

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC.,  
NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED,  
NORTH AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES  
(US) INC., NAFA PROPERTIES STOUGHTON LLC, NORTH  
AMERICAN FUR AUCTIONS (US) INC., NAFPRO LLC  
(WISCONSIN LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA  
EUROPE B.V., DAIKOKU SP.Z OO and NAFA POLSKA SP. Z OO**

Applicants

**NINTH REPORT OF THE MONITOR**

**DATED APRIL 23, 2022**

**INTRODUCTION**

1. On October 31, 2019, North American Fur Producers Inc., NAFA Properties Inc., 3306319 Nova Scotia Limited, North American Fur Auctions Inc., NAFA Properties (US) Inc., NAFA Properties Stoughton LLC, North American Fur Auctions (US) Inc. (“**NAFA USA**”), NAFPRO LLC (Wisconsin LLC), NAFA Europe Co-Operatief Ua, NAFA Europe B.V., Daikoku Sp.Z Oo and NAFA Polska Sp. Z Oo (“**NAFA Polska**”) (collectively, the “**Applicants**” or “**NAFA**”) commenced these CCAA Proceedings pursuant to the Initial Order. The Applicants’ principal business consists of advancing loans to mink farmers to produce mink furs for auctions run by the Applicants. For ease of reference and readability, capitalized terms not defined in this ninth report of the Monitor (the “**Ninth Report**”) are defined in the glossary attached as Appendix “**A**” to this Ninth Report.

2. On November 8, 2019, the Applicants obtained an Amended and Restated Initial Order. A copy of the Amended and Restated Initial Order is attached to this Ninth Report as Appendix “B”.
3. On November 5, 2020, the Court issued an Order (the “**Expanded Powers Order**”) that, among other things, granted the Monitor expanded powers with respect to certain items, including:
  - a. Insurance claims that may be advanced by NAFA. The claims are primarily trade credit insurance claims that NAFA is currently advancing to recover unpaid kit loans advanced to farmers in 2019;
  - b. Claims in respect of NAFA’s “rollover loan” balances (i.e. unpaid loans advanced by NAFA in 2018 and prior);
  - c. Litigation in proceedings in which the Applicants are either a plaintiff or claimant (other than these CCAA Proceedings);
  - d. Oversight over material expenditures related to NAFA’s nascent “brokerage business” (i.e. the process whereby NAFA finds buyers for fur pelts being marketed by consignors that formerly sold their skins at NAFA’s auctions);
  - e. Matters related to NAFA’s employees; and
  - f. The right, title and interest of the Applicants in any real property.
4. Since the date of the Expanded Powers Order, the Monitor has been working closely with the Applicants in respect of the items above, with the two parties sharing a common approach without the need to seek direction from the Court. The Monitor has provided

regular updates to the Agent on these matters and has sought input from the Agent when appropriate.

5. Since the beginning of these CCAA Proceedings, and as set out further in the April Lawson Affidavit, the fur market has been affected by a number of factors, including the coronavirus pandemic (the “**Covid-19 pandemic**”) that began to have significant effects in early 2020. As a result, the entire premise of the Applicants’ restructuring and monetization efforts were affected and NAFA has been required to alter its approach accordingly (i.e. primarily waiting for auctions to resume online or in person so that pelts delivered to auction houses can be monetized).
6. Given the Covid-19 pandemic, NAFA’s primary cash inflows, which are based on auction proceeds on mink that it financed during 2019, were significantly depressed in 2020 and again in 2021, both as a result of the volume of pelts sold (when compared to historic volumes) and the prices achieved during 2020. This resulted in the Applicants paying down less Syndicate Debt than contemplated at the beginning of these CCAA Proceedings. Due to pricing and other mink industry dynamics experienced in 2021, including depressed auction activity due in part to travel restrictions imposed by various foreign governments, a significant portion of skins anticipated to be auctioned in 2021 have been held over for auction in 2022 and possibly later.
7. Notwithstanding the challenges faced by the mink industry in 2020, the year 2021, at times, demonstrated a significant rebound in selling prices for mink pelts from the previous year.
8. Mink fur sales volumes and pricing rebounded overall in 2021 as demand for fur products increased, supply of mink significantly decreased as a result of certain foreign governments ordering the culling of millions of mink in Europe due to high Covid-19 transmissibility in

mink and Covid-19 related travel restrictions eased. For example, Denmark, which in recent years has been one of the largest producers of mink globally, ordered the destruction of the entire mink crop in 2020 such that approximately 4 million mink pelts were destroyed and not supplied to the market.

9. January 31, 2022, the Court granted an Order (the “**Stay Extension Order**”), among other things:

- a. Extending the Stay Period from January 31, 2022 to April 29, 2022; and
- b. Further extending the Stay Period from April 30, 2022 up to and including July 29, 2022 (the “**Extended Stay Date**”) upon the filing of a Monitor’s certificate (the “**Monitor’s Stay Certificate**”) certifying that the Monitor has reviewed the Applicants’ cash flow forecast and that it projects that the Applicants have sufficient funds to the Extended Stay Date and have obtained the consent of the Agent and FCC in respect of the extension of the Stay Period to the Extended Stay Date.

10. The Applicants’ motion record dated April 19, 2022 returnable on April 26, 2022 (the “**Motion**”) seeks the following relief:

- a. the approval of an amended and restated asset purchase agreement between NAFA, NAFA Polska and NAFA USA and Sinobec Group Inc. (the “**Purchaser**” or “**Sinobec**”) dated April 18, 2022 (the “**APA**”) to sell the following assets:
  - (i) NAFA’s intellectual property, software, computers and other soft assets necessary to operate the NAFA fur auction business as more particularly set out in the APA (the “**Intellectual Property**”);

- (ii) NAFA's land and building in Poland (address Lozienica (Golenow Industry Park) municipally known as 10 Granitowa Street, Goleniow Commune, Goleniow powiat, West Pomeranian voivodship) (the "**Polish Property**") including all buildings, structures, erections, improvements, appurtenances, fixed machinery, fixed equipment and fixtures situate on or forming part of the Poland Property and all other machinery and equipment at the Poland Property (the "**Phase I Assets**"); and,
- (iii) NAFA's remaining land and building in Wisconsin, USA municipally known as address 205 and 221 Industrial Circle, Stoughton, Wisconsin, USA (the "**Wisconsin Property**") including all buildings, structures, erections, improvements, appurtenances, fixed machinery, fixed equipment and fixtures situate on or forming part of the Wisconsin Property and all other machinery and equipment at the Wisconsin Property (the "**Phase II Assets**").

to the Purchaser (which is an arm's length third party) in three phases (the "**Transactions**"), and vesting the purchased assets sold in the Purchaser (the "**Approval and Vesting Order**");

- b. Approving the Ninth Report and the activities and conduct of the Monitor described herein; and
- c. Sealing certain confidential information set out in confidential appendices filed separately with the Court including the unredacted copy of the APA.

11. Unless otherwise stated, monetary amounts contained herein are expressed in U.S. dollars, the Applicants' reporting currency.

## **PURPOSE**

12. The purpose of this Ninth Report is to provide the Court with the Monitor's observations and recommendations on the relief sought by the Applicants in its Motion and to update the Court on the following items:
  - a. The Applicants' and the Monitor's activities since the Eighth Report was issued;
  - b. The Applicants' request for the Court to issue an Approval and Vesting Order in respect of the APA and the Transactions; and
  - c. The Monitor's recommendations in respect of the relief that NAFA is seeking in its Motion, including the Approval and Vesting Order in respect of the APA and the Transactions.

## **TERMS OF REFERENCE**

13. In preparing this Ninth Report and making the comments herein, the Monitor has been provided with, and has relied upon certain unaudited financial information, books, records and financial information prepared by the Applicants, discussions with and information from the Applicants' management ("**Management**") and other third-party sources (collectively, the "**Information**"). Except as described in this Ninth Report:
  - a. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally

Accepted Assurance Standards (“GAAS”) pursuant to the *CPA Canada Handbook* (the “**CPA Handbook**”) and, accordingly, the Monitor express no opinion or other form of assurance contemplated under GAAS in respect of the Information; and

- b. Some of the information referred to in this Ninth Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the CPA Handbook, has not been performed.
14. Future oriented financial information referred to in this Ninth Report was prepared based on the Applicants’ estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize and the variations could be significant.
15. Due to restrictions imposed as a result of the Covid-19 pandemic, the Monitor has been unable to perform usual procedures to verify or test Information provided by Management, including physical attendance at NAFA’s premises and in-person meetings with Management.
16. While this Ninth Report does reference some of the known impacts of Covid-19 on the Applicants’ current and future operations, there may be further impacts not yet identified that may impact the Applicants’ business, which may have an adverse impact on their financial performance. Readers should consider the increasingly broad effects on the financial condition of the Applicants, as a result of the negative impact on Canada, the global economy and major financial markets from Covid-19 pandemic.

## ACTIVITIES OF THE MONITOR SINCE THE EIGHTH REPORT

17. Since the date of the Eighth Report, the Monitor has undertaken, among other things, the following activities:

- a. Monitoring NAFA's receipts and disbursements and reporting same to the Agent. This includes a weekly calculation of NAFA's Distributable Funds (as such term is defined in the First Report). Cash flow variance reporting to the Agent occurs on a basis that attempts to balance timeliness and cost and includes calls to review discrete items occurring as and when required;
- b. Assisting NAFA in the development of the Cash Flow Forecast;
- c. Receiving updates on the collection of buyer receipts from the 2022 auctions at Saga, KF and AME;
- d. Monitoring efforts ongoing in Europe to recover loans provided to mink farmers in a number of Baltic countries and Poland, including virtual meetings with local counsel to evaluate ongoing litigation and options to enforce security and commence new litigation where appropriate. This includes participating in a mediation proceeding with one of NAFA's largest debtors in Lithuania;
- e. Responding to queries from the Agent and providing the Agent with summaries of the Applicants' realization efforts and necessary supporting documentation to allow the Agent to be consulted and to provide its approval in accordance with the Agent's consultation and approval rights granted under various orders in these CCAA Proceedings;
- f. Assisting NAFA in discussions with Sinobec related to the Transactions;

- g. Corresponding with various stakeholders, including mink ranchers and other third-party creditors;
- h. Reviewing trade credit insurance claims that have been submitted to NAFA's insurer for unpaid kit loans advanced in 2019 and reviewing positions being advanced by the insurer and NAFA;
- i. Undertaking the expanded powers granted to the Monitor in accordance with the Expanded Powers Order;
- j. Updating the Monitor's case website to provide stakeholders with relevant information; and
- k. Preparing this Ninth Report.

#### **SALE EFFORTS AND PROCESS**

- 18. Paragraph 12(e) of the Amended and Restated Initial Order authorized the Applicants to pursue all avenues of selling their Business or Property, in whole or in part, subject to prior approval of the Court being obtained before any material sale.
- 19. In addition, paragraph 13 of the Amended and Restated Initial Order authorized and directed the Applicants to list and offer for sale the real property owned by the Applicants in Poland and the United States of America as soon as practicable and confirmed that such sale shall be conducted in accordance with paragraph 12(e) of the Amended and Restated Initial Order.
- 20. In accordance with the Amended and Restated Initial Order, as set out in the Second Report, the Applicants contacted local real estate brokers to begin the listing process. The Applicants, with the oversight of the Monitor, engaged real estate brokers and listed the

Polish Property for sale on December 5, 2019 and listed the Wisconsin Property for sale on February 7, 2020. These properties have remained publicly listed through real estate brokers from the date of listing through to after the date of the Original APA (as defined below).

21. In accordance with the Expanded Powers Order, effective November 5, 2020 the Applicants' right title and interest in any real property including the Polish Property and the Wisconsin Property came under the exclusive power of the Monitor, subject to consultation with the Applicants and the Agent. As a result, the Monitor obtained updates from the listing agents directly on the status of sale efforts in Poland and Wisconsin, respectively.
22. The Monitor, after consultation with the Applicants and the Agent, changed real estate brokers to CBRE for the Poland Property in May 2021. As part of this process, the listing price for the Polish Property was reduced based on the recommendation of the new listing agent.
23. In addition to the efforts to sell the Applicants' real property, on January 30, 2020, the Court authorized the Monitor to undertake a SISP in a form approved by the Applicants and the Agent or otherwise approved by the Court. However, due to a number of reasons, including the impact of the Covid-19 pandemic on the Business, the Monitor did not undertake a formal SISP at that time.
24. Thereafter, in early April 2021, as indicated in the April Lawson Affidavit and the Sixth Report, the Applicants advised the Court of their intention to seek expressions of interest in respect of their business to determine if there was any interest. This effort was supported by the Monitor for the reasons set out in the Sixth Report.

25. As set out in the Seventh Report, the efforts of the Applicants to seek expressions of interest in respect of its business and/or some or all of its assets included, but were not limited to, the following:
- a. Preparing a non-disclosure agreement (“NDA”) to be executed by interested parties;
  - b. Circulating a non-confidential teaser to approximately 70 potential interested parties
  - c. Establishing a website ([www.nafa2021.ca](http://www.nafa2021.ca)) to promote NAFA’s assets and attributes, including a link to the teaser and which invited interested parties to contact NAFA’s CEO to inquire about investment or acquisition opportunities;
  - d. Providing a confidential information memorandum setting out investment highlights and access to an electronic data room to interested parties that executed an NDA;
  - e. Engaging in discussions with interested parties to explain NAFA’s attributes; and
  - f. Engaging in discussions with interested parties regarding the potential structure of a transaction.
26. These efforts were largely led by NAFA with reporting to and limited involvement of the Monitor in an effort to contain costs until it was determined that there was a potential transaction to pursue within these CCAA Proceedings.
27. One of the assets that was being marketed by the Applicants as part of its efforts to solicit expressions of interest was the Blackglama Trademark. As previously reported to the Court, the Applicants granted an exclusive license for the Blackglama Trademark to Saga

(the “**Blackglama License**”). The Blackglama License was originally granted on December 5, 2019 until October 31, 2020 and thereafter was extended to October 31, 2022.

28. During these CCAA Proceedings, section 11.2 of the Blackglama License granted Saga a right of first offer in respect of the Blackglama Trademark except where a court or court appointed monitor decides otherwise (the “**Right of First Offer**”). An excerpt of the Blacklama License setting out the relevant provision is attached as Appendix “**C**” to this Ninth Report.
29. As a result of the Right of First Offer, NAFA’s counsel emailed Saga’s CEO, Magnus Ljung on June 8, 2021 requesting that Saga provide any offer for the Blacklama Trademark for consideration within the next 10 days. Saga did not respond until June 28, 2021 at which time they advised they would work on something over the coming week. A copy of this email exchange is attached to the Affidavit of Doug Lawson affirmed on April 19, 2022 (the “**April 19<sup>th</sup> Lawson Affidavit**”) as Exhibit “**D**”.
30. In or about July, 2021, NAFA was approached by the Purchaser regarding its interest in potentially purchasing NAFA’s remaining real property and certain personal and intellectual property. Discussions continued and Sinobec was granted access to an electronic data room that was populated with information regarding NAFA’s remaining assets and business. This was the same data room that was provided to other potentially interested parties.
31. A binding offer for the Blackglama Trademark was thereafter made by Saga to the Applicants on August 15, 2021. The offer was not acceptable to the Applicants or the Monitor and this was communicated to Saga. During the fall of 2021, Saga increased its offer for the Blackglama Trademark. However, after consideration NAFA, in consultation

with the Monitor and the Agent, determined that the transactions with the Purchaser would be more beneficial to the Applicants and its stakeholders.

32. Since the Applicants served the Motion Record, the Monitor was copied on an email from a representative of Saga indicating that Saga opposes the approval on the basis that the Applicant has broken the Blackglama license agreement by not giving Saga a Right of First Offer under section 11.2 of the license agreement.

### **THE APA AND THE TRANSACTIONS**

33. As a result of NAFA's sale efforts, the Purchaser expressed interest in certain remaining business assets of NAFA including its intellectual property, the Blackglama trademark, the Poland Property and the Wisconsin Property. The negotiations between NAFA, the Monitor and the Purchaser resulted in the execution of an Asset Purchase Agreement effective on December 21, 2021 (the "**Original APA**") and payment by the Purchaser of a deposit, which is being held by the Monitor.
34. As reported to the Court in the Eighth Report, the Original APA contemplated the transactions being concluded in two phases and contained several conditions, including financing conditions in respect of both transaction phases contemplated in the Original APA and also approval by the Court.
35. Given that the transactions contemplated by the Original APA remained subject to financing conditions when the Applicants were last in Court at the end of January 2022, NAFA did not seek approval of the Original APA by the Court at that time. Rather the Applicants and the Monitor advised the Court that NAFA intended to return to Court to seek the Court's approval of the APA and the Transactions after the waiver of the financing condition for the first phase of the Transactions.

36. Since the Court attendance at the end of January 2022, further negotiations took place between the Applicants, the Monitor and the Purchaser that resulted in the APA being executed effective April 18, 2022. A further deposit was paid by the Purchaser to the Monitor in accordance with the APA on April 21, 2022. A copy of the redacted APA can be found as Exhibit “F” to the April 19<sup>th</sup> Lawson Affidavit.
37. An unredacted APA is attached as Confidential Appendix “1” to this Ninth Report. The only information redacted from the APA relates to the purchase price and the allocation of the purchase price among the three phases contemplated under the APA.
38. The Monitor has prepared as confidential summary of certain relevant factors of the sale efforts for the Court to consider when considering the approval of the APA and the Transactions, which is attached as Confidential Appendix “2” to this Ninth Report.
39. The Monitor is of the view that disclosing the purchase price and the allocation of it between the assets being sold in the three phases would negatively impact future marketing efforts in the event that any of the three Transactions fail to close. The Monitor is also of the view that disclosing the information about the sale efforts contained in Confidential Appendix “2” would have a similar potentially negative effect on future marketing and sale efforts should any of the three Transactions fail to close.
40. A summary of the non-financial terms of the APA is included below (undefined capitalized terms in the table below have the meanings ascribed to them in the APA):

<b>Item</b>	<b>Agreement provision</b>
Closing Dates	<ul style="list-style-type: none"> <li>• The date for the IP Transaction is April 29, 2022</li> <li>• The date for the Phase I Transaction is July 15, 2022</li> <li>• The date for the Phase II Transaction is August 31, 2022</li> </ul>

<b>Item</b>	<b>Agreement provision</b>
Assets subject to APA	<ul style="list-style-type: none"> <li>• The Intellectual Property, which includes the Blackglama Trademark, the auctions and inventory management software, trade names such as North American Fur Auctions Inc., domain names, other trademarks, computers and servers that house the Intellectual Property, customer and supplier information, goodwill and the relevant books and records</li> <li>• The Poland Property together with the machinery and equipment situated at the property;</li> <li>• The Wisconsin Property together with the machinery and equipment situated at the property</li> </ul>
Leases to Closing Dates	<ul style="list-style-type: none"> <li>• Purchaser will lease the Poland Property from May 1, 2022 to the July 15, 2022 Closing Date</li> <li>• Purchaser will lease the Wisconsin Property from May 1, 2022 to July 29, 2022 in the event that the financing condition is not waived and otherwise until the August 31, 2022 Closing Date</li> </ul>
Significant Conditions Precedent	<ul style="list-style-type: none"> <li>• Approval and Vesting Order obtained</li> <li>• Financing Condition only in respect of the sale of the Wisconsin Property and other Phase II Assets, which is to be waived by July 29, 2022</li> <li>• Otherwise unconditional</li> </ul>
Court approval	<ul style="list-style-type: none"> <li>• Approval and Vesting Order required</li> </ul>
Other items	<ul style="list-style-type: none"> <li>• Sale is “as is, where is” with limited representations</li> <li>• The Purchaser acknowledges the Blackglama Licence which licenses the exclusive right to use the Blackglama Trademark to Saga until October 31, 2022</li> <li>• The APA contemplates that the Applicants can continue to use the names North American Fur Auctions and NAFA and any derivations thereof for a year from the date of the closing of the IP Transaction</li> </ul>

41. The Applicants and the Monitor have consulted the Agent in respect of the APA and the Transactions, and the Agent has approved the APA and has confirmed that it supports the relief sought by the Applicants.

***Monitor's rationale for supporting the Approval of the APA and the Transactions***

42. The Monitor notes the following in support of the Transactions:

- a. The Monitor has approved and participated in the sale efforts that led to the APA;
- b. The real property assets have been marketed for over two years and the market has been broadly canvassed for interest in the other assets that comprise the Purchased Assets for almost a year, with approximately 70 Teasers being sent by the Applicants;
- c. The Agent, being the first secured creditor on all of the Purchased Assets, has been consulted throughout the sale efforts and has approved the APA and confirmed it supports the relief being sought by the Applicants;
- d. The Monitor has been significantly involved in the negotiation of the APA and the terms of the Transactions. The Monitor is of the view that the Transactions provide better recoveries than would be available should any of the entities holding the assets subject to the Sinobec APA be adjudged bankrupt especially when considering that bankruptcy proceedings would need to be commenced in three jurisdictions, Canada, Poland and the United States to bankrupt the three Applicant sellers;
- e. The closing of the Transactions will provide material recoveries to the Agent, NAFA's largest and first priority secured creditor on the Purchased Assets. A

significant amount of indebtedness owing to the Agent is forecast to be repaid from the proceeds of sale upon closing of the Transactions.

- f. The APA represents the highest offer received for the Purchased Assets and in the Monitor's view the consideration to be received is reasonable and fair in the circumstances; and
  - g. Sinobec is not related to any of the Applicants.
43. In addition to the above, the Monitor considered the objection raised by Saga and is of the view that NAFA honoured its obligations under section 11.2 of the Blackglama License Agreement, and in any event, Saga had ample opportunity to participate, and in fact did participate in the sale process by providing more than one offer.
44. Based on the foregoing factors, the Monitor is of the view that the APA and Transactions are fair and reasonable and recommends that the Court approve them, should it see fit to do so.
45. The Applicants are seeking an Order sealing the unredacted APA and the confidential summary in respect of the sale efforts prepared by the Monitor. The Monitor is supportive of the sealing order being sought for the reasons set out above.

#### **DISTRIBUTION OF THE NET PROCEEDS TO THE AGENT**

46. As noted in previous reports of the Monitor, the Agent has first ranking security on the Purchased Assets. In addition to holding a general security agreement, the Agent has registered mortgages on the Poland Property and the Wisconsin Property.
47. As a result, the Monitor is of the view that it is appropriate for the proceeds from the closing of each of the three phases, net of necessary closing costs as determined by the Applicants

and the Monitor and approved by the Agent or as may be further ordered by the Court (the “**Net Proceeds**”), be distributed to the Agent (unless the Agent agrees otherwise) and recommends that the Court grant this relief should it see fit to do so.

### **CASH FLOW FORECAST AND STAY EXTENSION**

48. Attached as Confidential Appendix “**3**” is NAFA’s cash flow forecast for the period April 16, 2022 to July 29, 2022 (the “**Cash Flow Forecast**”) including notes thereto. The notes to the Cash Flow Forecast are an integral part thereof and the two documents should be read together. The Cash Flow Forecast was prepared by the Applicants, with the assistance of the Monitor, to forecast receipts and disbursements through July 29, 2022.
49. The Cash Flow Forecast is being filed to provide the Applicants’ current financial picture to the Court and to demonstrate the importance of the conclusion of the Transactions to NAFA and its ability to continue operations over the period to enable it continue to seek to recover on its remaining assets for the benefit of its stakeholders.
50. The Applicants are seeking an Order sealing the Cash Flow Forecast as it contains certain commercially sensitive information that could negatively impact NAFA’s asset realization and restructuring efforts if made available publicly. The Monitor is of the view that the Cash Flow Forecast should be sealed for these reasons and recommends that the Court approve this request should it see fit to do so.
51. As set out above, the Stay Extension Order extended the Stay Period to April 29, 2022. In addition to this, the Stay Extension Order contains a provision that allowed the Stay Period to be further extended to July 29, 2022 upon the filing of the Monitor’s Stay Certificate provided that certain conditions were met. These included the following:

- a. The Applicants, the Agent and FCC have approved a cash flow forecast and consented to the extension of the Stay Period to July 29, 2022; and
  - b. The Monitor has confirmed that there are sufficient funds to support the Extended Stay Date and has filed the revised cash flow forecast with the Court on a confidential basis.
52. The Agent and FCC have received a copy of the Cash Flow Forecast. The Agent has confirmed that it approves the Cash Flow Forecast and the consents to the Extended Stay Date, as do the Applicants. The Monitor anticipates receiving FCC's approval and consent prior to the Court hearing the Motion. The Monitor similarly confirms that the Cash Flow Forecast indicates that NAFA is projected to have sufficient liquidity in order to support its operations through July 29, 2022. As such, upon confirmation of FCC's approval and consent, the Monitor will be filing the Monitor's Stay Certificate to extend the Stay Period to July 29, 2022.

#### **MONITOR'S RECOMMENDATION**

53. For the reasons set out in this Ninth Report, the Monitor recommends that the Court grant the relief set out in the Applicants' Motion and, in particular, the Approval and Vesting Order.

All of which is respectfully submitted this 23<sup>rd</sup> day of April, 2022.

**Deloitte Restructuring Inc.**  
**Solely in its capacity as Court-appointed**  
**Monitor of North American Fur Auctions Inc. et al**

Per:

A handwritten signature in blue ink that reads "Jordan Sleeth". The signature is written in a cursive style with a long horizontal stroke at the end.

Jorden Sleeth, LIT  
Senior Vice President

A handwritten signature in blue ink that reads "Todd Ambachtsheer". The signature is written in a cursive style with a long horizontal stroke at the end.

Todd Ambachtsheer, LIT  
Senior Vice President

**Appendix “A”  
Glossary of Terms**

<b>Glossary</b>	
<b>Term</b>	<b>Definition</b>
<b>Administration Charge</b>	A charge granted pursuant to the Initial Order, as amended securing the fees and disbursements of the Applicants’ counsel, the Monitor and its counsel, the advisors of the Syndicate, the Financial Advisor and counsel for the Directors (to a maximum of \$100,000 for the latter), which amount and priority have been amended such that currently the charge is in the amount of \$1,500,000 with \$900,000 ranking in first priority (now that the DIP Facility has been repaid) and \$600,000 ranking in fourth priority behind the KERP Charge and the Syndicate Debt
<b>Agent</b>	Canadian Imperial Bank of Commerce in its capacity as Agent for the Syndicate
<b>Amended and Restated Initial Order</b>	The Amended and Restated Initial Order of the Court dated November 8, 2019
<b>AME</b>	American Mink Exchange, a north American solicitor of fur pelts
<b>Applicants</b>	Collectively, North American Fur Producers Inc., NAFA Properties Inc., 3306319 Nova Scotia Limited, North American Fur Auctions Inc., NAFA Properties (US) Inc., NAFA Properties Stoughton LLC, North American Fur Auctions (US) Inc., NAFPRO LLC (Wisconsin LLC), NAFA Europe Co-Operatief Ua, NAFA Europe B.V., Daikoku Sp.Z Oo and NAFA Polska Sp. Z Oo
<b>April Lawson Affidavit</b>	The Affidavit of Douglas Lawson affirmed April 2, 2021
<b>August Lawson Affidavit</b>	The Affidavit of Douglas Lawson affirmed August 21, 2020
<b>BDC</b>	Business Development Bank of Canada
<b>Carlingview Property</b>	NAFA’s former distribution centre on Carlingview Avenue in Toronto
<b>CCAA</b>	<i>Companies’ Creditors Arrangement Act</i> , R.S.C., 1985, c. C-36

<b>CCAA Proceedings</b>	The CCAA proceedings commenced pursuant to the Initial Order bearing Court file no. CV-19-00630241-00CL
<b>CIBC</b>	Canadian Imperial Bank of Commerce
<b>City Landlord</b>	City of Toronto
<b>Court</b>	Ontario Superior Court of Justice (Commercial List)
<b>December Lawson Affidavit</b>	The Affidavit of Douglas Lawson affirmed December 20, 2019
<b>Deloitte</b>	Deloitte Restructuring Inc.
<b>DIP Charge</b>	The charge granted by the Court pursuant to the Initial Order against the Applicants' Property as security for the DIP Financing
<b>DIP Fee</b>	A fee in the amount of 2% earned by the DIP Lender for providing the DIP Financing
<b>DIP Financing</b>	The interim financing in the maximum principal amount of \$5.0 million provided by the DIP Lender approved by the Court pursuant to the Initial Order
<b>DIP Lender</b>	Waygar Capital Inc.
<b>DIP Term Sheet</b>	The DIP Term Sheet dated October 31, 2019 between NAFA and the DIP Lender in respect of the DIP Financing approved by the Court pursuant to the Initial Order
<b>EDC</b>	Export Development Canada
<b>Eighth Report</b>	The Eighth Report of the Monitor dated January 27, 2022
<b>Financial Advisor</b>	Collectively, KPMG Inc. and KPMG Corporate Finance
<b>Fifth Report</b>	The Fifth Report of the Monitor dated November 3, 2020
<b>First Report</b>	The First Report of the Monitor dated November 7, 2019
<b>Fourth Report</b>	The Fourth Report of the Monitor dated August 24, 2020
<b>Fur Harvesters</b>	Fur Harvesters Auctions Inc.
<b>Ground Leases</b>	Two long-term ground leases in respect of the Skyway Property, one with the Private Landlord and one with the City Landlord, copies of which are

	attached as Exhibits “B” and “C” to the October Lawson Affidavit.
<b>Initial Order</b>	The Order of Justice McEwen dated October 31, 2019, as amended by the Amended and Restated Initial Order
<b>KERP</b>	Key employee retention program approved by the Court
<b>KERP Charge</b>	Charge in the amount of \$150,000 approved the Court on November 8, 2019
<b>KF</b>	Kopenhagen Fur, a large Danish auction house that, along with Saga and NAFA, was one of the leading mink auction houses in the world
<b>KPMG CF</b>	KPMG Corporate Finance Inc.
<b>Monitor</b>	Deloitte in its capacity as Court-appointed Monitor of the Applicants
<b>NAFA</b>	North American Fur Auctions Inc.
<b>NAFA Properties</b>	NAFA Properties Inc.
<b>October Lawson Affidavit</b>	Affidavit of Doug Lawson sworn October 30, 2020
<b>Pre-filing Report</b>	The pre-filing report of the proposed Monitor, dated October 31, 2019
<b>Private Landlord</b>	Meadowvale Land Limited, Rebecca’s Gift Holdings Limited, 1350739 Ontario Limited; and the Estate of Joseph Black.
<b>Polish Property</b>	NAFA’s main European office owned in Goleniów, Poland
<b>Property</b>	Has the meaning ascribed to that term in the Amended and Restated Initial Order
<b>Safe Harbour Order</b>	An Order of the Court issued on January 13, 2020 that provides third party goods in possession of NAFA are not NAFA’s property provided the necessary contractual terms are present
<b>Second Report</b>	The Second Report of the Monitor dated November 27, 2019
<b>Seventh Report</b>	The Seventh Report of the Monitor dated September 27, 2021
<b>Sixth Report</b>	The Sixth Report of the Monitor dated April 5, 2021
<b>SISP</b>	Sale and Investment Solicitation Process

<b>Skyway Property</b>	NAFA's corporate head office building located at 65 Skyway Avenue in Toronto, Ontario
<b>Stay Period</b>	The stay of proceedings granted pursuant to the Initial Order, as may be extended from time to time
<b>Success Fee</b>	An amount payable to KPMG CF in the event that it achieved the result set out in its engagement letter that was signed in July, 2019
<b>Syndicate</b>	A group of financial institutions that, together, have provided senior secured financing to the Applicants as represented by the Canadian Imperial Bank of Commerce as Agent
<b>Syndicate Debt</b>	The indebtedness owing by the Applicants to the Syndicate
<b>Third Report</b>	The Third Report of the Monitor dated January 29, 2020
<b>VAG</b>	Van Ansem Group (being a collection of farms under one corporate umbrella)
<b>Wisconsin Properties</b>	NAFA's owned buildings on Williams Drive and Industrial Circle in Stoughton, Wisconsin

**Appendix "B"**  
**Amended and Restated Initial Order**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

THURSDAY, THE 31<sup>ST</sup>

MR. JUSTICE McEWEN

)

DAY OF OCTOBER, 2019

)



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC.,  
NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH  
AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC.,  
NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR  
AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA  
EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z  
OO and NAFA POLSKA SP. Z OO

(the “**Applicants**”)

**AMENDED AND RESTATED INITIAL ORDER**

**THIS APPLICATION**, made by North American Fur Producers Inc., NAFA Properties Inc., 3306319 Nova Scotia Limited, North American Fur Auctions Inc. (“**NAFA**”), NAFA Properties (US) Inc., NAFA Properties Stoughton LLC, North American Fur Auctions (US) Inc., NAFPRO LLC (Wisconsin LLC), NAFA Europe Co-operatief UA, NAFA Europe B.V., Daikoku Sp. Z oo, and NAFA Polska Sp. Z oo (collectively, the “**Applicants**”) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Doug Lawson sworn October 30, 2019 and the Exhibits thereto (“**Lawson Affidavit**”), the Affidavit of Ariyana Botejue sworn October 30, 2019, the Pre-Filing Report of Deloitte Restructuring Inc. (“**Deloitte**”), in its capacity as monitor for the Applicants (in such capacity, “**Monitor**”) (the “**Pre-Filing Report**”), the First Report of the

Monitor dated November 7, 2019 (the “**First Report**”) and on hearing the submissions of counsel for the Applicants, counsel to the Monitor, counsel to the Canadian Imperial Bank of Commerce, as agent (in such capacity, the “**Agent**”) for the lenders (the “**Lenders**”) to the Fourth and Restated Credit Agreement dated as of September 27, 2019 (as may be amended or amended and restated, the “**Credit Agreement**”) from time to time, and all other counsel listed on the counsel slip, no one appearing for any other person on the Service List, although properly served as appears on the Affidavit of Service of Ariyana Botejue, sworn, October 31, 2019, and on reading the consent of Deloitte to act as the Monitor,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPLICATION**

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”), provided that no Plan shall compromise any indebtedness or obligations owing by any of the Applicants to the Agent and/or the Lenders (the “**Syndicate Debt**”) or any encumbrance or security interest securing the Syndicate Debt (the “**Syndicate Security**”).

### **POSSESSION OF PROPERTY AND OPERATIONS**

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, but excluding cash collateral held by the Agent in respect of the Visa Credit (as defined in the Credit Agreement) (the “**Property**”).

Subject to further Order of this Court or as otherwise directed by this Order, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty, subject to the terms of the Definitive Documents (as defined herein) to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place or, with the consent of the Monitor, the DIP Lender (as defined herein) and the Agent replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants, subject to availability under and in accordance with the terms of the DIP Term Sheet (as defined herein) and the Definitive Documents, shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order to the extent that such expenses are incurred and payable by the Applicants:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies

and arrangements, and all other payroll, pension and benefits processing and servicing expenses;

- (b) all future amounts owing to Persons working as independent contractors in connection with the Business; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Term Sheet and the Definitive Documents, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance, and security services, but not expenses in connection with any environmental remediation; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior

to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date other than amounts due and owing to the Lenders; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

10. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to repay the Syndicate Debt from the Distributable Funds (as defined in the First Report) on a weekly basis.

11. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed, until further Order of this Court, to grant any encumbrance or security interest in connection with the Credit Agreement and to execute and deliver any document or instrument in furtherance thereof.

## **RESTRUCTURING**

12. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Term Sheet and the Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to sell, convey, transfer, lease assign or dispose of any Property outside of the ordinary course of business, with the approval of the Monitor, provided that the consideration for any one such transaction does not exceed \$50,000, and that

the aggregate consideration for all such transactions does not exceed \$250,000, except that such amounts shall not include amounts with respect to the sale, transfer, assignment or other disposition of any Kit Loans and Pelts, including but not limited to the SAGA Furs Transaction (as those terms are defined in the Lawson Affidavit), in accordance with paragraph 12(c);

- (b) subject to the requirements of the CCAA and paragraphs 14 to 16 herein, with the consent of the Agent, vacate, abandon or quit the whole (but not part of) and may permanently (but not temporarily) cease, downsize or shut down any of their Business or operations in respect of any leased premises;
- (c) continue to sell Kit Loans and Pelts (as defined in the Lawson Affidavit) in accordance with the SAGA Furs Transaction, with the approval of the Monitor, Agent and DIP Lender;
- (d) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (e) pursue all avenues of refinancing, restructuring, selling and reorganizing their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing, restructuring, sale or reorganization that is not otherwise subject to paragraphs 12(a) or 12(c),

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Applicants or their Business (the "**Restructuring**").

13. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to list and offer for sale the real property owned by the Applicants and their foreign subsidiaries in Poland and the United States of America and the lease in respect of the Head Office (as defined in the Lawson Affidavit) as soon as practicable and that such sale shall be conducted in accordance with paragraph 12(e).

## REAL PROPERTY LEASES

14. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

15. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of their intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the entitlement of the Applicants to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants’ claim(s) to the fixtures in dispute.

16. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect

of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

## **NO PROCEEDINGS AGAINST THE APPLICANTS, THE BUSINESS OR THE PROPERTY**

17. **THIS COURT ORDERS** that until and including November 29, 2019, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, other than Proceedings by the Agent, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. To the extent the Agent commences any Proceedings against any of the Applicants, it will provide the Applicants and the Monitor with not less than three (3) days’ notice.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

18. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), other than the Agent, against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. To the extent the Agent wants to enforce any of its rights or remedies against the Applicants, their Business or Property, it will provide the Applicants and the Monitor with not less than three (3) days’ notice.

## **NO INTERFERENCE WITH RIGHTS**

19. **THIS COURT ORDERS** that during the Stay Period, no Person, other than the Agent, shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the Applicants shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

## **CONTINUATION OF SERVICES**

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, insurance, transportation services, utility, customs clearing, warehouse and logistics services or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from failing to renew on commercially reasonable terms, discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

## **NON-DEROGATION OF RIGHTS**

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-

advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **KEY EMPLOYEE RETENTION PLAN**

22. **THIS COURT ORDERS** that the Key Employee Retention Plan (“**KERP**”) as described in the Lawson Affidavit is hereby approved and the Applicants are authorized, in consultation with the Monitor, to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

23. **THIS COURT ORDERS** that the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the Property, which shall not exceed an aggregate amount of USD \$150,000.00 (“**KERP Charge**”) to secure the amounts payable to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraph 44 hereof.

#### **APPROVAL OF FINANCIAL ADVISOR AGREEMENT**

24. **THIS COURT ORDERS** that the ongoing engagement of KPMG Inc. and KPMG Corporate Finance (collectively, the “**Financial Advisor**”) as financial advisor to the Applicants under the terms under which they have operated to date is hereby ratified and approved and the Applicants are authorized and directed *nunc pro tunc* to make payments contemplated thereunder and in consultation with the Monitor and the approval of the Court.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

25. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed and is sanctioned by this Court or is refused by the creditors of the Applicants or this Court, other than Proceedings by the Agent on not less than three (3) days’ notice.

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

26. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

27. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of USD \$1,000,000, as security for the indemnity provided in paragraph 26 of this Order. The Directors' Charge shall have the priority set out in paragraph 44 herein.

28. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 26 of this Order.

## **APPOINTMENT OF MONITOR**

29. **THIS COURT ORDERS** that Deloitte is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

30. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, and shall provide to the Agent and the DIP Lender a weekly variance analysis against the current cash flow forecasts filed with the Court and, in the event the Monitor becomes aware of a negative variance of greater than 15% in the Applicants' disbursements in any week, the Monitor shall promptly advise the Agent of any such variance;
- (b) liaise with the Applicants and the Assistants with respect to all matters relating to the Property, the Business, the Restructuring and such other matters as may be relevant to the proceedings herein;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Restructuring and such other matters as may be relevant to the proceedings herein;
- (d) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and the Agent, and their respective counsel and advisors, of financial and other information as agreed to between the Applicants, the Agent and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the Agent and the DIP Lender;
- (e) advise the Applicants in its preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, the DIP Term Sheet and by the Definitive Documents, which information shall be reviewed with the Monitor and the Agent, and delivered to the DIP Lender, its counsel and financial advisor on a periodic basis or as otherwise agreed to by the DIP Lender and the Agent;
- (f) participate in all correspondence and meetings between the Applicants and potential purchasers of the Property;
- (g) consult with the Agent in respect of potential purchases of the Property;
- (h) advise the Applicants in their development of the Plan and any amendments to the Plan;

- (i) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (j) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' Business and financial affairs or to perform its duties arising under this Order;
- (k) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

31. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

32. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of

any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

33. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

34. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants, the Financial Advisor, counsel to the directors and officers (up to a maximum amount of CAD \$100,000 unless otherwise ordered by the Court), counsel to the Agent and the financial advisor to the Agent's counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order, by the Applicants as part of the costs of these proceedings, and the Applicants are hereby authorized and directed to do so.

36. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants, the Financial Advisor, counsel to the directors and officers, if any, counsel to the Agent and the financial advisor to the Agent's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not

exceed an aggregate amount of USD \$700,000, as security for their professional fees and disbursements incurred at the standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 44 hereof.

## **DIP FINANCING**

38. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow as contemplated under the Term Sheet attached as Exhibit J to the Lawson Affidavit (the “**DIP Term Sheet**”) between NAFA and Waygar Capital Inc. (the “**DIP Lender**”) (as may be amended, restated, supplemented and/or modified, subject to approval of this Court in respect of any amendment the Monitor determines to be material) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures all in accordance with the DIP Term Sheet, provided that borrowings under the DIP Term Sheet shall not exceed USD \$5,000,000 unless permitted by further Order of this Court (the “**DIP Facility**”).

39. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet and the Definitive Documents (as defined below).

40. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver the DIP Term Sheet and such mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

41. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraph 44 hereof.

42. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge, the DIP Term Sheet or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, the DIP Lender may, subject to the provisions of the DIP Term Sheet with respect to the giving of notice or otherwise, and in accordance with the DIP Term Sheet, the Definitive Documents and the DIP Lender's Charge, as applicable, may cease making advances to the Applicants, make demand, accelerate payment and give other notices; provided that the DIP Lender must apply to this Court on seven (7) days' prior written notice to the Applicants and the Monitor to enforce against or exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, the Definitive Documents and the DIP Lender's Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

43. **THIS COURT ORDERS AND DECLARES** that the DIP Lender, the Agent and the Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made or any other amounts owing under the DIP Term Sheet and the Definitive Documents, and in the case of the Agent and the Lenders, the Syndicate Debt.

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

44. **THIS COURT ORDERS** that the priorities of the KERP Charge, the Directors' Charge, the Administration Charge and the DIP Lender's Charge (collectively, the "**Charges**"), and the Syndicate Debt and the Syndicate Security, as among them, shall be as follows:

First – the DIP Lender's Charge to the maximum amount of USD \$5,000,000;

Second – the Administration Charge to the maximum amount of USD \$500,000;

Third – the KERP Charge, to the maximum amount of USD \$150,000;

Fourth – the Syndicate Debt and the Syndicate Security;

Fifth – the Administration Charge to the maximum amount of USD \$200,000; and

Sixth – the Directors' Charge to the maximum amount of USD \$1,000,000.

45. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

46. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall, subject to paragraph 44, rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

47. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges or the Syndicate Security, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender, the Agent and the other beneficiaries of the Charges, or further Order of this Court.

48. **THIS COURT ORDERS** that the Charges, the DIP Term Sheet, the Definitive Documents and the Syndicate Security shall not be rendered invalid or unenforceable and the

rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder and the Agent and the Lenders shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

49. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

#### **SERVICE AND NOTICE**

50. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe and Mail (National Edition) and La Presse a notice containing the information prescribed under

the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

51. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website a) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<http://www.insolvencies.deloitte.ca/en-ca/NAFA>’.

52. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

53. **THIS COURT ORDERS** that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and Orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants’ creditors or other interested parties and their advisors. For greater certainty, any such distributions or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within

the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

### **SEALING OF CONFIDENTIAL EXHIBITS AND APPENDIX**

54. **THIS COURT ORDERS** that Confidential Exhibits A, B1, B2, C, D, E and F to the Lawson Affidavit and Schedules 9.1(15)(v), 9.1(15)(vi) and 9.1(17) at each of Exhibit A and Exhibit G to the Lawson Affidavit and the Confidential Appendix 1 to the First Report shall be and are hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

### **GENERAL**

55. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

56. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

### **INTERNATIONAL RECOGNITION AND ENFORCEMENT**

57. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Europe (including but not limited to the Republic of Poland and the Netherlands) or elsewhere to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

58. **THIS COURT ORDERS** that, provided that the Agent is advised in advance, each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to

any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including but not limited to acting as the foreign representative of the Applicants to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1515, as amended, and to act as foreign representative in respect of any such proceedings and any ancillary relief in respect thereto, and to take such other steps as may be authorized by the Court.

59. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

60. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

NOV 08 2019

PER / PAR: 

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC., NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC., NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.ZOO and NAFA POLSKA SP. ZOO (the "Applicants")

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER**

**BLANEY MCMURTRY LLP**

Barristers & Solicitors  
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Toronto ON M5C 3G5

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Fax: (416) 594-3595

Email: [JWuthmann@blaney.com](mailto:JWuthmann@blaney.com)

Counsel for the Applicants

**Appendix “C”**  
**Excerpt from the Blackglama License**

**TRADEMARK LICENSE AGREEMENT**

BETWEEN

**NORTH AMERICAN FUR AUCTIONS INC.**

and

**SAGA FURS OYJ**

restructuring proceedings and that the Business and certain assets thereof may come to be sold or liquidated in conjunction with the foregoing and further understands that any proposed sale of the Business and other assets of the Licensor is subject to court approval.

11.2 **Right of First Offer.** Licensor agrees that, except where a court or court appointed monitor decides otherwise or in regard to a sale, assignment or transfer to one or more Related Entities, prior to soliciting any possible offers in regard to the sale of the Business and the assets thereof, it shall first approach Licensee to solicit its interest in terms of such purchase. Licensee will be provided with ten (10) business days from such date to prepare a non-binding offer containing all material terms and conditions in regard to such sale (the "**Proposed Purchase Terms**"). Licensor shall consider said Proposed Purchase Terms in good faith but is otherwise free to solicit offers from third parties and is also free to select which third party(ies) it ultimately decides to pursue negotiations with in terms of concluding a sale of the Business, provided that Licensor shall promptly notify Licensee of any solicitation for offers for the purchase of the Business together with any deadlines and other relevant dates relating thereto. For clarity, Licensor is not bound to present to Licensee any details relating to any third party offer and is free to modify the nature and scope of any proposed transaction during its negotiations with selected third party(ies).

11.3 **Right of First Refusal.** In the event that during the Term Licensor ceases to be the subject of proceedings commenced under the *Companies' Creditors Arrangement Act* (Canada) or any other insolvency, bankruptcy or debt restructuring proceedings ("**Proceedings**"), during the remainder Term and for a period of six (6) months following expiration of the Term (provided at the relevant time, Licensor is not the subject of Proceedings), before Licensor may sell the Business to a third party other than to one or more Related Entities, Licensor shall first offer to sell the Business to Licensee on the same terms and conditions as are offered by the third party. Licensee will have 30 days during which to accept said offer. If Licensee does not accept said offer within said period, Licensor will be free to accept the third-party offer. For clarity, the rights provided to Licensee under this Section do not apply in regard to any proposed sale of the Business to one or more Related Entities. For further clarity, this Section ceases to apply in the event: (i) this Agreement is terminated for any reason; (ii) a sale of the Business (or any part thereof) occurs pursuant to Section 11.1 and/or Section 11.2.

11.4 **Sale to Related Entity.** In the event of a sale, assignment or transfer of the Business and the assets thereof to one or more Related Entities, such Related Entity(ies) will be bound by Sections 11.2 and 11.3 above and such provisions will continue to apply to any subsequent sale of the Business and the assets thereof by such Related Entity(ies).

## ARTICLE 12 TERM & TERMINATION

12.1 **Term.** This Agreement comes into force as of the Effective Date and, unless terminated earlier, continues in force until October 31, 2022 (the "**Term**").

12.2 **Termination by Licensor.**

(a) This Agreement and all rights granted to Licensee hereunder shall terminate at Licensor's sole option, without notice to Licensee, immediately in the event that:

(i) Licensee becomes insolvent or is dissolved, a receiver or trustee of

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

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**NINTH REPORT OF THE MONITOR**

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Lawyers for Deloitte Restructuring Inc., in its capacity as court-  
appointed Monitor of the Applicants