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# O'KEEFE & SULLIVAN

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## BY EMAIL AND FAX

### NOVA SCOTIA SUPREME COURT

1815 Upper Water St.

Halifax, NS B3J 1S7

To: the Registry

And To: Myra Janes, Judicial Assistant to Mr. Justice Keith

Email: myra.janes@courts.ns.ca

## AND TO: To the Electronic Service List

31 March 2026

Dear Honourable Justice Keith:

Re: **In The Matter of an Application by CFFI Ventures Inc.  
for Relief Under s. 11 of the CCAA – Hfx. No. 551716**

We represent SFPC Quantum LP (“**Quantum**”) in the matter referenced above. We are writing this letter in response to the letter filed by FTI Consulting Canada Inc. in its capacity as the court-appointed monitor (the “**Monitor**”) of CFFI Ventures Inc. (“**CFFI**”) on 27 March 2026.

We represent SFPC Quantum LP (“**Quantum**”) in the above-noted proceeding. We write in response to the letter filed by FTI Consulting Canada Inc. in its capacity as the court-appointed monitor (the “**Monitor**”) of CFFI Ventures Inc. (“**CFFI**”) on 27 March 2026 (the “**Scope Letter**”), setting out the Monitor’s proposed scope of review. For the reasons set out below, Quantum submits that the proposed scope is materially inadequate and requests that the Court direct the Monitor to expand it accordingly.

### 1. **Fairness Opinion Review: Adequacy of EY’s Engagement and Secured Creditor Access:**

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**Corner Brook**  
40 Main Street,  
Corner Brook, NL, A2H 1C3  
Phone: (709) 639 1110  
Facsimile: (709) 639 7617

**St. John’s**  
80 Elizabeth Ave., Suite 202  
St. Johns, NL, A1A 1W7  
Phone: (709) 700 0911  
Facsimile: (709) 700 0343

**Halifax**  
Suite 202, Purdy’s Wharf II,  
1969 Upper Water St.  
Halifax, NS, B3J 3R7  
Phone: (902) 913 4717

Item 1 of the proposed scope contemplates the Monitor reviewing the EY fairness opinion dated 5 March 2026. However, as of the date of the Scope Letter, the Monitor and EY had not reached consensus on what materials EY will provide or on what terms. The Monitor's access to the very materials it needs to assess the opinion remains unresolved, and the timeline of four to six weeks is contingent on resolving that impasse.

The structural concern is more fundamental. CFFI has agreed to allow EY to share materials with the Monitor, but the Monitor has simultaneously agreed, at CFFI's request, not to publicly disclose the individual values of CFFI's equity investments. This arrangement places the debtor in a position of controlling what the Monitor may and may not disclose. That is contrary to the Monitor's role as an officer of the Court. The Monitor's duty of independence requires that it be able to disclose to the Court, and to secured creditors, such information as is necessary to permit a meaningful assessment of the fairness of the proposed transaction. CFFI's consent should not be a precondition to disclosure that the Court or a secured creditor requires.

Additionally, there is no provision for secured creditors to have direct or confidential access to the EY materials on a controlled basis. Quantum, as a secured creditor with a priority interest in CFFI's Cormorant shares, has a direct interest in the valuation of the assets underpinning the proposed transaction. The Monitor's review of the Fairness Opinion cannot substitute for Quantum's own ability to assess the materials on which that opinion rests. The Monitor should be directed to provide secured creditors with access to the EY materials on appropriate confidentiality terms; and that access must be provided with sufficient time for secured creditors to assess and respond to those materials before any further substantive step in the proceeding is approved. Without that timing requirement, the right of access becomes largely theoretical.

## **2. Non-Transferred CFFI Assets: Independent Confirmation Required:**

The Scope Letter states that the Monitor does not intend to comment on the value of CFFI assets not proposed to be transferred to AcquireCo at this time, on the basis that CFFI has advised the Monitor those assets have little to no value. The Monitor intends to "confirm" that conclusion "in due course."

This approach is inadequate. CFFI's assertion that the non-transferred assets have little or no value is a self-serving characterization by the debtor in the context of a proposed transaction that CFFI and HPS Investment Partners LLC ("**HPS**") are jointly promoting. The Monitor's role is not to confirm what CFFI has told it; it is to independently assess and report. The scope of the Monitor's review should expressly include identifying each asset not proposed to be transferred to AcquireCo, with an independent assessment of its value, including particulars of any steps taken to realize or write down that value prior to the CCAA

filing. This point is of particular importance to Quantum because the non-transferred assets form part of the broader CFFI asset base against which Quantum holds recourse under the CFFI Guarantee. The exclusion of assets from the proposed transfer may reduce the practical value of that guarantee recourse, and the Monitor's review should specifically address the impact of the proposed asset perimeter on the value of Quantum's guarantee claim.

**3. Historical Asset Dispositions: Accounting for Proceeds:**

The Scope Letter contains no reference to, and makes no proposal to review, the proceeds realized by CFFI from asset dispositions prior to the CCAA filing. CFFI's portfolio has historically included significant equity positions, including MDA shares and a Clearbanc equity stake, among others. The Monitor's scope should include a full accounting of all material asset realizations from January 1, 2019 to the date of the CCAA filing, including the quantum of proceeds received, how those proceeds were applied, and in particular whether any proceeds were applied to reduce the HPS indebtedness or were otherwise paid to or for the benefit of HPS. This is directly relevant to whether the HPS debt has been properly characterized and whether prior transactions between CFFI and HPS require scrutiny.

**4. Quantum of Debt: Full Reconciliation Required:**

Item 3 of the proposed scope contemplates the Monitor reviewing and commenting on the "quantum of debt outstanding under the Note Purchase Agreement." This formulation is insufficient. The debt outstanding under the Note Purchase Agreement has grown from an original principal of US\$250 million in 2019 to an amount that CFFI has characterized as approximately US\$776.8 million as of February 2026, and that HPS asserts may be higher once default interest is applied. Critically, as Quantum noted in its materials filed for the comeback hearing on 23 March 2026, the quantum of default interest is determined at HPS's sole discretion, without independent verification.

The Monitor's scope should require a full reconciliation of all amounts claimed, including: (a) original principal advanced; (b) PIK interest capitalized to principal; (c) default interest, including the basis for the default interest rate applied and the date from which it was triggered; (d) fees and expenses added to the balance; and (e) any prepayments or credits arising from asset dispositions. The Monitor should opine on whether the amounts claimed by HPS are properly characterized and supported by the underlying documents, and in particular on the appropriateness of the default interest calculations, which are not independently verifiable on the current record.

**5. Cormorant Shares: Dedicated Analysis Required:**

The proposed scope makes no specific reference to CFFI's shares in Cormorant Utility Services Limited ("**Cormorant**") or to Quantum's security position in respect of those shares. This is a critical omission. Quantum holds a first-priority security interest over CFFI's Cormorant shares pursuant to the Securities Pledge Agreement dated 24 May 2022, which is senior to HPS's subordinated security interest in the same collateral pursuant to the Subordination Agreement dated 24 May 2022. The proposed transaction contemplates the transfer of CFFI's Cormorant shares to AcquireCo, a transaction that cannot proceed without Quantum's consent, and is subject to the transfer restrictions in the Third Amended and Restated Shareholders' Agreement (Investors) governing Cormorant.

The Monitor's scope of review should expressly include: (a) a security review in respect of Quantum's security over the Cormorant shares specifically; (b) an analysis of the Subordination Agreement and its effect on the priority of HPS's competing interest; (c) an assessment of the shareholders' agreement restrictions as they apply to any proposed transfer of the Cormorant shares; and (d) a statement of whether any proposed vesting order or plan implementation could affect Quantum's security interest or the shareholders' agreement restrictions without Quantum's consent and, if so, on what legal basis.

#### **6. Security Validity and Priority: Proceeds and Recovery Analysis:**

Item 2 of the proposed scope contemplates the Monitor opining on the validity of CFFI's security and commenting on the relative priority of each secured creditor. This is appropriate as far as it goes, but the scope should be expanded to include a full waterfall analysis, addressing: (a) the specific collateral against which each secured creditor holds security; (b) the proceeds realizable from that collateral on a going-concern and liquidation basis; and (c) projected recoveries for each secured creditor in the proposed transaction compared to alternative realizations. Debt quantum and security validity are necessary but not sufficient. The Court and Quantum require a complete picture of proceeds and priority together, not as separate inquiries.

The position of FPR Financial Corporation should also be specifically addressed. FPR Financial is simultaneously a CFFI creditor, a subsidiary of CFFI, and a guarantor of the HPS obligations. Its dual role as both a voting creditor and a related party is directly relevant to any plan creditor voting process, and the Monitor should opine on whether FPR Financial's claim gives rise to a related-party voting concern under section 22(3) of the CCAA. Beyond the voting issue, the Monitor should also address the provenance of the FPR promissory note itself; including when the debt arose, the consideration for it, whether it was negotiated on arm's length terms, and whether it was incurred or structured in contemplation of the current restructuring process. The FPR promissory note is secured debt that participates in any creditor vote and affects the priority waterfall. Its appearance as a secured instrument

shortly before a CCAA filing that depends on a majority creditor vote warrants independent scrutiny.

**7. Corporate Governance: HPS Influence and Management Independence:**

The Scope Letter contains no reference to a review of CFFI's corporate governance or the role of HPS in directing CFFI's management and board during the period leading up to the CCAA filing. As Quantum submitted at the comeback hearing, the Support Agreement, exhibited to the Bartlett Affidavit as Exhibit "F", provided HPS with broad consent rights over all of CFFI's material contracts, agreements, and business decisions. The Plan itself provides for the revocation of a power of attorney, a pledge, and other rights held by HPS over CFFI's equity interests and the direction, management, and policies of CFFI. The Plan further provides that each director of CFFI appointed by HPS prior to the Effective Date will be deemed to have resigned.

These provisions confirm that HPS exercised significant control over CFFI prior to the CCAA filing. The Monitor's scope should include an analysis of the duration and nature of that control, including: (a) when HPS first assumed governance rights over CFFI; (b) the extent to which CFFI's board and management were effectively independent during the period leading up to the CCAA filing; and (c) whether CFFI's Special Committee, which approved the proposed transaction, operated independently of HPS given that one of its members, Mayu Sris, is identified in the Plan as an HPS Party.

The Monitor should also specifically address whether CFFI's management, including Brittany Bartlett, Stan Spavold, and Nanci Rorabeck, hold, or have been promised, post-closing employment or compensation arrangements with AcquireCo or any HPS affiliate. If such arrangements exist, they were not disclosed in any of the Bartlett Affidavits filed in support of the Initial Order or the ARIO, and their existence is material to the Court's assessment of the independence of the CFFI management team that supported the proposed transaction.

**8. HPS Security Documents and Date of Effective Control: Equitable Subordination:**

Quantum requests that the Monitor's scope of review expressly include a review of all security documents held by HPS in respect of CFFI; including the Second Amended and Restated Note Purchase and Guarantee Agreement and all amendments thereto, the Amended and Restated Pledge and Security Agreement dated April 25, 2019, the power of attorney exercised by HPS over CFFI's equity interests and corporate governance, and any other instrument by which HPS obtained or exercised rights over CFFI's assets, management, or decision-making. The Monitor should specifically address when HPS first acquired effective control of CFFI as a matter of fact, having regard to the full suite of contractual rights held by HPS and the manner and timing of their exercise.

This review is directly relevant to the doctrine of equitable subordination. As Quantum submitted in its materials filed for the comeback hearing on 23 March 2026, HPS has exercised a degree of control over CFFI that is inconsistent with its role as an arm's length creditor. The Support Agreement required CFFI to obtain HPS's prior written consent in its sole discretion before entering into, amending, or terminating any material contract or conducting its business outside the ordinary course. The Plan itself provides for the revocation of a power of attorney and a pledge held by HPS over CFFI's equity interests and the right to control CFFI's direction, management, and policies. One of the directors on CFFI's board during the period leading to the CCAA filing was an HPS appointee who is identified in the Plan as an HPS Party. Taken together, these facts raise a serious question as to whether HPS was, during the relevant period, exercising the powers of an insider or controlling creditor rather than those of an ordinary secured creditor.

Under the equitable subordination doctrine, a court may subordinate the claims or security of a creditor who has exercised control over a debtor in an inequitable manner that has caused harm to other creditors. Where a creditor has effectively directed a debtor's affairs, structured a transaction to its own benefit, and done so in a manner that foreclosed legitimate alternatives for other stakeholders, the foundation for equitable subordination is engaged. The Monitor should address whether the circumstances of HPS's control over CFFI, and the manner in which the proposed transaction was structured and approved, give rise to grounds for equitable subordination of all or part of the HPS indebtedness or security; and should identify what further evidence or analysis would be required for the Court to consider that question.

**9. Process Chronology: Companies Act Attempt, CCAA Filing, and Transaction Development:**

The Monitor's proposed scope does not include any review of the chronology and development of the restructuring process. Quantum submits that such a review is essential context for the Court's assessment of the fairness and integrity of the proposed transaction. The Monitor should provide a narrative account of: (a) the Companies Act application and its withdrawal or abandonment; (b) the decision to proceed under the CCAA and the circumstances in which FTI was selected as Monitor; (c) the timeline and circumstances of EY's engagement to produce the Fairness Opinion; and (d) the development and negotiation of the Support Agreement between CFFI and HPS. The Monitor should address whether, and at what stages, secured creditors other than HPS were consulted or informed, and whether the CCAA filing was preceded by any genuine marketing or competitive process for the CFFI assets.

**10. Sequencing: Further Process Steps Should Await Completion of the Monitor's Review:**

The Monitor's proposed scope anticipates completion within four to six weeks, subject to its ability to obtain materials from EY. The Monitor makes no recommendation as to whether further steps in the restructuring process, including any Claims Process Order or Meeting Order, should be deferred until its expanded review is complete. Quantum submits that no further process steps should be approved until the Monitor has completed its review in the expanded form requested herein and has reported to the Court. The proposed transaction cannot be approved on the basis of a Fairness Opinion that the Monitor has not yet been able to fully assess, and creditor votes cannot be meaningfully conducted before the Monitor has opined on debt quantum, security priority, and the independence of the process.

**11. Preservation of Quantum's Credit Administration Rights:**

Nothing in the Monitor's proposed scope, or in the ARIO as currently proposed, should be read as impairing Quantum's ability to continue administering its credit and security position in the ordinary course of business; including issuing notices, reserving rights, monitoring compliance, engaging with Cormorant and its management, and otherwise administering the ARCA, the CFFI Guarantee, and the related security documents in the ordinary course, subject only to any leave requirement that may apply with respect to enforcement directly against CFFI or its property. Quantum's credit administration rights under the ARCA, the Securities Pledge Agreement, and the CFFI Guarantee continue unaffected by this proceeding, and any scope of review or court order should expressly preserve them.

Quantum reserves the right to raise further concerns as the Monitor's work progresses and additional information becomes available. Quantum is prepared to address these matters before Your Lordship at the next attendance in this proceeding.

All of which is respectfully submitted.

Regards,



**DARREN O'KEEFE**  
dokeefe@okeefesullivan.com