

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-11-057570-190

SUPERIOR COURT
(Commercial Division)

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

9348069 CANADA INC.

-and-

4295862 CANADA INC.

-and-

MOTOVAN CORPORATION

(collectively hereafter referred to as "MTV")

Petitioners

-and-

MONCY HOLDING COMPANY INC.

-and-

**MONCY FINANCIAL SERVICES COMPANY
INC.**

-and-

NICHOLS MOTORCYCLE SUPPLY INC.

-and-

MONCY LLC

-and-

MOTORCYCLE TIRES & ACCESSORIES LLC;

Mises en cause

(Petitioners and the Mises en cause are

- 2 -

collectively hereafter referred to as the « **CCAA Parties** »)

-and-

BANK OF MONTREAL

-and-

INVESTISSEMENT QUÉBEC

-and-

EXPORT DEVELOPMENT CANADA

-and-

BDC CAPITAL INC. [...]

• Secured Creditors

-and-

KPMG INC.

Proposed Monitor

PETITIONERS' MOTION (I) FOR AN ORDER EXTENDING THE STAY PERIOD, (II) TO AMEND THE INITIAL ORDER AND (III) FOR THE APPROVAL OF A SALE AND INVESTMENT SOLICITATION PROCESS ("SISP")

(Section 11 ff. of the Companies' Creditors Arrangement Act)

TO HONOURABLE JUSTICE MARIE-ANNE PAQUETTE, J.S.C. SITTING IN COMMERCIAL DIVISION IN THE DISTRICT OF MONTREAL, THE PETITIONERS AND THE MISES-EN-CAUSE SUBMIT:

I. INTRODUCTION

1. On December 2, 2019, the Honourable Justice Marie-Anne Paquette, J.S.C., issued an initial order (the “**Initial Order**”¹) commencing these proceedings (the “**CCAA Proceedings**”) pursuant to the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of the CCAA Parties, as appears from the Court record;
2. Pursuant to the Initial Order, the Court:
 - a) Declared that the CCAA Parties are debtor companies to whom the CCAA applies, or companies entitled to benefit from the protection arising from the Initial Order;
 - b) Declared a stay of proceedings in favour of the CCAA Parties and their respective directors and officers and other general CCAA relief pursuant to, inter alia, sections 11, 11.02 and 11.03 thereof for an initial period of ten (10) days, i.e. until on or about **December 12, 2019** (hereinafter the “**Initial Period**”); and
 - c) Authorized the CCAA Parties to continue their operations in order to preserve their assets and make payments in the normal course of business;
 - d) Named KPMG Inc. (“**KPMG**”) (Dev A. Coossa, PAIR, SI) as Monitor pursuant to Section 11 of the CCAA;
 - e) Granted an Administration Charge to secure the Petitioners’ obligations towards its legal advisors (BCF LLP), the Monitor (KPMG) and the Monitor’s legal advisors (Norton Rose Fulbright Canada LLP);
 - f) Granted a D&O Charge to secure the Petitioners’ obligations towards its directors and officers in respect of potential liabilities that could arise after the Initial Order has been issued, but only to the extent that such potential liability is not covered by existing insurance policies;
 - g) Authorized Petitioners to file at a later date a plan of arrangement with their creditors pursuant to the CCAA (the “**Plan**”);
 - h) Authorized various measures required in order to facilitate the proposed restructuring; and

¹ Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in Initial Order.

- i) Declared that the Petitioners may at all times address this Court in order to seek any other measures necessary in order to carry out the restructuring process;

II. ORDERS SOUGHT

3. The CCAA Parties hereby seek:
 - a) The extension of the Stay Period in respect of the CCAA Parties until January 31, 2020;
 - b) An order amending the Initial Order to increase the amount of the Administration Charge from \$335,000.00 to \$500,000.00;
 - c) The approval of a SISP;

III. EXTENSION OF THE STAY PERIOD

4. Since the issuance of the Initial Order, the CCAA Parties have acted, and continue to act, in good faith and with due diligence;
5. The CCAA Parties have had numerous discussions and meetings with the Monitor and Banque of Montreal ("**BMO**")'s representatives;
6. The CCAA Parties and the other professionals involved in this matter have also elaborated a SISP and have prepared documentation in relation thereto, namely a teaser, a process letter and a non-disclosure agreement, all produced herewith as **Exhibit R-1**;
7. The CCAA Parties are also in the process of preparing a Confidential Information Memo which they intend to circulate to interested parties as soon as possible;
8. Given the proposed deadlines for the SISP outlined hereafter, the CCAA Parties ask this Court to extend the Stay Period to January 31, 2020;

IV. SISP

9. The Petitioners hereby also request the approval of a SISP allowing the Petitioner, the Monitor and KPMG Corporate Finance Inc. (the "**SISP Advisor**"), to take all necessary steps to carry out the process;
10. As stated, *inter alia*, in the Monitor's pre-filing report and as pleaded by the Petitioners, it is anticipated that a SISP conducted in a going concern context is aimed at maximizing the value for the Petitioners' business and assets, the whole to the benefit of all stakeholders;

11. After consulting with BMO and the Monitor, the following timeline for the SISP has been deemed appropriate under the circumstances:
 - a) Implementation of the SISP by sending the proposed teaser to prospective purchasers: December 9, 2019;
 - b) Deadline for bids: January 22, 2020;
 - c) Deadline for approval of the transaction contemplated pursuant to the retained bid: January 31, 2020;
 - d) Closing of transaction: February 7, 2020;
12. Although the parties will be working with the above-described timeline in mind, the timeline remains subject to change depending on the circumstances that could arise during the conduct of the SISP;
13. The Monitor and the SISP Advisor will keep BMO and their advisors informed and appraised on a timely manner of any discussions, negotiations or exchange of correspondence with potential purchasers and communicate to them and give them access to, on a confidential basis, the electronic data room set up for this process, copies of all bidder information (including but not limited to bidder solicitation materials, confidential information memorandum, LOIs and binding offers, expression of interest in the assets or operations of the Petitioners, or offer to purchase the assets or invest in the Petitioners resulting therefrom) considering their senior secured creditor status;
14. Also, no offer formulated by an interest purchaser or investor shall be accepted without the express consent of BMO;
15. Petitioners will seek the approval of the Court with respect to the successful offer in the days following its acceptance;
16. Petitioners respectfully submit that the envisioned SISP will allow for a transparent and equitable process with a view to maximise value for the Petitioners' business and assets, for the benefit of all stakeholders involved;
17. In light of the foregoing, the Petitioners hereby respectfully seek the issuance of an Order substantially in the form of the Draft SISP Order (**Exhibit R-2**), which provides for the Court's approval of the terms of the SISP as it relates to the Petitioners, and authorizes and directs the Petitioners, the Monitor, and the SISP Advisor to take such steps as they consider necessary in carrying out the SISP in accordance with its terms;

V. ADMINISTRATION CHARGE

18. At the initial hearing, the Court limited the Administration Charge to the amount of \$335,000.00, given the fact that the Initial Period was for ten (10) days ending on December 12, 2019;
19. The CCAA Parties respectfully request that the Administration Charge be increased to \$500,000.00 in order to afford an adequate protection to the beneficiaries of said charge;
20. The amount of \$500,000.00 is reasonable and is in line with the cash-flow projections forming part of the Monitor's pre-filing report, already produced into the Court record;
21. The Petitioners submit that sufficient notice of the presentation of the present Motion was made;
22. The Monitor supports the present Motion;
23. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Motion;

ISSUE an order substantially in the form of the draft Order (**Exhibit R-2**) communicated in support hereof;

ISSUE an Order extending the Stay Period and amending the Initial Order rendered on December 2, 2019 in virtue of the *Companies' Creditors Arrangement Act* substantially in the form of the draft Amended Initial Order communicated in support hereof (**Exhibit R-3**)

THE WHOLE without costs, save and except in case of contestation.

Montreal, December 9, 2019

(S) BCF S.E.N.C.R.L./LLP

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Attorneys for the CCAA Parties

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BCF LLP

NOTICE OF PRESENTATION

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**Attorneys for Sumitomo Rubber North
America**

TAKE NOTICE that the present *Petitioners' Motion (i) for an Order extending the Stay Period, (ii) to amend the Initial Order and (iii) for the approval of a Sale and Investment*

Solicitation Process ("SISP") will be presented before one of the honourable judges of the Superior Court sitting in practice division and for the district of Montreal, located at 1, Notre-Dame Street East, in Montréal, as soon as counsel may be heard.

DO GOVERN YOURSELF ACCORDINGLY.

Montreal, December 9, 2019

(S) BCF S.E.N.C.R.L./LLP

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BDC CAPITAL INC. [...]

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KPMG INC.

Proposed Monitor

LIST OF EXHIBITS

- EXHIBIT R-1:** Documentation relating to the SISP, namely a teaser, a non-process letter and a non-disclosure agreement;
- EXHIBIT R-2:** Draft Order;

EXHIBIT R-3: Draft Amended and Restated Initial Order.

Montreal, December 9, 2019

(S) BCF S.E.N.C.R.L./LLP

BCF LLP

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Attorneys for the CCAA Parties

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BCF LLP

BCF LLP

EXHIBIT R-1



Project Rider

Investment Opportunity

December 2019



Unique Opportunity to Acquire an Established Powersports Products Distributor with Proprietary Lines, Deep Client Relationships and a Strong Canadian Footprint

Overview

- KPMG Corporate Finance Inc. ("KPMG CF") has been retained as exclusive advisor and intermediary in connection with the sale of the Company's Canadian assets and operations, as part of a Court supervised sale process conducted as part of proceedings pursuant to the Companies' Creditors Arrangement Act ("CCAA").
- We are looking for an acquirer who will ideally purchase the Canadian assets and operations of the Company and leverage its market position, relationships and exclusive access to branded products.
- Current management is ready to cooperate with a new owner to ensure a seamless transition.
- The Company is a proud distributor of high-end parts, tires, accessories and gear for the powersports industry.
- Forged over 35 years of operations, the Company has deep connections with industry leading product manufacturers in addition to its own well respected proprietary brands.
- The Company has a vast Canadian distribution footprint with a dealer/retailer network that counts in excess of 3,000 locations.
- Customer concentration risk is very low with no single B2B customer constituting more than 5% of revenue.

Global Powersports Market Growth



Key Investment Highlights

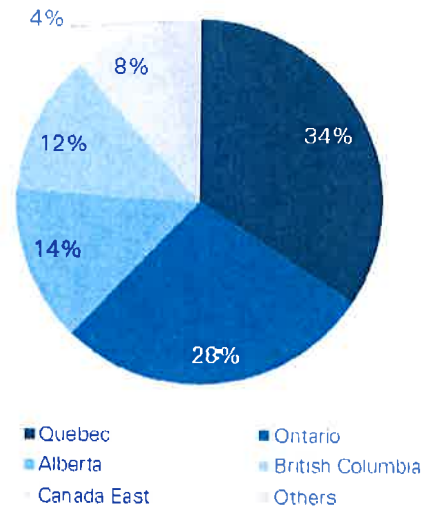
Robust Product Offerings

- Access to premium products from proven international brands.
- Offering over 75,000 SKUs.
- Deep catalogue of aftermarket powersports products and accessories servicing multiple market segments, including dirt bikes, motorcycles, ATVs, snowmobiles, and more.

Deep National Coverage

Canada-wide network of sales agents catering to a well established retail presence.

Canadian Sales by Geography 2018



Important Notice

This investment overview does not constitute an offer or invitation to persons to subscribe for or purchase any shares, assets or other securities in any company or for persons to enter or offer to enter into an investment agreement or to exercise any rights conferred by an investment to acquire, dispose of, underwrite or convert an investment.

The investment overview contains basic information, statements, and estimates provided to KPMG Corporate Finance Inc. ("KPMG CF") by the Company and its management. Any person including any proposed acquirer of securities or assets of the Company referred to in this document, or any business or assets referred to herein, must satisfy himself as to all matters relating to the Company or such business assets including all the information and statements contained herein.

The investment overview may contain certain statements, estimates and projections with respect to the anticipated future performance of the Company. Such statements, estimates and projections reflect various assumptions made by the management of the Company concerning anticipated results, which assumptions may or may not prove to be correct. No representation is made as to the accuracy of such statements, estimates and projections.

KPMG CF has not independently verified and does not accept any responsibility for any information contained herein and disclaims all liability to any person or entity arising out of or in connection with such information. KPMG CF is a wholly-owned subsidiary of KPMG LLP.

Financial Overview

CAD '000	FY17	FY18	FY19 YTD	FY20
	Internal	Internal	Oct. 31, 2019 Internal	Forecast
Revenue	77 330	76 688	46 153	38 257
Gross Margin	21 645	20 434	11 523	10 404
GM%	28.0%	26.6%	25.0%	27.2%
Op. Ex.	21 154	21 942	15 159	9 873
EBITDA	491	-1 508	-3 636	532
A/R	20 178	17 256	7 570	n.a.
Inventory	25 609	28 112	16 052	n.a.

Key Notes on Financial Overview

Strong inventory and accounts receivable base that can be leveraged for future growth opportunities.

Average gross margins of 27% over the last 4 years.

Clear vision on opportunity to create value through operational synergies via a strategic acquirer.

Transaction Process

This introductory document has been distributed to a limited number of prospective parties. Parties interested in further discussions will be requested to sign a non disclosure agreement. Upon delivery of the signed agreement, KPMG CF will provide additional information.

Interested parties are directed to communicate exclusively with KPMG CF, and to refrain from communicating with the shareholder(s), management, employees, customers or suppliers of the Company, in connection with this opportunity and sale process conducted in the context of on-going CCAA proceedings.

KPMG CF has compiled this document from information supplied by the Company and outside research. Neither KPMG CF, nor the Company, make any representations or warranties as to the accuracy or completeness of this material. Nothing obtained herein is or shall be relied upon as a promise or representation of future developments.

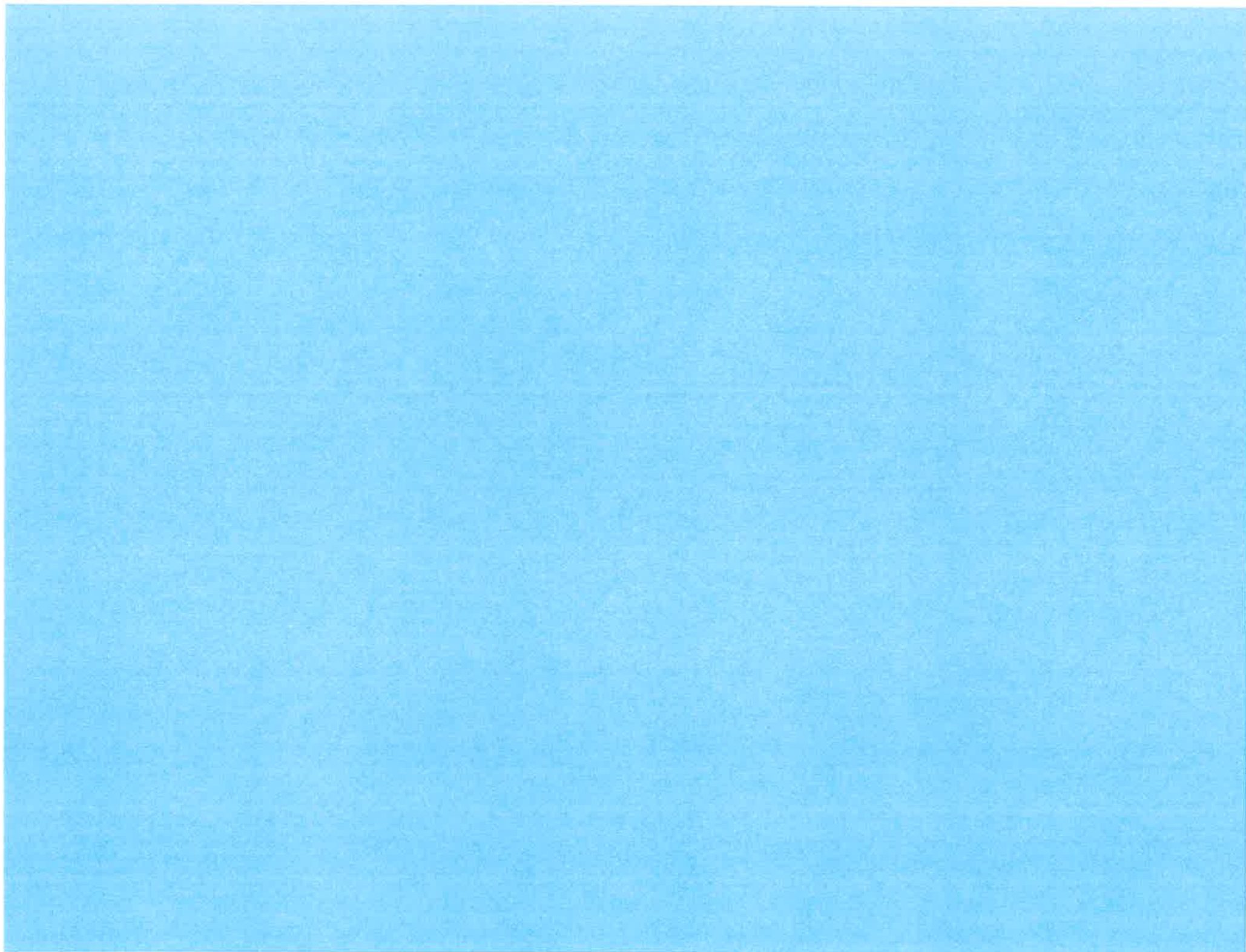
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STRICTLY PRIVATE & CONFIDENTIAL

BE ADVISED, THE FOLLOWING PROCESS LETTER MAY BE ADJUSTED TO CONFORM WITH COURT APPROVED SISP

Date

Name

Title

Company

Address

Dear Mr. Name

Re: Expressions of interest in relation to Project Rider

We would like to thank you for your interest in the potential acquisition of the Canadian assets and operations of Motovan Corporation and Canadian its affiliates, 9348069 Canada Inc. and 4295862 Canada Inc., (collectively "**Motovan**" or the "**Company**").

Motovan has initiated proceedings under the *Companies' Creditors Arrangement Act* ("**CCAA**") before the Superior Court of Quebec for the district of Montreal, commercial division, (the "**CCAA Court**") in the court record 500-11-057570-190, wherein KPMG Inc. has been appointed as monitor (the "**Monitor**"). The Company intends to implement a Sale and Investor Solicitation Process ("**SISP**") to be conducted by KPMG Corporate Finance Inc. ("**KPMG CF**"), under the supervision of the Monitor and the CCAA Court. The SISP will be conducted with the view of concluding a sale transaction to be approved by the CCAA Court on or before February 7th, 2020, the whole under the supervision of the Monitor.

This letter sets out the procedures for expressing your interest in pursuing a potential acquisition of the Canadian operations of the Company and/or purchase of the Company's assets (the "**Transaction**") and outlines the information that we ask be included in your binding offer (the "**Offer**").

This letter is being provided to you pursuant to the confidentiality and non-disclosure agreement (the "**NDA**") that you have executed with the Company and is subject to the terms thereof.

As you are aware, the Company has retained KPMG CF as its exclusive financial advisor and intermediary to solicit interest in connection with a Transaction. KPMG CF has provided Evaluation Material (as defined in NDA) to assist you in your review of the opportunity and in formulating your Offer.

Deadline for submitting the Offer

If, after reviewing the Confidential Information Memorandum (the "CIM") and the additional contents of the virtual data room, you have an interest in undertaking a transaction with the Company, we require that you submit your Offer **solely to KPMG CF and KPMG Inc., acting as Monitor under the CCAA proceedings initiated by Motovan et al**, to the attention of **René Cormier** (at rcormier@kpmg.ca), **Maxime Codère** (at mcodere@kpmg.ca), and **Isabelle Jones** (at isabellejones@kpmg.ca) by 5:00pm Eastern Standard Time on or before **January 22nd, 2020**.

Following receipt of your Offer, KPMG CF will make its recommendation concerning the selection of a bidder or bidders to move forward with the closing of a Transaction.

Format and content of the Offer

Your Offer should reflect your best offer with respect to price, terms and conditions.

The Company, acting in consultation with KPMG CF and the Monitor, reserves its right to prepare a standard Asset Purchase Agreement ("APA") to be used by all interested bidders.

You should not assume that you will be given an opportunity to rebid, renegotiate or improve the terms of your Offer. Unless such a standard APA is prepared and communicated to you by KPMG CF, your Offer should discuss in detail all matters relating to your interest in the Company including clear statements with respect to the following information:

- 1 ***Identity of acquiring party:*** The name and jurisdiction of the legal entity making the Offer and, to the extent applicable, the jurisdiction and name(s) of the controlling shareholder(s) or identity of all other parties comprising the acquiring party. Confirmation that you are acting on your own behalf, as principal, and not in conjunction with or on behalf of any other party;
- 2 ***Background information:*** A brief outline providing background information on the acquiring party and its business;
- 3 ***Transaction Structure:*** A description of the Transaction structure that you anticipate using for the acquisition, including any specific and material business, legal, financial or tax details. Note that the Transaction must include all assets of the Company;
- 4 ***Purchase price:*** The price in Canadian dollars that you intend to offer to acquire the assets of the Company, in cash at closing should be provided along with the key assumptions and valuation methodologies used in arriving at the purchase price. Please note that Offers in the form of a price range or including a balance of sale/contingent consideration will not be considered. Further, no escrow amounts will be considered;
- 5 ***Asset Purchase Agreement ("APA"):*** Please provide proposed key terms of the APA. The nature and extent of your proposed key terms of the APA, including any proposed conditions of closing, will be a key factor in the evaluation of your Offer;
- 6 ***Representations and Warranties:*** There will be no representations or warranties provided by either the Company, its shareholders, the Monitor, or KPMG CF;

- 7 **Proposed capital structure:** Basic terms, sources and uses of funds, identity of the guarantors if the purchaser will be a special purpose entity;
- 8 **Conditions:** Confirmation, to the extent possible, that your Offer is not conditional to any further approvals, funding, or financing. Specifically, your Offer should provide/confirm:
 - a) a summary of the planned sources and uses of funds, and in the event that financing comes from internally available funds, evidence of availability;
 - b) if financing is to be sourced from third parties, the Offer should include all relevant financing documentation, including financing term sheets that support your planned sources of cash and that specify the contacts (individuals) of the financing institutions. KPMG CF could contact the individuals of the financing institutions to validate the financing;
 - c) that due diligence is complete;
 - d) that the Offer has been executed and delivered by a signatory authorized to bind you to its terms and that all necessary corporate and other approvals to proceed with the Transaction have been obtained;
 - e) an outline of any anticipated regulatory approvals or filing requirements needed to complete the Transaction.
- 9 **Advisors:** The names of any financial, legal or other advisors you have engaged or plan to engage in pursuing the Transaction;
- 10 **Intentions regarding the operations of the Company/Transition Period:** A description of your plans regarding the business of the Company;
- 11 **Other information:** Any other information that you believe may be of relevance to the assessment of your Offer.

The Offer will also include the following declarations:

- a) You have had the opportunity to conduct your own due diligence in relation to Motovan Corporation and its financial and operational activities prior to submitting an Offer;
- b) The proposed transaction is carried out on an "as is, where is" basis, at your own risk and without any representation or warranty of any kind, whatsoever;
- c) You have relied solely on your own review and investigation into the Company's assets and operations, and have relied solely on your own findings;
- d) You have not relied on any representations, or warranties, whether written or oral, express, implied, statutory or otherwise, regarding Motovan Corporation and its assets;
- e) You waive all claims against Motovan, the Monitor, or KPMG CF in respect of any present, past and future activities of the Company, or any use or durability of the Company's assets, their quality, value, or sustainability, including without limitation claims for defamation;

- f) You confirm you will be responsible for your own costs incurred in connection with your investigation of the Company and any Transaction, including those of your advisors, attorneys, and agents.

12 Contacts: The name and phone numbers of those people assigned to answer questions that we may have regarding your Offer;

Your Offer should be dated and signed by a duly authorized officer whose capacity should be stated.

Transaction timeline

The Transaction timeline for the closing of a potential transaction is as envisaged below:

- 2020/01/22 : Deadline for submitting your Offer
- 2020/01/31 : Approval and Vesting Order by the CCAA Court;
- 2020/02/03 : Notification of bidding parties of retention for closing;
- 2020/02/07 : Closing of approved Transaction.

Important information

KPMG CF and the Monitor intend to manage this process with a view to minimizing disruption to the Company's day-to-day operations. All bidders must **solely** liaise with the designated KPMG CF representatives with respect to any additional information requests and **are not to communicate with management, shareholders, employees or customers of the Company, or any agent or representative of any of the foregoing,** without explicit written consent from KPMG CF.

The Company and its advisors reserve the right at all times, provided they obtain the prior written approval of the Monitor and the Bank of Montreal, to:

- (i) amend, vary, modify or cancel the process and/or the timetable;
- (ii) decline to permit any bidder to participate in the process;
- (iii) terminate negotiations with any bidder at any time, including prior to entering into a definitive purchase agreement;
- (iv) reject any or all proposals;
- (v) accept, review or consider any offer, whether or not such offer represents the highest purchase price proposed by any bidder;
- (vi) deal with one or more bidder(s) to the exclusion of all other parties, and
- (vii) limit access at any time to any additional information; the whole without any liability to the Company, its shareholders, directors, representatives or its advisors.

In addition, the Company and KPMG CF reserve the right to amend any information which has been made available to interested parties either by way of addition, deletion or amendment, the whole subject to the approval of the Monitor.

No representation or warranty is made by the Monitor, the Company, its shareholders, directors, affiliates, advisors, including KPMG CF, representatives or any other person as to the accuracy or completeness of the Evaluation Material provided. Each bidder acknowledges and agrees that it shall be entitled to rely solely on the representations and warranties, if any, in a definitive agreement relating to a Transaction when, as, and if it is executed, and subject to any limitations and restrictions as may be specified in such definitive agreement. The bidders should conduct their own investigation and analysis of the Company including with respect to legal, tax, and financial matters. By submitting your Offer, you acknowledge that you are relying solely upon your own independent investigation and evaluation of the business.

Any bidder who does not wish to pursue this opportunity is required to promptly give written notice of such termination and return or destroy all Evaluation Material in accordance with the NDA, and certify such destruction in writing by a senior officer.

No finder's fees, commissions, expenses or other compensation will be paid by the Company, its shareholders, directors, representatives or KPMG CF to agents, consultants, advisors or other intermediaries of any bidders, and the Company, its shareholders and KPMG CF will not be responsible for any costs or expenses incurred by bidders in evaluating and pursuing the Transaction.

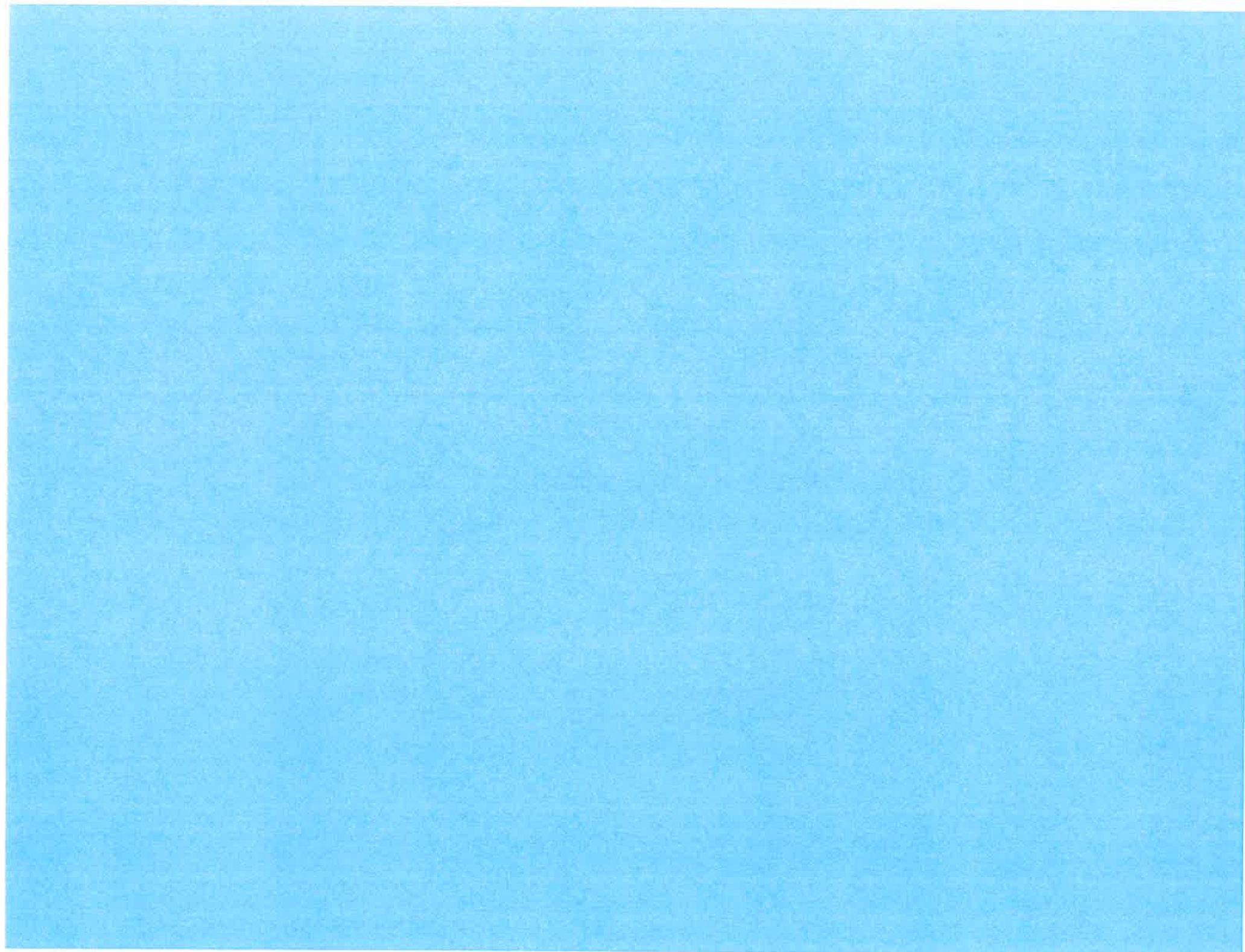
On behalf of the Company, we would like to thank you for your interest and look forward to receiving your Offer.

Yours truly,

KPMG CORPORATE FINANCE INC.

By:

René Cormier
Vice-President
Tel.: 514-840-2575
rcormier@kpmg.ca



December 9, 2019

CONFIDENTIAL

<Name of potential investor>

<Address>

<Address>

[NTD: MAY NEED TO BE ADJUSTED TO CONFORM WITH COURT APPROVED SISP]

RE: Potential investor

You have requested certain information regarding the Canadian assets and operations of Motovan Corporation (the "**Corporation**") in connection with a possible investment in the Corporation or purchase of the assets of the Corporation (the "**Transaction**"). As a condition to furnishing such information to you, we are requiring that you agree, as set forth below, to treat confidentially such information and any other information that we, or any of our Affiliates (as defined below), or our Affiliates' directors, officers, partners, employees, agents, advisors or other representatives, including KPMG Corporate Finance Inc. ("**KPMG CF**"), KPMG Inc., acting as Monitor under the CCAA proceedings initiated by the Corporation and al, and their affiliates, directors, officers or employees (collectively "**Our Representatives**") furnish to you, your directors, officers, employees, agents, advisors or other representatives (collectively "**Your Representatives**"), whether furnished before or after the date of this letter (collectively, the "**Evaluation Material**").

More particularly, "**Evaluation Material**" includes, without limitation:

- (i) information relating to the Corporation or any of its Affiliates (as defined under the *Canada Business Corporations Act*) in written form, magnetically encoded, electronic files, transmitted verbally, through a virtual data room or in any other form or media and regardless of the manner in which it is furnished, which is in possession of the Corporation or Our Representatives and includes, without limitation, all copies, reproductions, summaries, reports, analyses, compilations, memoranda, notes, extracts, studies or other writings or documents (collectively, the "**Notes**") prepared by you or Your Representatives or on your behalf or on behalf of any of Your Representatives to the extent they contain, reflect or are based upon or derived from any such information;
- (ii) the existence of this agreement or its contents, or the fact that Evaluation Material has been made available to you or Your Representatives; and
- (iii) any information concerning the possible Transaction, or the terms and conditions or other facts related thereto, including without limitation, the fact that discussions or negotiations are taking place with respect thereto or the status thereof.

DRAFT FOR DISCUSSION PURPOSES ONLY

The term “**Evaluation Material**” does not include information which (i) currently is or becomes generally available to the public other than as a result of a disclosure by you or Your Representatives, (ii) as evidenced by written records, was available to you on a non-confidential basis prior to its disclosure to you by the Corporation from a source which is not bound by a confidentiality agreement with the Corporation, or otherwise not prohibited by contractual, legal or fiduciary obligation from transmitting the Evaluation Material to you, or (iii) becomes available to you on a non-confidential basis from a source other than the Corporation or Our Representatives, provided that such source is not bound by a confidentiality agreement with the Corporation or otherwise not prohibited by contractual, legal or fiduciary obligation from transmitting the Evaluation Material to you.

1. Non-Disclosure and Use of Evaluation Material

You and Your Representatives

- (i) will keep the Evaluation Material confidential and will not disclose any Evaluation Material in any manner whatsoever, in whole or in part,
- (ii) will not use, directly or indirectly, any Evaluation Material except for the evaluation of the possible Transaction, provided, however, that you may reveal the Evaluation Material or portions thereof to Your Representatives
 - a. who need to know the Evaluation Material for the purposes of evaluating the potential Transaction,
 - b. who are informed by you of this agreement and of the confidential nature of the Evaluation Material and
 - c. who are directed by you to treat the Evaluation Material in a manner consistent with the terms of this agreement.

You shall not otherwise use the Evaluation Material for your own benefit or for the benefit of any other person. You agree to use the same level of diligence to protect the Evaluation Material from unauthorized use or disclosure as you use to protect your own confidential or proprietary information, but in no event shall you use less reasonable diligence than any prudent and diligent person would. In particular, you will limit and control copies, extracts and reproductions made of the Evaluation Material and will ensure that any confidentiality or other proprietary rights notices on the Evaluation Material are reproduced on any such copies.

2. Disclosure Required

In the event that you or Your Representatives should be required, by law or regulation or by legal process, to disclose any Evaluation Material, it is agreed that you will provide the Corporation with prompt notice of any such request, so that the Corporation may seek an appropriate protective order or other remedy, or consult with you with respect to taking steps to resist or narrow the scope of such request or legal process and/or waive your compliance with the provisions of this agreement. You will cooperate with us, at our costs, to obtain any such order or remedy. It is further agreed that if, in the absence of a protective

order or the receipt of a waiver hereunder, you are nonetheless, in the opinion of outside counsel, compelled to disclose Evaluation Material, or else to be liable for contempt or suffer other penalty, you or Your Representatives may disclose only that portion of the Evaluation Material which you are advised by opinion of your outside counsel is legally required, provided, however, that you give the Corporation advance written notice of the Evaluation Material to be disclosed as far in advance of its disclosure as is practical and, at the Corporation's request, seek to obtain assurances that it will be granted confidential treatment.

3. Return of Documents

Upon the request of the Corporation, of KPMG CF, or KPMG Inc. or upon termination of discussion between you and the Corporation, (i) you will promptly deliver to the Corporation the Evaluation Material other than the Notes (ii) you will promptly destroy in a manner satisfactory to the Corporation all Notes and certify such destruction in writing and/or (iii) you and Your Representatives will immediately cease using access to any virtual data room set up by the Corporation, as the case may be. Any Evaluation Material that cannot be returned or destroyed (including without limitation any oral Evaluation Material) shall remain subject to this agreement.

4. Process

You agree that all (i) communications regarding the possible Transaction, (ii) requests for additional information meetings or visits, and (iii) discussions or questions regarding procedures with respect to the possible Transaction, will be submitted or directed exclusively to the attention of KPMG CF with a copy to KPMG Inc. For greater certainty, you shall not (and you shall cause Your Representatives not to) contact or attempt to contact any employee, lender, customer, supplier, distributor, franchisee, consultants or representative of the Corporation, any of their respective agents, any holder of shares, options, warrants or other securities of the Corporation or any other person having business relations with the Corporation, without the prior written consent of KPMG CF or KPMG Inc.

You acknowledge and agree that (a) we and Our Representatives are free to conduct the process relating to the possible Transaction as we and Our Representatives, in our sole discretion, determine (including, without limitation, conduct of the due diligence process, negotiating with any prospective investor and entering into a preliminary or definitive agreement to effect a Transaction without prior notice to you or any other person), (b) we reserve the right, in our sole discretion, to change the procedures relating to our consideration of the Transaction at any time without prior notice to you or any other person, to reject any and all proposals made by you or any of Your Representatives with respect to the Transaction and to terminate discussions and negotiations with you at any time and for any reason, and (c) unless and until a written definitive agreement concerning the Transaction has been executed, neither we nor any of Our Representatives will have any liability to you with respect to the Transaction, whether by virtue of this agreement, any other written or oral expression with respect to the Transaction or otherwise.

5. No Representation or Warranty

You understand and acknowledge that neither KPMG CF, KPMG Inc. nor the Corporation makes any express or implied representation or warranty as to the accuracy or completeness of the Evaluation Material or any other information which KPMG CF, KPMG Inc. or the Corporation or Our Representatives shall furnish to you or Your Representatives. Nothing herein obligates the Corporation to complete, revise or update any Evaluation Material. You agree that neither KPMG CF, KPMG Inc., the Corporation nor any of Our Representatives shall have any liability to you or Your Representatives resulting from the use of the Evaluation Material by you or Your Representatives or from errors therein or omissions therefrom.

6. Compliance with Applicable Law

You shall handle the Evaluation Material in accordance with all applicable law, including, without limitation, legislation governing the privacy of personal information.

7. Non-Solicitation of Employees

For a period of twenty-four (24) months from the date hereof, you agree and undertake not to solicit, either directly or indirectly, any of the Corporation's personnel, to accept employment with, or to act as an independent contractor or advisor to, you or any of your Affiliates. "**Corporation's personnel**" means all of the directors, officers, employees or consultants of the Corporation or its Affiliates at the time of execution of this agreement or at any time thereafter. The prohibition contained in this paragraph shall not extend to general solicitations of employment not specifically directed towards any Corporation's personnel.

8. Ownership

You acknowledge that the Evaluation Material remains the property of the Corporation and that the disclosure of such information to you or Your Representatives shall not be deemed to confer upon you or them any rights whatsoever in respect of any part thereof. Neither the agreement nor the disclosure of Evaluation Material hereunder shall be construed as granting any right or license, express or implied, under any copyright, patent, trade secret, or other intellectual property right now or hereafter owned or controlled by the Corporation.

9. Legal Remedy

You acknowledge that we would be irreparably harmed if any provision of this agreement is breached by you or Your Representatives, that monetary damages would not be a sufficient remedy for any such breach, and that in addition to all other remedies the Corporation shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and you further agree to waive, and to cause Your

Representatives to waive, any requirement for the securing or posting of any bond in connection with such remedy.

10. Severability

If any provision of this agreement is held to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect and, if required, shall be deemed modified to the limited extent required to permit its enforcement in the manner most closely approximating the intention of the parties as expressed herein.

11. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous oral or written representation with respect to the subject matter hereof. This agreement may only be modified by a writing signed by both parties.

12. Term

The obligations under this agreement shall terminate twenty four (24) months after the date of this agreement as set forth on the first page hereof.

13. Assignment

Any assignment of this agreement by you without our prior written consent shall be void.

14. No Waiver

It is further understood and agreed that no failure or delay by the Corporation in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

15. Language

The parties declare that they have agreed that this agreement and all documents relating thereto, either present or future, be drawn up in the English language only; *les parties déclarent par les présentes qu'elles ont convenu que cette entente et tous les documents y afférents soient, pour le présent ou le futur, rédigés dans la langue anglaise seulement.*

16. Further Assurances

You agree that you shall, from time to time, and at all times hereafter, at the request of the Corporation, KPMG Inc. or KPMG CF, do all such further acts and execute and deliver all such further documents and instruments as shall reasonably be required in order to fully perform and carry out the terms and intent hereof.

17. Governing Law and Jurisdiction

This agreement shall be governed and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein without giving effect to the conflicts of laws principles thereof. Each party hereto irrevocably submits to the exclusive jurisdiction of the courts of the Province of Québec, district of Montreal, with respect to any matter arising hereunder or in relation to this agreement.

For convenience of reference, this agreement shall be called the “**Confidentiality Agreement or NDA**” between us dated **Month, Day, 2019**. Once executed it should be forwarded to KPMG CF and KPMG Inc.

Yours very truly,

Motovan Corporation

By: _____

Print name: _____

Title: _____

CONFIRMED AND AGREED TO:

[Name of the potential investor]

By: _____

Print name: _____

Title: _____

DRAFT FOR DISCUSSION PURPOSES ONLY

EXHIBIT R-2

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

File: No: 500-11-

Montreal, December 12, 2019

**PRESIDING: THE HON. MARIE-ANNE
PAQUETTE, J.S.C.**

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

9348069 CANADA INC.

-and-

4295862 CANADA INC.

-and-

MOTOVAN CORPORATION

Petitioners

-and-

MONCY HOLDING COMPANY INC.

-and-

**MONCY FINANCIAL SERVICES COMPANY
INC.**

-and-

NICHOLS MOTORCYCLE SUPPLY INC.

-and-

MONCY LLC

-and-

**MOTORCYCLE TIRES & ACCESSORIES
LLC**

Mises en cause

(Petitioners and the Mises en cause are collectively hereafter referred to as the « **CCAA Parties** »)

-and-

BANK OF MONTREAL;

-and-

INVESTISSEMENT QUÉBEC;

-and-

EXPORT DEVELOPMENT CANADA;

-and-

BDC CAPITAL INC.

Secured Creditors

-and-

KPMG INC.

Monitor

ORDER

UPON READING *Petitioners' Motion (i) For an Order Extending the Stay Period, (ii) To Amend the Initial Order and (iii) for the Approval of a Sale And Investment Solicitation Process pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36 (as amended the "CCAA") and having examined the exhibits and the affidavit of James Paladino filed in support thereof (the "Motion");*

GIVEN the absence of contestation and the consent of the Monitor;

GIVEN the provisions of the CCAA;

FOR THESE REASONS, THE COURT HEREBY:

GRANTS the Motion;

DECLARES that sufficient prior notice of the presentation of the Motion has been given to interested parties;

ISSUES the *Amended and Restated Initial Order* attached herewith as **Schedule I**;

APPROVES the SISP set forth pursuant to the documentation filed as Exhibit R-1 of the Motion;

APPROVES the timeline set forth in the Motion with respect to the steps to be undertaken under the SISP;

AUTHORIZES and **DIRECTS** the CCAA Parties, the Monitor and the SISP Advisor (as defined in the Motion) to take such steps as they consider necessary or desirable in carrying out the SISP;

ORDERS the provisional execution of the present Order notwithstanding any appeal;

THE WHOLE without costs.

Montreal, December 12, 2019

HON. MARIE-ANNE PAQUETTE, J.S.C.

EXHIBIT R-3

CANADA

PROVINCE OF QUEBEC
DISTRICT OF **MONTREAL**

File: No: 500-11-057570-190

SUPERIOR COURT
(Commercial Division)

Montreal, December 12, 2019

**PRESIDING: THE HON. MARIE-ANNE
PAQUETTE, J.S.C.**

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

9348069 CANADA INC.

-and-

4295862 CANADA INC.

-and-

MOTOVAN CORPORATION

Petitioners

-and-

MONCY HOLDING COMPANY INC.

-and-

**MONCY FINANCIAL SERVICES COMPANY
INC.**

-and-

NICHOLS MOTORCYCLE SUPPLY INC.

-and-

MONCY LLC

-and-

**MOTORCYCLE TIRES & ACCESSORIES
LLC**

Impleaded Parties

(Petitioners and Impleaded Parties are collectively hereafter referred to as the « **CCAA Parties** »)

-and-

BANK OF MONTREAL

-and-

INVESTISSEMENT QUÉBEC

-and-

EXPORT DEVELOPMENT CANADA

-and-

BDC CAPITAL INC.

Secured Creditors

-and-

KPMG INC.

Monitor

AMENDED AND RESTATED INITIAL ORDER

UPON READING *the Motion for (i) the Issuance of an Initial Order, (ii) the Granting of an Administration Charge, & for (iii) the Granting of a Directors and Officers Charge,* pursuant to the *Companies' Creditors Arrangement Act, R.S.C. 1985, C-36* (as amended the "**CCAA**") and having examined the exhibits and the affidavit of James Paladino filed in support thereof (the "**Petition**");

GIVEN the consent of KPMG Inc. to act as monitor (the "**Monitor**"), relying upon the submissions of counsel and being advised that the interested parties, including secured

creditors who are likely to be affected by the charges created herein, were given prior notice of the presentation of the Petition;

GIVEN the initial order issued by this Court on December 2, 2019 (the “Preliminary Initial Order”);

GIVEN the provisions of the CCAA;

FOR THESE REASONS, THE COURT HEREBY:

1. **GRANTS** the Petition.
2. **ISSUES** an order pursuant to the CCAA (the “**Order**”), divided under the following headings:
 - A- Service
 - B- Application of the CCAA
 - C- Effective Time
 - D- Plan of Arrangement
 - E- Stay of Proceedings against the CCAA Parties and the Property
 - F- Stay of Proceedings against the Directors and Officers
 - G- Possession of Property and Operations
 - H- No Exercise of Rights or Remedies;
 - I- No Interference with Rights
 - J- Continuation of Services
 - K- Non-Derogation of Rights
 - L- Directors’ and Officers’ Indemnification and Charge
 - M- Restructuring
 - N- Powers of the Monitor
 - O- Priorities and General Provisions Relating to the CCAA Charges
 - P- General

A- Service

3. **DECLARES** that sufficient prior notice of the presentation of this Petition has been given by the CCAA Parties to interested parties, including the secured creditors who are likely to be affected by the charges created herein.

B- Application of the CCAA

4. **DECLARES** that the CCAA Parties are companies to which the CCAA applies.
5. **ORDERS** that the consolidation of these CCAA proceedings in respect of the CCAA Parties shall be for administrative purposes only and shall not effect a consolidation of the assets and property of each of the CCAA Parties including, without limitation, for the purposes of any Plan or Plans that may be hereafter proposed.

C- Effective time

6. **DECLARES** that this Order and all of its provisions are effective as of 12:01 a.m. Montreal time, province of Quebec, on the date of the Preliminary Initial Order;

D- Plan of Arrangement

7. **DECLARES** that the CCAA Parties shall have the authority to file with this Court and to submit to its creditors one or more plans of compromise or arrangement (collectively, the "**Plan**") in accordance with the CCAA.

E- Stay of Proceedings against the CCAA Parties and the Property

8. **ORDERS** that, until and including January 31, 2020 at 5 p.m. or such later date and time as the Court may order from time to time (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 CCAA Parties, or affecting their respective business operations and activities (the "**Business**") or the Property (as defined herein below), including as provided in paragraph 12 hereinbelow except

with leave of this Court. Any and all Proceedings currently under way against or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

9. **ORDERS** that the rights of Her Majesty in right of Canada and Her Majesty in right of a Province are suspended in accordance with the terms and conditions of Subsection 11.09 CCAA.

F- Stay of Proceedings against the Directors and Officers

10. **ORDERS** that during the Stay Period and except as permitted under subsection 11.03(2) of the CCAA, no Proceeding may be commenced, or continued against any former, present or future director or officer of the CCAA Parties nor against any person deemed to be a director or an officer of the CCAA Parties under subsection 11.03(3) CCAA (each, a “**Director**”, and collectively the “**Directors**”) in respect of any claim against such Director which arose prior to the Effective Time and which relates to any obligation of the CCAA Parties where it is alleged that any of the Directors is under any law liable in such capacity for the payment of such obligation.

G- Possession of Property and Operations

11. **ORDERS** that the CCAA Parties shall remain in possession and control of their present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively the “**Property**”), the whole in accordance with the terms and conditions of this order including, but not limited, to paragraph 23 hereof.

H- No Exercise of Rights or Remedies

12. **ORDERS** that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization,

governmental body or agency, or any other entity (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the CCAA Parties or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.

13. **DECLARES** that, to the extent any rights, obligations, or prescription, time or limitation periods, including, without limitation, to file grievances, relating to the CCAA Parties or any of the Property or the Business may expire (other than pursuant to the terms of any contracts, agreements or arrangements of any nature whatsoever), the term of such rights, obligations, or prescription, time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period. Without limitation to the foregoing, in the event that the CCAA Parties become bankrupt or a receiver as defined in subsection 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) is appointed in respect of the CCAA Parties, the period between the date of the Order and the day on which the Stay Period ends shall not be calculated in respect of the CCAA Parties in determining the 30 day periods referred to in Sections 81.1 and 81.2 of the BIA.

I- **No Interference with Rights**

14. **ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, resiliate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the CCAA Parties, except with the written consent of the CCAA Parties and the Monitor, or with leave of this Court.

J- **Continuation of Services**

15. **ORDERS** that during the Stay Period and subject to paragraph 17 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the CCAA Parties or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance,

transportation, utility or other goods or services made available to the CCAA Parties, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the CCAA Parties, and that the CCAA Parties shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of the Order are paid by the CCAA Parties, without having to provide any security deposit or any other security, in accordance with normal payment practices of the CCAA Parties or such other practices as may be agreed upon by the supplier or service provider and the CCAA Parties, with the consent of the Monitor, or as may be ordered by this Court.

16. **ORDERS** that, notwithstanding anything else contained herein and subject to subsection 11.01 CCAA, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided to the CCAA Parties on or after the date of this Order, nor shall any Person be under any obligation on or after the date of the Order to make further advance of money or otherwise extend any credit to the CCAA Parties.

17. **ORDERS** that, without limiting the generality of the foregoing and subject to Section 21 of the CCAA, if applicable, cash or cash equivalents placed on deposit by the CCAA Parties with any Person during the Stay Period, whether in an operating account or otherwise for itself or for another entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of the Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by CCAA Parties and properly honoured by such institution, or (ii) holding the amount of any cheques or other instruments deposited into the CCAA Parties' account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

18. **ORDERS** that notwithstanding paragraph 17 of this Order, nothing in this Order shall modify or interfere with the bank account agreements entered into between the Bank of Montreal and the CCAA Parties and the accounts subject thereto, including any existing blocked accounts agreements and deposit control accounts agreements, nor will this order prevent the exercise of, limit or prohibit the enforcement of, or restrict the rights of Bank of Montreal under such agreements.

K- Non-Derogation of Rights

19. **ORDERS** that, notwithstanding the foregoing, any Person who provided any kind of letter of credit, guarantee or bond (the "**Issuing Party**") at the request of the CCAA Parties shall be required to continue honouring any and all such letters, guarantees and bonds, issued on or before the date of the Order, provided that all conditions under such letters, guarantees and bonds are met save and except for defaults resulting from this Order; however, the Issuing Party shall be entitled, where applicable, to retain the bills of lading or shipping or other documents relating thereto until paid.

L- Directors' and Officers' Indemnification and Charge

20. **ORDERS** that the CCAA Parties shall indemnify their Directors from all claims relating to any obligations or liabilities they may incur and which have accrued as of December 2, 2019, by reason of or in relation to their respective capacities as directors or officers of the CCAA Parties after the Effective Time, except where such obligations or liabilities were incurred as a result of such directors' or officers' gross negligence, wilful misconduct or gross or intentional fault as further detailed under Section 11.51 CCAA.
21. **ORDERS** that the Directors of the CCAA Parties shall be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of **\$723,000.00** (the "**D&O Charge**"), as security for the indemnity provided in paragraph 20 of this Order as it relates to obligations and liabilities that

the Directors may incur in such capacity after the Effective Time. The D&O Charge shall have the priority set out in paragraphs 39 and following of this Order.

22. **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 D&O Charge, and (b) the Directors shall only be entitled to the benefit of the D&O 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 for which the Directors are entitled to be indemnified in accordance with paragraph 20 of this Order.

M- Restructuring

23. **DECLARES** that, to facilitate the orderly restructuring of its business and financial affairs (the "**Restructuring**") but subject to such requirements as are imposed by the CCAA, the CCAA Parties shall have the right, subject to approval of the Monitor or further order of the Court, to:
- (a) permanently or temporarily cease, downsize or shut down any of its operations or locations as it deems appropriate and make provision for the consequences thereof in the Plan;
 - (b) pursue all avenues to finance or refinance, market, convey, transfer, assign or in any other manner dispose of the Business or Property, in whole or part, subject to further order of the Court and sections 11.3 and 36 CCAA, and under reserve of subparagraph (c);
 - (c) convey, transfer, assign, lease, or in any other manner dispose of the Property, outside of the ordinary course of business, in whole or in part, provided that the price in each case does not exceed \$100,000 or \$500,000 in the aggregate; (...)

- (d) terminate the employment of such of its employees or temporarily or permanently lay off such of its employees as it deems appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other amounts in respect thereof are not paid in the ordinary course, make provision, on such terms as may be agreed upon between the CCAA Parties and such employee, or failing such agreement, make provision to deal with, any consequences thereof in the Plan, as the CCAA Parties may determine;
- (e) subject to the provisions of section 32 CCAA, disclaim or resiliate, any of its agreements, contracts or arrangements of any nature whatsoever, with such disclaimers or resiliation to be on such terms as may be agreed between the CCAA Parties and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan; and
- (f) subject to section 11.3 CCAA, assign any rights and obligations of the CCAA Parties.

24. **DECLARES** that, if a notice of disclaimer or resiliation is given to a landlord of the CCAA Parties pursuant to section 32 of the CCAA and subsection 22(d) of this Order, 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 by giving the CCAA Parties and the Monitor 24 hours prior written notice and (b) at the effective time of the disclaimer or resiliation, the landlord shall be entitled to take possession of any such leased premises and re-lease any such leased premises to third parties on such terms as any such landlord may determine without waiver of, or prejudice to, any claims or rights of the landlord against the CCAA Parties, provided nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

25. **ORDERS** that the CCAA Parties shall provide to any relevant landlord notice of the CCAA Parties' intention to remove any fittings, fixtures, installations or leasehold improvements at least seven (7) days in advance. If the CCAA Parties have already vacated the leased premises, they shall not be considered to be in occupation of such location pending the resolution of any dispute between the CCAA Parties and the landlord.

26. **DECLARES** that, in order to facilitate the Restructuring, the CCAA Parties may, subject to the approval of the Monitor, or further order of the Court, settle claims of customers and suppliers that are in dispute.

27. **DECLARES** that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the CCAA Parties are permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in their possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to their advisers (individually, a "**Third Party**"), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with the CCAA Parties binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the CCAA Parties or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring or the preparation or implementation of the Plan or a transaction in furtherance thereof, such Third Party may continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the CCAA Parties.

N- Powers of the Monitor

28. **ORDERS** that KPMG Inc. (Mr. Dev A. Coossa) is hereby appointed to monitor the business and financial affairs of the CCAA Parties as an officer of this Court (the "**Monitor**") and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:

- (a) shall, without delay, (i) publish once a week for two (2) consecutive weeks or as otherwise directed by the Court, in *La Presse* and *The Gazette* and (ii) within five (5) business days after the date of this Order (A) post on the Monitor's website (the "**Website**") a notice containing the information prescribed under the CCAA, (B) make this Order publicly available in the manner prescribed under the CCAA, (C) send, in the prescribed manner, a notice to all known creditors having a claim against the CCAA Parties of more than \$1,000, advising them that the Order is publicly available, and (D) prepare a list showing the names and addresses of such creditors and the estimated amounts of their respective 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;
- (b) shall monitor the CCAA Parties' receipts and disbursements;
- (c) shall assist the CCAA Parties, to the extent required by the CCAA Parties, in dealing with its creditors and other interested Persons during the Stay Period;
- (d) shall assist the CCAA Parties, to the extent required by the CCAA Parties, with the preparation of their cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;

- (e) shall advise and assist the CCAA Parties, to the extent required by the CCAA Parties, to review the CCAA Parties' business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (f) shall assist the CCAA Parties, to the extent required by the CCAA Parties, with the Restructuring and in their negotiations with their creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) shall report to the Court on the state of the business and financial affairs of the CCAA Parties or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (h) shall report to this Court and interested parties, including but not limited to creditors affected by the Plan, with respect to the Monitor's assessment of, and recommendations with respect to, the Plan;
- (i) may retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of the Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (j) may engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under the Order or under the CCAA;
- (k) may act as a "foreign representative" of the CCAA Parties or in any other similar capacity in any insolvency, bankruptcy or reorganisation

proceedings outside of Canada;

(l) may give any consent or approval as may be contemplated by the Order or the CCAA, and

(m) may perform such other duties as are required by the Order or the CCAA or by this Court from time to time.

29. **ORDERS** that the CCAA Parties and their current and former shareholders, officers, Directors, agents and representatives shall fully cooperate with the Monitor in the exercise of its powers and discharge of its duties, rights and obligations as provided and set out in this Order.

30. **ORDERS** that the CCAA Parties and their Directors, officers, employees and agents, accountants, auditors and all other Persons having notice of the Order shall forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the CCAA Parties in connection with the Monitor's duties and responsibilities hereunder and in conformity with their duty to act in good faith as stated under Section 18.6 of the CCAA.

31. **DECLARES** that the Monitor may provide creditors and other relevant stakeholders of the CCAA Parties with information in response to requests made by them in writing addressed to the Monitor and copied to the CCAA Parties' counsel. In the case of information that the Monitor has been advised by the CCAA Parties is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of the CCAA Parties unless otherwise directed by this Court.

32. **DECLARES** that if the Monitor, in its capacity as Monitor, carries on the business of the CCAA Parties or continues the employment of the CCAA Parties' employees, the Monitor shall benefit from the provisions of section 11.8 of the CCAA.

33. **DECLARES** that no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven days notice to the Monitor and its counsel. The entities related to or affiliated with the Monitor referred to in subparagraph 28(i) hereof shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.
34. **ORDERS** that CCAA Parties shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel, the CCAA Parties' legal counsel and other advisers, directly related to these proceedings, the Plan and the Restructuring, whether incurred before or after the Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.
35. **DECLARES** that the Monitor, the Monitor's legal counsel, if any, the CCAA Parties' legal counsel and the Monitor and the CCAA Parties' respective advisers (including for purpose of clarity KPMG Corporate Finance), whether Canadian or American, as security for the professional fees and disbursements incurred both before and after the making of the Order and directly related to these proceedings, the Plan and the Restructuring, be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$500,000 (the "**Administration Charge**"), having the priority established by paragraphs 36 and 37 hereof.

O- **Priorities and General Provisions Relating to the CCAA Charges**

36. **DECLARES** that the priorities of the Administration Charge, and the D&O Charge (collectively, the "**CCAA Charges**"), as between them with respect to any Property to which they apply, shall be as follows:
- a. first, the Administration Charge; and
 - b. second, the D&O Charge;

37. **DECLARES** that each of the CCAA Charges shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, options, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Property whether or not charged by such Encumbrances.
38. **ORDERS** that, except as otherwise expressly provided for herein, the CCAA Parties shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the CCAA Charges unless the CCAA Parties obtain the prior written consent of the Monitor and the prior approval of the Court.
39. **DECLARES** that each of the CCAA Charges shall attach, as of the Effective Time, to all present and future Property of the CCAA Parties, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
40. **DECLARES** that the CCAA Charges and the rights and remedies of the beneficiaries of the CCAA Charges, as applicable, shall be valid and enforceable and shall not otherwise be limited or impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any petition for a receiving order filed pursuant to the BIA in respect of the CCAA Parties or any receiving order made pursuant to any such petition or any assignment in bankruptcy made or deemed to be made in respect of the CCAA Parties; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the CCAA Parties (a "**Third Party Agreement**"), and notwithstanding any provision to the contrary in any Third Party Agreement:
- (a) the creation of any of the CCAA Charges shall not create or be deemed to constitute a breach by the CCAA Parties of any Third Party Agreement to which it is a party; and

- (b) any of the beneficiaries of the CCAA Charges shall not have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges.

- 41. **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any petition for a receiving order filed pursuant to the BIA in respect of the CCAA Parties and any receiving order allowing such petition or any assignment in bankruptcy made or deemed to be made in respect of the CCAA Parties, and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by the CCAA Parties pursuant to the Order and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.
- 42. **DECLARES** that the CCAA Charges shall be valid and enforceable as against all Property of the CCAA Parties and against all Persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of the CCAA Parties, for all purposes.

P- General

- 43. **ORDERS** that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, employees, legal counsel or financial advisers of the CCAA Parties or the Monitor in relation to the Business or Property of the CCAA Parties, without first obtaining leave of this Court, upon five (5) days written notice to the CCAA Parties' counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings;
- 44. **ORDERS** that, subject to further Order of this Court, all motions in these CCAA proceedings are to be brought on not less than five (5) calendar days' notice to all

Persons on the service list. Each Motion shall specify a date (the “**Initial Hearing Date**”) for the hearing;

45. **ORDERS** that any Person wishing to object to the relief sought on a motion in these CCAA proceedings must serve responding motion materials or a notice stating the objection to the motion and the grounds for such objection (a “**Notice of Objection**”) in writing to the moving party, the CCAA Parties and the Monitor, with a copy to all Persons on the service list, no later than 5 p.m. Montreal Time on the date that is three (3) calendar days prior to the Initial Hearing Date (the “**Objection Deadline**”);
46. **ORDERS** that, if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of the motion (the “**Presiding Judge**”) may determine: (a) whether a hearing is necessary; (b) whether such hearing will be in person, by telephone or by written submissions only; and (c) the parties from whom submissions are required (collectively, the “**Hearing Details**”). In the absence of any such determination, a hearing will be held in the ordinary course;
47. **ORDERS** that, if no Notice of Objection is served by the Objection Deadline, the Monitor shall communicate with the Presiding Judge regarding whether a determination has been made by the Presiding Judge concerning the Hearing Details. The Monitor shall thereafter advise the service list of the Hearing Details and the Monitor shall report upon its dissemination of the Hearing Details to the Court in a timely manner, which may be contained in the Monitor’s next report in these proceedings;
48. **ORDERS** that, if a Notice of Objection is served by the Objection Deadline, the interested parties shall appear before the Presiding Judge on the Initial Hearing Date, or such earlier or later time as may be directed by the Court, to, as the Court may direct: (a) proceed with the hearing on the Initial Hearing Date; or (b) establish a schedule for the delivery of materials and the hearing of the contested motion and such other matters, including interim relief, as the Court may direct;

49. **DECLARES** that the Order and any proceeding or affidavit leading to the Order, shall not, in and of themselves, constitute a default or failure to comply by the CCAA Parties under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
50. **DECLARES** that, except as otherwise specified herein, the CCAA Parties and the Monitor are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of the CCAA Parties and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
51. **DECLARES** that the CCAA Parties and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that the CCAA Parties shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.
52. **DECLARES** that, unless otherwise provided herein, under the CCAA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for the CCAA Parties and the Monitor and has filed such notice with this Court, or appears on the service list prepared by the Monitor or its attorneys, save and except when an order is sought against a Person not previously involved in these proceedings;
53. **DECLARES** that the CCAA Parties or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties

and rights hereunder or in respect of the proper execution of the Order on notice only to each other.

54. **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the CCAA Parties, the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order, such application or motion shall be filed during the Stay Period ordered by this Order, unless otherwise ordered by this Court;
55. **DECLARES** that the Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
56. **DECLARES** that the Monitor, with the prior consent of the CCAA Parties, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of the CCAA Parties. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
57. **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.

58. **ORDERS** the provisional execution of the Order notwithstanding any appeal.

59. (...)

HON. MARIE-ANNE PAQUETTE, J.S.C.

No.: 500-11-057570-190

**SUPERIOR COURT
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

**IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C.,
1985, C. C-36, AS AMENDED:
9348069 CANADA INC. et al.**

Petitioners

and

MONCY HOLDING COMPANY INC. et al.

Mises en cause

and

BANK OF MONTREAL et al.

Secured Creditors

and

KPMG INC.

Proposed Monitor

**PETITIONERS' MOTION (I) FOR AN ORDER
EXTENDING THE STAY PERIOD, (II) TO AMEND
THE INITIAL ORDER AND (III) FOR THE
APPROVAL OF A SALE AND INVESTMENT
SOLICITATION PROCESS ("SISP"), NOTICE OF
PRESENTATION, LIST OF EXHIBITS AND
EXHIBITS R-1 TO R-3**

*(Section 11 ff. of the Companies' Creditors
Arrangement Act)*

COPY

Me Bertrand Giroux

Our file: 8350-318



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