foreign representative, for and on behalf of the Debtors, shall be authorized to apply, before the United States Bankruptcy Court for the District of South Carolina, for an order recognizing this Order and any further relief that may be required in respect of the Debtors under Chapter 15 of the United States Bankruptcy Code.
- [26] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.
- [27] **THE WHOLE**, without costs.


The Honourable Andres C. Garin, J.S.C.

Schedule "A"

SISP Procedures

See attached.

PROCEDURES FOR THE SALE AND INVESTMENT SOLICITATION PROCESS

Preamble

- A. On February 28, 2025, Pelican International Inc. filed a notice of intention to make a proposal to its creditors pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* and, on March 18, 2025, the Secured Creditors commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") before the Superior Court of Québec (Commercial Division) in the District of Montreal (the "**Court**") in respect of Pelican International Inc., Pelican US Topco LLC and Confluence Outdoor Inc. (collectively, the "**Debtors**") and obtained an initial and transition order rendered by the Court on March 19, 2025 (collectively, as further amended or restated from time to time, the "**Initial Order**").
- B. On the same day, the Court also issued a Sale and Investment Solicitation Process Order (the "**SISP Order**") that, among other things, authorized the Monitor to implement a sale and investment solicitation process ("**SISP**") with respect to the Debtors in accordance with the procedures set out herein (the "**SISP Procedures**").
- C. These SISP Procedures set out the manner in which (i) binding bids for executable transaction alternatives involving the shares and/or the business, property and assets of the Debtors, (collectively, the "**Business**") will be solicited from interested parties, and any such bids received will be addressed, (ii) any Successful Bid (as defined below) will be selected, and (iii) Court approval of any Successful Bid will be sought. Such transactions may include, among other things, a sale of some or all of the Business and/or an investment in the Business, each of which shall be subject to all terms set forth in this SISP.
- D. The SISP shall be conducted by FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the "**Monitor**"), in consultation with the National Bank of Canada, the Bank of Montreal, the Fédération des Caisses Desjardins du Québec and the Toronto Dominion Bank (collectively, the "**Interim Lender**") and with the assistance of FTI Capital Advisors - Canada ULC (in such a role, the "**SISP Advisor**").
- E. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by the Monitor, in accordance with the present SISP Procedures, which shall govern the SISP, including the solicitation of Sale Proposals and Investment Proposals.

Defined Terms

1. Capitalized terms used in this SISP have the meanings given thereto in Appendix A.

SISP Procedures

Opportunity

2. The SISP is intended to solicit interest in, and opportunities for: (i) one or more sales or partial sales of all, substantially all, or certain portions of the Business; and/or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the Debtors or their Business. Bids considered pursuant to the SISP may include one or more of the potential transactions referred to in clauses (i) and (ii) of this paragraph (collectively, the "**Opportunity**"),
3. The SISP Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Debtors and the Business, the manner in which bidders may participate in the SISP, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder and the requisite approvals to be sought from the Court in connection therewith. The Monitor shall conduct the SISP in the manner set forth herein.
4. The Monitor may at any time and from time to time, with the prior written approval of the Interim Lender, modify, amend, vary or supplement the SISP or the SISP Procedures, without the need for obtaining an order of the Court, provided that the Monitor determines that such modification, amendment, variation or supplement are useful in order to give effect to the substance of the SISP, the SISP Procedures, the SISP Order and the Initial Order.
5. The Monitor shall post on the Monitor's website, as soon as practicable, any such modification, amendment, variation or supplement to the SISP Procedures and the Monitor or the SISP Advisor shall inform the bidders impacted by such modifications.
6. In the event of a dispute as to the interpretation or application of the SISP or SISP Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute.
7. As more particularly set out herein, a summary of the key dates pursuant to the SISP are as follows:

<u>Event</u>	<u>Date</u>
1. Bid Deadline & Qualified Bidders Bid Deadline (for delivery of definitive offers by Qualified Bidders in accordance with the requirement of paragraph 15 of the SISP Procedures)	By no later than April 10, 2025 at 5:00 p.m. (prevailing Eastern Time)

<u>Event</u>	<u>Date</u>
2. <u>Auction(s)</u> Auction(s) (if needed)	April 14, 2025
3. <u>Selection of final Successful Bid(s)</u> Deadline for selection of final Successful Bid(s)	By no later than April 14, 2025, at 5:00 p.m. (prevailing Eastern Time)
4. <u>Definitive Documentation</u> Completion of definitive documentation in respect of Successful Bid(s)	Week of April 14, 2025,
5. <u>Approval Application - Successful Bid(s)</u> Filing of Approval Application in respect of Successful Bid(s)	Week of April 21, 2025
6. <u>Closing - Successful Bid(s)</u> Anticipated deadline for closing of Successful Bid(s)	Week of April 21, 2025 or such earlier date as is achievable
7. <u>Outside Date – Closing</u> Outside Date by which the Successful Bid must close	April 28, 2025

Solicitation of Interest: Notice of the SISP

8. As soon as reasonably practicable after the granting of the SISP Order:
 - a. a notice of the SISP and such other relevant information which the Monitor considers appropriate shall be published in La Presse+ and The Globe & Mail and such other publications as may be considered appropriate; and
 - b. a press release setting out the notice and such other relevant information regarding the Opportunity as may be considered appropriate, shall be issued with Canada Newswire designating dissemination in Canada.
9. The SISP Advisor shall send to potential bidders, as soon as practical after the granting of the SISP Order, a letter describing the Opportunity (a "**Solicitation Letter**"), outlining the salient elements of the SISP and inviting recipients of the Solicitation Letter to express their interest pursuant to the SISP.

Virtual Data Room

10. By no later than March 21, 2025, a confidential virtual data room (the "**VDR**") in relation to the Opportunity will be made available by the SISP Advisor to Potential

Bidders that have executed the NDA (as defined below) in accordance with paragraph 11 herein. The Monitor may establish or cause the SISP Advisor to establish separate VDRs (including "**Clean Rooms**"), if the Monitor determines that doing so would further the Debtors' and any Potential Bidders' compliance with applicable antitrust and competition laws or would prevent the distribution of commercially sensitive competitive information. The Monitor, in consultation with the SISP Advisor, may also limit the access of any Potential Bidder to any confidential information in the VDR where the Monitor reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or its value.

Qualified Bidders

11. In order to participate in the SISP, and prior to the distribution of any confidential information to an interested party (including access to the VDR), such interested party must deliver to the SISP Advisor an executed non-disclosure agreement in form and substance satisfactory to the Monitor (in consultation with the SISP Advisor) (each, an "**NDA**"). Pursuant to the terms of the NDA to be signed by a potential bidder (each potential bidder who has executed an NDA with the Debtors a "**Potential Bidder**"), each Potential Bidder will confirm that it agrees to be bound by the SISP Order and these SISP Procedures, and that it will be prohibited from communicating with any other Potential Bidder or any of the Debtors' creditors regarding the Opportunity during the term of the SISP, without the prior consent of the Monitor. Prior to the Monitor executing an NDA with any potential bidder, any potential bidder may be required to provide evidence, reasonably satisfactory to the Monitor and the SISP Advisor, of its financial wherewithal to complete a transaction in respect of the Opportunity (either with existing capital or with capital reasonably anticipated to be raised prior to closing) and/or to disclose details of their ownership and/or investors, and whether the potential bidder has any direct or indirect interest in the Debtors (including through equity, debt, convertible rights or any other rights) or in any of the Debtors' creditors. For the avoidance of doubt, a party who has executed an NDA or a joinder with a Potential Bidder for the purpose of providing financing to a Potential Bidder in connection with the Opportunity (such party a "**Financing Party**") shall not be deemed a Potential Bidder for purposes of the SISP, provided that such Financing Party undertakes to inform the Monitor in the event that it elects to act as a Potential Bidder.
12. A Potential Bidder that has executed an NDA and provided any additional information required pursuant to paragraph 11, will be deemed a "**Qualified Bidder**".
13. The SISP Advisor, in consultation with the Monitor, will prepare (with the oversight of the Monitor) and send to each Qualified Bidder a confidential information memorandum providing additional information considered relevant to the Opportunity (a "**CIM**") as soon as practicable. The Debtors, the SISP Advisor, the Monitor and each of their respective affiliates, related persons or entities, partners, directors, officers, employees, agents, controlling persons, lenders, legal counsel

and advisors (collectively, the "**Representatives**") make no representation or warranty as to the information contained in the CIM or otherwise made available pursuant to the SISP.

14. The SISP Advisor shall provide any person deemed to be a Qualified Bidder with access to the VDR. The Debtors, the SISP Advisor, the Monitor and their respective Representatives make no representation or warranty as to the information contained in the VDR.

FORMAL OFFERS AND REMOVAL OF CONDITIONS

Formal Binding Offers

15. Any Qualified Bidder that wishes to make a formal offer to (i) acquire all or substantially all of the Business, whether through an asset purchase, a share purchase or a combination thereof (either one being, a "**Sale Proposal**"), or (ii) some other portion of the Business (a "**Partial Sale Proposal**"), or (iii) to make an investment in, restructure, recapitalize, reorganize or refinance the Debtors or their business (an "**Investment Proposal**") shall submit a binding offer (a "**Binding Offer**") comprising: (a) in the case of Sale Proposal or a Partial Sale Proposal Sale Proposal, a draft purchase agreement or a mark-up to a draft form of purchase agreement made available to the Qualified Bidder; or (b) in the case of an Investment Proposal, a plan or restructuring support agreement or a mark-up to a draft form of plan or restructuring support agreement made available to the Qualified Bidder (each, such Binding Offer submitted in accordance with paragraph 16 below, a "**Qualified Bid**") in each case to the SISP Advisor, at the address set out in Appendix B hereto and by e-mail, with a copy to the Monitor, so as to be received by such parties not later than 5:00 p.m. (prevailing Eastern Time) on April 10, 2025, or such other date or time as may be agreed by the Monitor with the prior written approval of the Interim Lender (as may be extended the "**Bid Deadline**").
16. A Binding Offer will only be considered as a Qualified Bid if the Binding Offer:
 - (a) has been received by the Bid Deadline;
 - (b) is a Binding Offer: (i) to purchase all, substantially all, or a portion of the Business; and/or (ii) to make an investment in, restructure, recapitalize, reorganize or refinance the Debtors or their business;
 - (c) identifies all executory contracts of the Debtors that the Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;
 - (d) is not subject to any due diligence or financing condition;

- (e) contains evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, Qualified Bidder's equity holder(s);
- (f) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the Binding Offer;
- (g) specifies any regulatory or other third-party approvals the Qualified Bidder anticipates would be required to complete the Opportunity;
- (h) the Binding Offer must be accompanied by a letter that confirms that the Binding Offer: (i) may be accepted by the Debtors by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two Business Days after the date of closing of the Successful Bid; and (B) the Outside Date;
- (i) does not provide for any break fee, expense reimbursement or similar type of payment;
- (j) is accompanied by a cash deposit in the amount of not less than 10% of the cash purchase price payable on closing or total new investment contemplated, as the case may be (the "**Deposit**"), along with acknowledgement that if the Qualified Bidder is selected as the Successful Bidder (as defined below), that the Deposit will be non-refundable subject to approval of the Successful Bid (as defined below) by the Court and the terms described below;
- (k) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on or before the week of April 21, 2025, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing (the "**Target Closing Date**") and in any event no later than April 28, 2025 (the "**Outside Date**");
- (l) contemplates that the Qualified Bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid, is agreeing to refrain from and waive any assertion or request for reimbursement on any basis.

Selection of Successful Bid(s)

- 17. The Monitor, in consultation with the SISP Advisor and the Interim Lender, may, following the receipt of any Binding Offer, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Qualified Bid.
- 18. The Monitor, in consultation with the SISP Advisor and the Interim Lender, will:
 - (a) review and evaluate each Qualified Bid with respect to, among other things,

(i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in item (i) above; (iii) the likelihood of the Qualified Bidder's ability to close a transaction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Qualified Bid as a Successful Bid, (v) the benefit to the Debtors and its stakeholders, and (vi) any other factors the Monitor may deem relevant; and (b) identify the best bids (the "**Successful Bid(s)**", and the Qualified Bidder(s) making such Successful Bid(s), the "**Successful Bidder(s)**"). Any Successful Bid shall be subject to approval by the Court.

19. Any Qualified Bid that contemplates the assumption of all or any portion of the indebtedness owing to the Debtors' secured creditors ("**Secured Debt Assumption**"), must include a detailed proposal of the terms and conditions of any such Secured Debt Assumption;
20. Secured Debt Assumption cannot be determined to be a Successful Bid without the written consent of any Secured Creditor that would be subject to such Secured Debt Assumption.
21. In the event no Qualified Bidder submits a Qualified Bid, the Monitor may, with the prior written approval of the Interim Lender, terminate the SISP.
22. In the event that there is more than one (1) Qualified Bid, the Monitor, in consultation with the SISP Advisor and the Interim Lender, may: (a) continue negotiations with a selected number of Qualified Bidders (collectively, the "**Selected Bidders**") with a view to finalizing an agreement with one or more of the Selected Bidders and declaring such bids to constitute Successful Bids, or (b) conduct one or more auctions (the "**Auction(s)**") on terms and conditions to be determined by the Monitor, in consultation with the SISP Advisor and the Interim Lender, with a view to determine the best Sale Proposals, Partial Sale Proposals or Investment Proposals, pursuant to Auction rules to be determined by the Monitor, in consultation with the SISP Advisor and the Interim Lender.
23. In the event that an Auction or Auctions will be held, all Qualified Bidders who submitted a Qualified Bid that the Monitor determines, in consultation with the SISP Advisor and the Interim Lender, entitles such Qualified Bidder to participate in the Auction, will be promptly advised by the SISP Advisor of such determination, and informed of the procedures applicable to such Auction.
24. The final Successful Bid(s) shall be selected by the Monitor, in consultation with the SISP Advisor and the Interim Lender no later than April 14, 2025, at 5:00 p.m. (prevailing Eastern Time), and the definitive documentation in respect of the Successful Bid shall be finalized and executed no later than the week of

Deposits

29. The Deposit(s):

- (a) shall, upon receipt from the Qualified Bidder(s), be retained by the Monitor and deposited in a non-interest-bearing trust account;
- (b) received from the Successful Bidder(s), shall:
 - (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of an Approval Order, upon closing of the approved transaction; and
 - (ii) shall otherwise be held and be refundable in accordance with the terms of the definitive documentation in respect of any Successful Bid, provided that all such documentation shall provide that the Deposit shall be retained by the Debtors and forfeited by the Successful Bidder, if the Successful Bid fails to close by the Outside Date, and such failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of the Successful Bid; and
- (c) received from a Qualified Bidder that is not a Successful Bidder shall be fully refunded, to the Qualified Bidder that paid the Deposit as soon as practical following the closing of the transaction contemplated by the overlapping Successful Bid of such Successful Bidder.

"As is, where is"

30. Any sale(s) or investment(s) made pursuant to this SISP will be completed without any warranty whatsoever and on an **"as is, where is"** basis except for representations and warranties that are customarily provided in definitive documents for a company subject to CCAA proceedings. Any such representations and warranties provided for in the definitive documents shall not survive closing.

Credit Bidding

31. Any party or parties holding a valid and enforceable security interest or hypothec that may be set up against third parties and which encumbers any of the property forming part of the Business (an **"Enforceable Lien"**) may, subject in all respects to such party's compliance with these SISP Procedures (including compliance with the deadlines set out hereunder), credit bid the amount of debt secured by such Enforceable Lien as part of any transaction contemplated by, and otherwise complying with, these SISP Procedures; provided, however, that such transaction shall also provide for the repayment in full in cash on the date of closing of any and all obligations secured by an Enforceable Lien against the Debtors' present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof and all bank accounts (the **"Property"**) that is to be acquired under such transaction that are

senior to the Enforceable Lien held by the party submitting such credit bid, unless the holder of any such senior Enforceable Lien otherwise agrees. Nothing contained in this paragraph is intended to, or shall, alter or amend the rights, terms or obligations under any intercreditor agreement or indenture.

Further Orders

32. At any time during the SISP, the Monitor or the Interim Lender may apply to the Court for advice and directions with respect to any aspect of this SISP and the SISP Procedures including the continuation of the SISP or with respect to the discharge of their powers and duties hereunder.

Participation of the Applicants' Shareholders, Directors or Officers

33. If any of the Debtors' shareholders, directors and officers, or any person related thereto, intends to act as a Potential Bidder or forming part of an entity or group that will act as such (for the purposes hereof, such individual shareholder, director, officer, or any person related thereto shall be referred to as a "**Related Bidder**"), such Related Bidder shall so notify the Monitor and the SISP Advisor, in writing, no later than fourteen (14) days prior to the Bid Deadline (the "**Related Party Notice**"), failing which the Related Bidder shall not be permitted to participate in the SISP.
34. In addition, the Related Bidder shall not be entitled to exercise any of the Debtors' consultation, review or consent rights set out in these SISP Procedures or in any CCAA Proceedings, to the extent any are provided.
35. In addition to other provisions of these SISP Procedures, once a Related Party Notice is given, the SISP Advisor shall be the principal contact person of any Potential Bidder, and no discussions and/or exchanges regarding the SISP Procedures or any bids made pursuant to the SISP Procedures are authorized between a Related Bidder and a Potential Bidder (except if said Potential Bidder is a group or entity acting as a Potential Bidder that includes said Related Bidder), save and except unless a representative of the Monitor is present or party to such discussions and/or exchanges. For greater certainty, this provision does not affect the SISP Advisor's or the Monitor's right to request information from the Related Bidder regarding the Debtors or the Business as required by any Potential Bidder, in which case said information will be provided to all Potential Bidders.
36. The Related Party Offer (as such term is defined in the Application) is deemed to constitute a Related Party Notice under the SISP for all purposes hereunder.

Additional Terms

37. In addition to any other requirement of these SISP Procedures:

- (a) The Monitor and the SISP Advisor, as applicable, shall at all times prior to the selection of a Successful Bid use commercially reasonable efforts to facilitate a competitive bidding process in the SISP including by actively soliciting participation by all persons who would be customarily identified as potential bidders in a process of this kind.
- (b) Any consent, approval or confirmation the Monitor or the Interim Lender is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email shall be deemed to have been provided in writing for the purposes of this paragraph.
- (c) The Court at all times retains the discretion to approve or not any Successful Bid, direct the clarification, termination, extension or modification of the SISP and SISP Procedures on application of any interested party.
- (d) Prior to the seeking of Court approval for any transaction or bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP process, parts of which may be filed under seal, including in respect of any and all bids received.

APPENDIX "A" – DEFINED TERMS

- "Approval Application"** shall have the meaning set forth in paragraph 25.
- "Approval Order(s)"** shall have the meaning set forth in paragraph 25.
- "Auction(s)"** shall have the meaning set forth in paragraph [22].
- "Bankruptcy Court"** shall have the meaning set forth in paragraph 27.
- "Bid Deadline"** shall have the meaning set forth in paragraph 15.
- "Binding Offer"** shall have the meaning set forth in paragraph 15.
- "Business"** shall have the meaning set forth in the preamble.
- "Business Day"** means a day on which banks are open for business in Montréal but does not include a Saturday, Sunday or statutory holiday in the Province of Québec.
- "CCAA"** shall have the meaning set forth in the preamble.
- "CCAA Proceedings"** shall have the meaning set forth in the preamble.
- "CIM"** shall have the meaning set forth in paragraph 13.
- "Clean Rooms"** shall have the meaning set forth in paragraph 10.
- "Court"** shall have the meaning set forth in the preamble.
- "Debtors"** shall have the meaning set forth in the preamble.
- "Deposit"** shall have the meaning set forth in paragraph 16(j).
- "Enforceable Lien"** shall have the meaning set forth in paragraph 31.
- "Financing Party"** shall have the meaning set forth in paragraph 11.
- "Initial Order"** shall have the meaning set forth in the preamble.
- "Interim Lender"** shall have the meaning set forth in the preamble.
- "Investment Proposal"** shall have the meaning set forth in paragraph 15.
- "Monitor"** shall have the meaning set forth in the preamble.
- "NDA"** shall have the meaning set forth in paragraph 11.
- "Opportunity"** shall have the meaning set forth in paragraph [2].

- "Outside Date"** shall have the meaning set forth in paragraph 16(k).
- "Partial Sale Proposal"** shall have the meaning set forth in paragraph 15.
- "Potential Bidder"** shall have the meaning set forth in paragraph 11.
- "Property"** shall have the meaning set forth in paragraph 31.
- "Qualified Bid"** shall have the meaning set forth in paragraph 15.
- "Qualified Bidder"** shall have the meaning set forth in paragraph 12.
- "Related Bidder"** shall have the meaning set forth in paragraph 33.
- "Related Party Notice"** shall have the meaning set forth in paragraph 33.
- "Related Party Offer"** shall have the meaning set forth in paragraph 36.
- "Representatives"** shall have the meaning set forth in in paragraph 13.
- "Sale Proposal"** shall have the meaning set forth in paragraph 15.
- "Secured Creditors"** means National Bank of Canada, Bank of Montreal, Fédération des Caisses Desjardins and Toronto Dominion Bank.
- "Secured Debt Assumption"** shall have the meaning set forth in paragraph 19.
- "Selected Bidders"** shall have the meaning set forth in paragraph [22].
- "SISP"** shall have the meaning set forth in the preamble.
- "SISP Advisor"** shall have the meaning set forth in the preamble.
- "SISP Order"** shall have the meaning set forth in the preamble.
- "SISP Procedures"** shall have the meaning set forth in the preamble.
- "Solicitation Letter"** shall have the meaning set forth in paragraph 9.
- "Successful Bid(s)"** shall have the meaning set forth in paragraph 18.
- "Successful Bidder(s)"** shall have the meaning set forth in paragraph 18.
- "Target Closing Date"** shall have the meaning set forth in paragraph 16(k).
- "Outside Date"** shall have the meaning set forth in paragraph (k).
- "VDR"** shall have the meaning set forth in paragraph 10.

APPENDIX "B" – SISP ADVISOR ADDRESS

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