

Sale and Investment Solicitation Process

Introduction

1. On January 31, 2024, Tool Shed Brewing Company Inc. (the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to s 50.4 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BLA**”) in Estate No. 25-3038201 (the “**NOI Proceeding**”).
2. KPMG Inc. is the proposal trustee for the Company in the NOI Proceeding (in such capacity, the “**Proposal Trustee**”).
3. It is anticipated that on February 12, 2024, the Company will apply to the Court of King’s Bench of Alberta (the “**Court**”) for an Order that, among other things: (a) approves this sale and investment solicitation process (the “**SISP**”), and (b) authorizes the execution by the Company of the stalking horse share purchase agreement between the Company and the Stalking Horse Bidder (as defined below) (the “**Stalking Horse Agreement**”) as the stalking horse bid for the purpose of conducting the SISP (the “**SISP Order**”).
4. The purpose of the SISP is to identify one or more financiers, purchasers of, and/or investors in the Company, the Business, and/or Property (each as defined below) to make an offer that is superior to the offer contemplated by the Stalking Horse Agreement, and to complete the transactions contemplated by any such offer, or by the Stalking Horse Agreement if no other offers are accepted.
5. This document (the “**SISP Procedures**”) outlines the SISP, which is comprised of one bidding phase and an auction, if required.
6. In this regard, the Proposal Trustee will conduct the SISP described herein with the assistance of, and in consultation with, the Company, and with the approval of the Court before any material sale or refinancing.
7. All dollar amounts expressed herein, unless otherwise noted, are in Canadian currency. Unless otherwise indicated herein, any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day.

Defined Terms

8. All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the SISP Order and the Stalking Horse Agreement. In addition, in these SISP Procedures:
 - (a) “**Administration Charge**” has the meaning set forth in the Interim Financing Term Sheet;
 - (b) “**Assumed Liabilities**” has the meaning set forth in the Stalking Horse Agreement;
 - (c) “**Break Fee**” means the sum of \$60,000 (inclusive of GST, if any), which shall be paid to the Stalking Horse Bidder in the circumstances described herein;
 - (d) “**Business**” means on going operations, assets, and undertakings of the Company;
 - (e) “**Business Day**” means a day on which banks are open for business in Calgary, Alberta, but does not include a Saturday, Sunday or statutory holiday in the Province of Alberta;

- (f) **“Closing Date”** means April 26, 2024, or such other date as the Company, the Proposal Trustee, and the Successful Bidder may agree, acting reasonably;
- (g) **“CRA”** means Canada Revenue Agency;
- (h) **“CRA Debt”** means source deductions owing by the Company to CRA, currently estimated at \$571,091.70;
- (i) **“Interim Lender”** means 2582568 Alberta Inc.;
- (j) **“Interim Lender’s Charge”** has the meaning set forth in the Interim Financing Term Sheet;
- (k) **“Interim Financing Term Sheet”** means the interim financing term sheet between the Company and the Interim Lender, dated February 5th, 2024;
- (l) **“Investment Proposal”** has the meaning given to it at paragraph 23;
- (m) **“Minimum Incremental Overbid”** means a cash (or a non-cash equivalent) value of at least \$20,000;
- (n) **“Property”** means all, substantially all, or certain of the assets, property, and undertakings of the Company;
- (o) **“Purchase Price”** has the meaning set forth in the Stalking Horse Agreement;
- (p) **“Purchased Shares”** has the meaning set forth in the Stalking Horse Agreement;
- (q) **“Recoverable Expenses”** has the meaning set forth in the Interim Financing Term Sheet;
- (r) **“Retained Assets”** has the meaning set forth in the Stalking Horse Agreement;
- (s) **“Sale Proposal”** has the meaning given to it at paragraph 23;
- (t) **“Stalking Horse Bidder”** means 2582568 Alberta Inc.;
- (u) **“Successful Bid”** shall have the meaning given to it in Section 35; and
- (v) **“Superior Offer”** means a credible, reasonably certain and financially viable third party offer for the investment in, or acquisition of some or all of the Property, the Company, or the Business, the terms of which offer are, in the determination of the Proposal Trustee, in consultation with the Company, no less favourable and no more burdensome or conditional than the terms contained in the Stalking Horse Agreement, and which at a minimum includes: (i) payment in cash of the Purchase Price, the Recoverable Expenses, the Break Fee, one Minimum Incremental Overbid, any amounts outstanding under the Administration Charge and Interim Lender’s Charge at the closing of such transaction; and (ii) assumption or satisfaction of the Assumed Liabilities.

Stalking Horse Agreement

9. The Company has entered into the Stalking Horse Agreement with the Stalking Horse Bidder, pursuant to which, if there is no Successful Bid (as defined below) from a party other than the Stalking Horse Bidder, the Stalking Horse Bidder will, by virtue of and in accordance with the transactions set out in the Stalking Horse Agreement, acquire (directly or indirectly) the Post-Consolidation Shares and indirectly the Retained Assets, and Assumed Liabilities through acquiring ownership of the Company.
10. The Stalking Horse Agreement is attached hereto as **Schedule “A”**.

Opportunity

11. As stated above, the SISP is intended to solicit interest in, and opportunities for, the sale of, or investment in, the Business, the Property, or the Company (the **“Opportunity”**). The Opportunity may include one or more of a restructuring, recapitalization or other form or reorganization of the business and affairs of the Company as a going concern, or a sale of all, substantially all, or one or more components of the Company’s Property and Business as a going concern or otherwise.

“As Is, Where Is”

12. Except to the extent otherwise set forth in a definitive sale or investment agreement with a Successful Bidder (as defined herein), the sale of the Business or all or any part of the Property or an investment in the Company will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Proposal Trustee, the Company, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Company in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders.

Timeline

13. The following table sets out the key milestones under the SISP:

Milestone	Deadline
Commencement of the SISP	February 12, 2024
Bid Deadline (12:00 p.m. Calgary time)	March 11, 2024
Notice of Auction (if any)	March 13, 2024
Auction (if any)	March 19, 2024
Approval Application	April 15, 2024, or as soon as reasonably practicable
Closing Date	April 26, 2024

The dates set out in the SISP may be extended by the Proposal Trustee, in consultation with the Company.

SOLICITATION OF INTEREST: NOTICE OF THE SISP

14. As soon as reasonably practicable after the approval of the SISP by the Court:
 - (a) the Proposal Trustee will arrange for a notice of the SISP (and such other relevant information which the Proposal Trustee, in consultation with the Company, considers appropriate) (the “**Notice**”) to be published in *Insolvency Insider* and any industry publication, website, newspaper, or journal as the Proposal Trustee, in consultation with the Company, considers appropriate, if any; and
 - (b) the Proposal Trustee, in consultation with the Company, will prepare:
 - (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and
 - (ii) a non-disclosure agreement in form and substance satisfactory to the Company and the Proposal Trustee, and their respective counsel (an “**NDA**”).
15. The Proposal Trustee shall send the Teaser Letter to any party who requests a copy of the Teaser Letter and NDA or who is identified to the Company or the Proposal Trustee as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

SEEKING QUALIFIED BIDS FROM QUALIFIED BIDDERS

Qualified Bidders

16. Any party who wishes to participate in the SISP (each, a “**Potential Bidder**”) must deliver to the Company and the Proposal Trustee on or before the Bid Deadline, unless the Proposal Trustee confirms to such Potential Bidder that the below documents were already provided to the satisfaction of, or are already available to, the Company and the Proposal Trustee:
 - (a) an executed NDA which shall inure to the benefit of any investor or purchaser of the Business or Property, or any portion thereof. If the Potential Bidder has previously delivered an NDA and letter of this nature to the Company or Proposal Trustee and the NDA remains in effect, the Potential Bidder is not required to deliver a new NDA or letter pursuant to this section unless otherwise requested by the Proposal Trustee;
 - (b) a letter setting forth the Potential Bidder’s (i) identity, (ii) contact information and (iii) full disclosure of its direct and indirect principals; and
 - (c) a form of financial disclosure and credit quality support or enhancement that allows the Company and the Proposal Trustee to make a reasonable determination as to the Potential Bidder’s financial and other capabilities to close the contemplated transaction on or before the Closing Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction.
17. If the Company, in consultation with the Proposal Trustee, determine that a Potential Bidder has:
 - (a) delivered the documents contemplated in paragraph 16 above; and

- (b) the financial capability based on the availability of financing, experience and other considerations, to be able to consummate the contemplated transaction,

then such Potential Bidder will be deemed to be a “**Qualified Bidder**”. For greater certainty, no Potential Bidder shall be deemed to be a Qualified Bidder without the approval of the Proposal Trustee, in consultation with the Company.

- 18. At any time during the SISP, the Company may, in its reasonable business judgment and after consultation with the Proposal Trustee and with the consent of the Proposal Trustee, eliminate a Qualified Bidder from the SISP, in which case such bidder will be eliminated from the SISP.
- 19. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with the Company.

Due Diligence

- 20. The Proposal Trustee, in consultation with the Company, shall in its reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence material and information relating to the Property and Business as it or the Company deems appropriate. Due diligence access may include management presentations, access to electronic data rooms, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Company, in its reasonable business judgment and after consulting with the Proposal Trustee, may agree.
- 21. Neither the Company nor the Proposal Trustee make any representations or warranty as to the information to be provided through the due diligence process or otherwise, regardless of whether such information is provided in written, oral or any other form, except to the extent otherwise contemplated under any definitive sale agreement with a Successful Bidder executed and delivered by the Company and approved by the Court.
- 22. The Proposal Trustee shall designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither the Company nor the Proposal Trustee shall be obligated to furnish any information relating to the Property or Business to any person other than to Qualified Bidders. Furthermore, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Company, in consultation with and with the approval of the Proposal Trustee, determine such information to represent proprietary or sensitive competitive information.

Qualified Bids

- 23. A Potential Bidder that wishes to make an offer to: (a) acquire the Business or all, substantially all or any part of the Property, including any offer to acquire some or all of the Company’s intellectual property, manufacturing equipment, accounts receivable and furniture, fixtures and equipment (a “**Sale Proposal**”), or (b) make an investment in the Company by way of private issuances, sale or placement of newly issued or treasury equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors or security holders (an “**Investment Proposal**”), must deliver written copies of a final, binding proposal (the “**Bid**”) that complies with all of the Qualified Bid requirements to the Proposal Trustee and the Company at

the addresses specified in **Schedule “B”** hereto (including by e-mail) so as to be received by them on or before the Bid Deadline.

24. A Bid will be considered a Qualified Bid only if it is submitted by a Qualified Bidder and the Bid complies with, among other things, the following (a “**Qualified Bid**”):
- (a) Timing: it is submitted on or before the Bid Deadline;
 - (b) Sale Proposal: in the case of a Sale Proposal, it contains the following:
 - (i) a duly authorized and executed definitive and binding asset purchase agreement, together with all completed schedules thereto, which includes all or substantially all of the material terms and conditions of the transaction, including identification of the Business or the Property to be acquired, the obligations to be assumed, the purchase price for the Business or Property to be acquired in Canadian dollars, and key assumptions supporting the valuation;
 - (ii) a specific indication of the financial capability of the Qualified Bidder and the structure and financing of the transaction; and
 - (iii) any other terms or conditions of the Sale Proposal that the Qualified Bidder believes are material to the transaction;
 - (c) Investment Proposal: in the case of an Investment Proposal, it contains the following:
 - (i) a duly authorized and executed binding term sheet which includes all or substantially all of the material terms and conditions of the proposed transaction, including details regarding the proposed equity and debt structure of the Company following completion of the proposed transaction, the direct or indirect investment target and the aggregate amount of equity and debt investment (including from sources of such capital, the underlying assumptions regarding the *pro forma* capital structure, as well as anticipated tranches of debt, debt service fees, interest and amortization) to be made in the Company, and the debt, equity, or other securities, if any, proposed to be allocated to creditors of the Company; and
 - (ii) any other terms or conditions of the Investment Proposal that the Qualified Bidder believes are material to the transaction;
 - (d) Deposit: it is accompanied by a cash deposit in an amount equal to 15% of the purchase price (in the case of a Sale Proposal) or imputed value (in the case of an Investment Proposal) that shall be paid to the Proposal Trustee in trust, to be held and dealt with in accordance with this SISP;
 - (e) Irrevocable Bid: it contains a letter stating that the Bid is irrevocable until Court approval of the Successful Bid;
 - (f) Financial Commitment: it provides written evidence of a firm, irrevocable financial commitment for all required funding or financing, or other evidence of ability to consummate the proposed transaction;

- (g) Identification: it fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating in or benefiting from such bid;
- (h) No Collusion: it provides a written confirmation that the Qualified Bidder has not engaged in any collusion with any other bidder;
- (i) Authorization: it contains evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body);
- (j) No Break or Termination Fee: it does not include any request for or entitlement to any break fee or termination fee, expense reimbursement or similar type of payment, and confirmation that it shall be responsible for all of its costs and expenses associated with conducting due diligence and submitting a Bid;
- (k) Unconditional Bid: it is not conditional upon:
 - (i) the outcome of unperformed due diligence by the Qualified Bidder;
 - (ii) obtaining financing; or
 - (iii) any other material closing conditions;
- (l) Superior Offer: the bid constitutes a Superior Offer; and
- (m) Closing Date: it contemplates closing the transaction set out therein on or before April [26], 2024.

25. All Bids will be considered, but the Proposal Trustee, in consultation with the Company, reserves the right to reject any and all Bids in its sole discretion.

26. Notwithstanding anything else in these SISP Procedures, the Stalking Horse Bidder is deemed to be a Qualified Bidder and the Stalking Horse Agreement is deemed to be a Qualified Bid for all purposes and at all times. No deposit is required in connection with the Stalking Horse Agreement.

No Qualified Bids

27. If none of the Qualified Bids received by the Proposal Trustee constitute a Superior Offer, the Stalking Horse Bidder shall be declared the Successful Bidder and the Stalking Horse Agreement shall be declared the Successful Bid.

If a Superior Offer is Received

28. Following the Bid Deadline, the Proposal Trustee, in consultation with the Company, will assess the Qualified Bids.

29. If the Proposal Trustee, in consultation with the Company, determines that one or more of the Qualified Bids constitutes a Superior Offer, the Proposal Trustee shall provide the parties making Superior Offers and the Stalking Horse Bidder the opportunity to make further bids through the auction process set out below (the "**Auction**").

Auction

30. If the Auction is to be held, the Proposal Trustee shall send notice (the “**Auction Notice**”) by email to the Stalking Horse Bidder and all Qualified Bidders that submitted a Superior Offer and invite such bidders to participate in the Auction on or before 12:00 p.m. Calgary time on March 13, 2024.
31. The Auction Notice shall include, amongst other things: (a) the date, time and location of the Auction and (b) a copy of the highest or otherwise best Superior Offer(s) (the “**Starting Bid**”).
32. The Proposal Trustee will conduct an Auction commencing at 10:00 a.m. Calgary time on March 19, 2024 at the offices of the Proposal Trustee’s legal counsel, MLT Aikins LLP, at 2100 Livingston Place, 222 3rd Ave SW, Calgary, AB, or such other location as shall be identified in the Auction Notice timely communicated to all entities entitled to attend at the Auction, which Auction may be adjourned by the Proposal Trustee, in consultation with the Company.
33. If a Qualified Bidder intends to participate in the Auction, it must advise the Proposal Trustee of such intention in writing prior to 12:00 p.m. Calgary time at least two (2) business days prior to the Auction (a “**Participation Notice**”). If the only Participation Notice is received from the Qualified Bidder that submitted the Starting Bid, that Qualified Bidder shall be deemed to be the Successful Bidder, subject to Court approval.
34. If at least two (2) Participation Notices are received (the parties who so inform the Proposal Trustee that they intend to participate are hereinafter referred to as the “**Auction Bidders**”), the Auction shall run in accordance with the following procedures:
 - (a) during the afternoon of the day that is prior to the Auction, the Proposal Trustee shall make itself available to meet with each of the Auction Bidders to review the procedures for the Auction, and the manner by which Subsequent Bids (as defined below) shall be evaluated during the Auction;
 - (b) only representatives of the Auction Bidders, the Proposal Trustee, and such other persons as permitted by the Proposal Trustee (and the advisors to each of the foregoing entities) are entitled to attend the Auction in person (and the Proposal Trustee shall have the discretion to allow such persons to attend by videoconference);
 - (c) the Proposal Trustee shall make arrangements to take notes of the Auction;
 - (d) each Auction Bidder shall be required to confirm that it has not engaged in any collusion with any other Auction Bidder with respect to the bidding or any sale or investment;
 - (e) only the Auction Bidders will be entitled to make any Subsequent Bids at the Auction; provided, however, that in the event that any Qualified Bidder elects not to attend and/or participate in the Auction, such Qualified Bidder’s Qualified Bid shall nevertheless remain fully enforceable against such Qualified Bidder if it is selected as the Successful Bid;
 - (f) all Subsequent Bids presented during the Auction shall be made and received in one room on an open basis. All Auction Bidders will be entitled to be present for all Subsequent Bids at the Auction with the understanding that the true identity of each Auction Bidder at the Auction will be fully disclosed to all other Auction Bidders at the Auction and that all

material terms of each Subsequent Bid will be fully disclosed to all other Auction Bidders throughout the entire Auction;

- (g) all Auction Bidders must have at least one individual representative with authority to bind such Auction Bidder present in person at the Auction;
- (h) the Proposal Trustee may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids, requirements to bid in each round, and the ability of multiple Auction Bidders to combine to present a single bid) for conducting the Auction, provided that such rules are (i) not inconsistent with the SISP Procedures, general practice in insolvency proceedings, or the SISP Order or; (ii) disclosed to each Auction Bidder at the Auction;
- (i) bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid is submitted by an Auction Bidder (a “**Subsequent Bid**”) that the Proposal Trustee determines is (A) for the first round, a higher or otherwise better offer than the Starting Bid, and (B) for subsequent rounds, a higher or otherwise better offer than the Leading Bid (as defined below); in each case by at least the Minimum Incremental Overbid. After the first round of bidding and between each subsequent round of bidding, the Proposal Trustee shall announce the bid (including the value and material terms thereof) that it believes to be the highest or otherwise best offer (the “**Leading Bid**”). A round of bidding will conclude after each Auction Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid;
- (j) to the extent not previously provided (which shall be determined by the Proposal Trustee), an Auction Bidder submitting a Subsequent Bid must submit, at the Proposal Trustee’s discretion, as part of its Subsequent Bid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Proposal Trustee), demonstrating such Auction Bidder’s ability to close the transaction proposed by the Subsequent Bid. For greater certainty, if the Stalking Horse Bidder submits a Subsequent Bid, this paragraph shall only apply to the Stalking Horse Bidder if the cash portion of the Purchase Price in the Stalking Horse Bidder’s Subsequent Bid is in excess of any cash portion of the Purchase Price in the Stalking Horse Agreement;
- (k) the Proposal Trustee reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction of not more than 24 hours each, to among other things (i) facilitate discussions between the Proposal Trustee and the Auction Bidders; (ii) allow the individual Auction Bidders to consider how they wish to proceed; (iii) consider and determine the current highest and best offer at any given time in the Auction; and (iv) give Auction Bidders the opportunity to provide the Proposal Trustee with such additional evidence as the Proposal Trustee, in its reasonable business judgment, may require that that Auction Bidder (including, as may be applicable, the Stalking Horse Bidder) has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing overbid amount;
- (l) the Stalking Horse Bidder shall be permitted, in its sole discretion, to submit Subsequent Bids, provided, however, that such Subsequent Bids are made in accordance with these SISP Procedures (modified as necessary to reflect and include the non-cash credit bid component of the Stalking Horse Agreement);

- (m) if, in any round of bidding, no new Subsequent Bid is made, the Auction shall be closed;
 - (n) the Auction shall be closed within five (5) Business Days of the start of the Auction unless extended by the Proposal Trustee; and
 - (o) no bids (from Qualified Bidders or otherwise) shall be considered after the conclusion of the Auction.
35. At the end of the Auction, the Proposal Trustee, in consultation with the Company, shall identify the winning bid (the “**Successful Bid**”). Once a definitive agreement has been negotiated and settled in respect of the Successful Bid as selected by the Proposal Trustee, in consultation with the Company (the “**Selected Superior Offer**”), in accordance with the provisions hereof, the Selected Superior Offer shall be the “Successful Bid” hereunder and the person(s) who made the Selected Superior Offer shall be the “Successful Bidder” hereunder. If the Successful Bidder is a party other than the Stalking Horse Bidder, the Proposal Trustee shall pay the Stalking Horse Bidder the Break Fee, immediately after closing, from the Successful Bidder’s payment of cash at closing.

Transaction Approval Application Hearing

36. The Company shall apply to the Court (the “**Approval Application**”) for an order approving the Successful Bid as soon as practicable following the determination by it and the Proposal Trustee of the Successful Bidder and the execution of definitive documents. The Company will be deemed to have accepted the Successful Bid only when it has been approved by the Court.
37. All Qualified Bids and Subsequent Bids (other than the Successful Bid) shall be deemed rejected on and as of the date and of approval of the Successful Bid by the Court, but not before, and shall remain open for acceptance until that time.

Deposits

38. All Deposits shall be retained by the Proposal Trustee in a non-interest-bearing trust account located at a financial institution in Canada.
39. If there is a Qualified Bid that constitutes a Successful Bid, the Deposit paid by the person making such Successful Bid shall be applied to the consideration to be paid by such Qualified Bidder upon closing of the transaction constituting the Successful Bid and shall be non-refundable.
40. The Deposit(s) from all Qualified Bidders submitting Qualified Bids that do not constitute a Successful Bid shall be returned to such Qualified Bidder within five (5) Business Days of Court approval of the Successful Bid.
41. If the Qualified Bidder making a Qualified Bid is selected as the Successful Bid and breaches or defaults on its obligation to close the transaction in respect of its Successful Bid, it shall forfeit its Deposit to the Proposal Trustee for and on behalf of the Company; provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Company has in respect of such breach or default.
42. If the Company is unable to complete the Successful Bid as a result of its own actions and not as a result of steps or conditions contained in the Successful Bid (or the actions of the Successful Bidder), then the Deposit shall be returned to the Successful Bidder.

Approvals

43. For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the applicable law in order to implement a Successful Bid.

Supervision of the SISP

44. The Proposal Trustee shall oversee, in all respects, the conduct of the SISP, and will participate in the SISP in the manner set out in the SISP Procedures.
45. The Company and the Proposal Trustee will generally consult with the other in respect of all matters arising out of this SISP. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.
46. The Proposal Trustee, in consultation with the Company, may waive compliance with any one or more of the requirements of the SISP Procedures, including, for greater certainty, waive strict compliance with any one or more of the requirements specified above and deem a non-compliant bid to be a Qualified Bid, excepting the requirement that the bid be a Superior Offer pursuant to Section 25(1);.
47. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the Company or the Proposal Trustee and any Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Company.
48. Without limiting the preceding paragraph, neither the Company nor the Proposal Trustee shall have any liability whatsoever to any person or party, including without limitation any Potential Bidder, the Stalking Horse Bidder, Qualified Bidder, the Successful Bidder, the Company, or any creditor or other stakeholder of the Company, for any act or omission related to the process contemplated by the SISP Procedures. By submitting a bid, each Qualified Bidder or Successful Bidder shall be deemed to have agreed that it has no claim against the Company or the Proposal Trustee for any reason, matter or thing whatsoever related to this SISP.
49. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
50. Subject to the terms of the SISP Order, the Company shall have the right to modify the SISP with the prior written approval of the Proposal Trustee if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP, provided that the service list in the NOI Proceeding shall be advised of any substantive modification to the procedures set forth herein.
51. In order to discharge its duties in connection with the SISP, the Company and Proposal Trustee may engage professional or business advisors or agents as the Company and Proposal Trustee deems fit in its sole discretion.

Confidentiality and Access to Information

52. All discussions regarding the Opportunity or the Bid should be directed through the Proposal Trustee.
53. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Qualified Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Company, the Proposal Trustee and such other bidders or Potential Bidders in connection with the SISP.
54. The Proposal Trustee may consult with any parties with a material interest in the NOI Proceeding regarding the status of and material information and developments relating to the SISP, provided that such parties shall have entered into confidentiality arrangements satisfactory to the Company and the Proposal Trustee.

Further Orders

55. At any time during the SISP, the Proposal Trustee or the Company may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder.