

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND DOMENICO SARAFINO AS A PERSON INTERESTED IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGMENT OF HYDRX FARMS LTD.,
CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.**

(the "Applicant")

**MOTION RECORD
(CRO APPOINTMENT AND SISP)
(Returnable April 30, 2021)**

April 26, 2021

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Court File No. CV-21-00659187-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE COMPANIES' CREDITORS
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**AND DOMENICO SERAFINO AS A PERSON INTERESTED IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGMENT OF HYDRX FARMS LTD.,
CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.**

(the "Applicant")

NOTICE OF MOTION

Schwartz Levitsky Feldman Inc. will make a motion before a Judge of the Ontario Superior Court of Justice on April 30, 2021, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference due to the COVID-19 crisis. The videoconference details are set out in the Applicant's motion materials.

THE MOTION IS FOR:

1. An Order substantially in the form of the draft order attached as Appendix "A" to this Notice of Motion (excluding the schedules referenced therein, which can be found in the Monitor's Second Report):

- (a) abridging the time for service of this notice of motion and the motion record and dispensing with service on any person other than those served;

- (b) appointing Macpherson & Associates Inc. (“MAI”) as the chief restructuring officer of the Debtors (in such capacity, the “CRO”) in accordance with the engagement letter (the “CRO Engagement Letter”) appended to the Monitor’s Second Report to the court dated August 26, 2021 (the “Second Report”), and directing Hydrx to execute the CRO Engagement Letter;
 - (c) approving the proposed sale and investment solicitation process in the form appended to the Second Report (the “SISP”); and,
 - (d) increasing the amount of the Administration Charge in the Initial Order from \$250,000 to \$400,000;
 - (e) providing directions in respect of process before this court to determine the amount of the debt, if any, owing to Cobra Ventures Inc. (“Cobra”) by Hydrx Farms Ltd. (“Hydrx”) and any rights in respect thereof (the “Cobra Claim”), or, in the alternative appointing a Claims Officer to adjudicate the Cobra Claim;
2. Such further relief as this Honourable Court deems just;

THE GROUNDS FOR THE MOTION ARE:

A. *Background*

3. Hydrx is a private corporation incorporated under the *Canada Business Corporations Act* on April 29, 2014. Hydrx has two wholly owned subsidiaries, Scientus Pharma Inc. (“Scientus Pharma”) and CannScience Innovations Inc. (“CannScience”, collectively with Scientus Pharma and Hydrx, the “Debtors”);

4. Hydrx is a vertically-integrated biopharmaceutical company with a focus on developing and commercializing pharmaceutical grade cannabinoid derivative products;

5. On March 22, 2021, the Applicant brought an application before this Court seeking an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended ("CCAA") to, among other things, obtain a stay of proceedings to allow them an opportunity to obtain funding to restructure the affairs of the company or to market the company for sale;

6. On March 22, 2021, the Court granted an initial order in these proceedings (the "Initial Order") that, among other things, appointed Schwartz Levitsky Feldman Inc. as monitor in these CCAA proceedings (the "Monitor");

7. On March 31, 2021, the Court extended the Stay of Proceedings to May 3, 2021 and granted an Administration Charge (the "Amended Initial Order");

8. Since the Amended Initial Order, the Monitor has acted diligently to, among other things, stabilize the Debtors' business and operations, locate a suitable CRO and negotiate an engagement letter with him (the "CRO Engagement Letter"), and to prepare the SISF;

B. CRO Appointment

9. Hydrx has two directors, Domenico Serafino and Richard Goldstein. In light of disagreements between the two directors, the Monitor is concerned that Hydrx's board of directors may be deadlocked, which will hinder Hydrx's restructuring efforts;

10. To mitigate this concern, and to ensure that Hydrx is operated in a fair and even-handed manner during the pendency of the CCAA proceedings, the Monitor recommends the appointment of the CRO substantially on the terms set out in the CRO Engagement Letter and draft order;

11. The Monitor has interviewed a number of candidates having regard to their restructuring experience, their relevant operational expertise, and their accounting qualifications. Based on these interviews, the Monitor recommends that the court appoint MAI as CRO;

12. MAI has extensive restructuring experience as well as industry-specific experience, and the Monitor believes that its involvement will contribute to the success of these CCAA proceedings;

C. *SISP Approval*

13. The Monitor is seeking the Court's approval of a comprehensive SISP, to be conducted by the Monitor in consultation with the CRO, the Applicant and Cobra;

14. The purpose of the SISP is to seek out proposals for the acquisition of or investment in the Debtors' business and/or property, and to implement one or a combination of such proposals;

15. The proposed SISP will identify the best opportunities in the circumstances for maximizing value for the Debtors' stakeholders;

D. Increase in the Administration Charge

16. The Debtors' most recent cash flow statement contemplates professional fees totalling \$395,000, in respect of these proceedings, and cash balances over the next three months dropping below \$50,000 in some weeks. In these circumstances, the Monitor believes that it is prudent to increase the Administration Charge to \$400,000 to better assist the Debtors in managing their cash flow and to manage the risk of prejudice to the professionals involved.

E. Cobra Claim Process

17. The determination of rights in respect of the Cobra Claim (the "Cobra Claim Dispute") is a gating issue for the purpose of determining rights in the SISP, and needs to be resolved as quickly as possible and by no later than June 30, 2021;

18. A process and/or timetable in respect of the Cobra Claim Dispute should be established by this court as soon as possible;

F. Statutory and other grounds

19. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;

20. Rules 1.04, 1.05, 2.03, 3.02, 14.05(2), 16, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended and sections 106 and 137 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and

21. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Second Report of the Monitor dated April 26, 2021, and the appendices attached thereto; and
- (b) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

April 26, 2021

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TO: THE SERVICE LIST

APPENDIX "A"

Court File No. CV-21-00659187-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	FRIDAY, THE
)	
JUSTICE HAINEY)	30 th DAY OF APRIL, 2021

**IN THE MATTER OF THE COMPANIES' CREDITORS
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CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.**

(the "Applicant")

ORDER

(CRO APPOINTMENT AND SISP APPROVAL)

THIS MOTION, made by the Schwartz Levitsky Feldman Inc. in its capacity as Court-appointed monitor (the "**Monitor**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, appointing a Chief Restructuring Officer ("**CRO**") of Hydrx Farms Ltd. ("**Hydrx**"), Cannscience Innovations Inc. ("**CII**") and Scientus Pharma Inc. ("**SPI**" and together with Hydrx and CII, the "**Debtors**"), and approving the SISP (as defined below) and certain related relief, was heard this day by Zoom videoconference at Toronto, Ontario.

ON READING the Monitor's Motion Record (the "**Motion Record**"), including the Monitor's Notice of Motion dated April 26, 2021 (the "**Notice of Motion**"), and the Monitor's second report dated April 26, 2021 (the "**Second Report**"), filed, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and counsel for Cobra Ventures Inc., and such other counsel as were present, no one else

appearing although duly served as appears from the affidavit of service of Michelle Jackson, sworn April 26, 2021;

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated, and hereby dispenses with any further service thereof so that this motion is properly returnable today;
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them under the Sale and Investment Solicitation Process attached hereto as Schedule "A" (the "**SISP**") or the initial order, as subsequently amended and restated (the "**Initial Order**"), as applicable.

APPOINTMENT OF CRO

3. **THIS COURT ORDERS AND DIRECTS** that Macpherson & Associates Inc. (the "**CRO**") is hereby appointed as the chief restructuring officer of the Debtors on the following terms:
 - (a) subject to review by and any further order of this court, the CRO shall have the powers and obligations set out in the engagement letter appended hereto as Schedule "B" (the "**CRO Engagement Letter**"), to the exclusion of all others, and Hydrx is hereby authorized and directed to execute the CRO Engagement Letter;
 - (b) the CRO shall be entitled to payment from the Debtors in accordance with the terms of the CRO Engagement Letter, for obligations owing thereunder and the expenses and disbursements contemplated therein (the "**CRO Fees**");

- (c) the CRO shall be responsible for performing its functions and obligations as set out in the CRO Engagement Letter for the benefit of the Debtors and shall provide timely updates to the Monitor in respect of such functions and obligation;
- (d) neither the CRO nor Jim Macpherson shall be nor be deemed to be a director, de facto director, or employee of any of the Debtors;
- (e) nothing in this Order shall be construed as resulting in the CRO or Jim Macpherson being an employer, successor employer, a responsible person, operator or person with apparent authority within the meaning of any statute, regulation or rule of law, or equity (including any Environmental Legislation) for any purpose whatsoever;
- (f) the CRO shall not, as a result of the performance of their respective obligations and duties in accordance with the terms of the CRO Engagement Letter, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation; provided however, if the CRO is nevertheless later found to be in Possession of any Property, then the CRO shall be entitled to the benefits and protections in relation to the Debtors and such Property as are provided to a monitor under Section 11.8(3) of the CCAA; provided further however, that nothing in this subparagraph 32(f) shall exempt the CRO from any duty to report or make disclosure imposed by a law and incorporated by reference in Section 11.8(4) of the CCAA;

- (g) no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO or Jim Macpherson, and all rights and remedies of any Person against or in respect of them are hereby stayed and suspended, except with the written consent of the CRO or with leave of this Court on notice to the Monitor and the CRO, provided, however, that nothing in this order shall affect such investigations, actions, suits or proceedings by a regulatory body that are permitted by Section 11.1 of the CCAA;
- (h) the CRO Fees shall not be compromised pursuant to any plan of arrangement, any proposal under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), or any other restructuring and no such plan, proposal, restructuring or sale transaction shall be approved that does not provide for the payment in full of all amounts due to the CRO pursuant to the terms of the CRO Engagement Letter; and
- (i) the CRO, in respect of its monthly fees and expense reimbursement, shall be entitled to the benefit of and is hereby granted the Administration Charge as security for the CRO Fees.

4. **THIS COURT ORDERS** that, save and except for gross negligence or willful misconduct, neither the CRO nor Jim Macpherson, nor their respective employees and representatives acting in such capacities, shall incur any liability or obligation as a result of the appointment of CRO or the carrying out by it of the provisions of this Order or the CRO Engagement Letter.

APPROVAL OF THE SISP

5. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with this Order) be and is hereby approved and the Monitor, together with the CRO, are authorized and directed to carry out the SISP in accordance with its terms and this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

6. **THIS COURT ORDERS** that the Monitor, the CRO, and their respective assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Monitor or CRO, as applicable, as determined by this Court.

7. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the SISP, the Monitor and the CRO shall not take possession of the Property or be deemed to take possession of the Property.

8. **THIS COURT ORDERS** that the Monitor may apply to this Court for directions with respect to the SISP at any time.

INCREASE IN ADMINISTRATION CHARGE

9. **THIS COURT ORDERS** that the Administration Charge at paragraph 26 of the Amended and Restated Initial Order dated March 31, 2021, is hereby increased from \$250,000 to \$400,000.

CLAIMS PROCESS FOR COBRA CLAIM

10. **THIS COURT ORDERS** the process to be followed to determine the amount of the debt, if any, owing to Cobra Ventures Inc. ("**Cobra**") by HydRx (the "**Cobra Claim**"),

together with any issues impacting the ability to credit-bid the Cobra Claim as part of the SISP, including, without limitation, all issues pertaining to the validity, enforceability, and perfection of any security in respect the Cobra Claim, resulting in a final determination as expeditiously as possible and by no later than June 30, 2021 (the “**Cobra Claims Process**”), shall be determined by this court at a case conference to be held on Monday, May 10, 2021.

11. **THIS COURT ORDERS** that the Monitor shall, forthwith, send a copy of this order, by email, to everyone who has served a Notice of Appearance in these proceedings, and any person interested in and wishing to participate in the Cobra Claims Process shall give notice of their interest, together with a brief statement of their position in respect of the Cobra Claim, the basis for that position and the proposed process to be followed, to the Service List in these proceedings, and file the same with the court by no later than 1:00 p.m. on Friday, May 7, 2021, and anyone failing to provide such notice in accordance with the terms of this order shall be barred from participating in the Cobra Claims Process.

12. **THIS COURT ORDERS** that the Monitor shall provide a copy of the ultimate decision in respect of the issues raised in the Cobra Claims Process (the “**Cobra Claim Decision**”), to each Phase 1 Qualified Bidder, and advise them of the precise date of the Phase 1 Qualified Bid Deadline.

PIPEDA

13. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Debtors, the CRO and the Monitor, and their respective advisors and representatives are hereby authorized and permitted to disclose and transfer to each Phase 1 Qualified Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each Phase 1 Qualified Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not

complete a Transaction, shall return all such information to the Monitor, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Monitor. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Companies and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor.

GENERAL

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, United States, or elsewhere to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Monitor and its agents in carrying out the terms of this Order.

15. **THIS COURT ORDERS** that the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order.

Court File No. CV-21-00659187-00CL

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

**AND DOMENICO SARAFINO AS A PERSON INTERESTED IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGMENT OF HYDRX FARMS LTD.,
CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDINGS COMMENCED
IN TORONTO**

**ORDER
(CRO APPOINTMENT AND SISP)**

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PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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(the "Applicants")

SECOND REPORT OF THE MONITOR

INTRODUCTION

1. On March 22, 2021, the Applicants brought an application (the "CCAA Application") before this Court returnable on March 22, 2021, seeking an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended ("CCAA") to, among other things, obtain a stay of proceedings to allow them an opportunity to obtain funding to restructure the affairs of the company or to market the company for sale.
2. On March 22, 2021, the Court granted an initial order in these proceedings (the "Initial Order") that, among other things, appointed Schwartz Levitsky Feldman Inc. ("SLF") as monitor of the Applicants in these CCAA proceedings (in such capacity, the "Monitor"), and granted a stay of proceedings for the initial 10-day period (the "Stay Period").
3. On March 31, 2021, the Court extended the Stay of Proceedings to May 3, 2021 and granted an Administration Charge in first ranking priority to a maximum of \$ 250,000.00.

4. The Court scheduled a comeback motion to be heard on April 30, 2021 (the “Comeback Motion”).

PURPOSE

5. The purpose of this second report of the Monitor (the “Second Report”) is to provide information to the Court on:

- (a) Hydrx’s activities since the First Report of the Monitor dated March 29, 2021 (the “First Report”);
- (b) the Monitor’s activities since the First Report dated March 29, 2021;
- (c) the Monitor’s proposal for the appointment of a Chief Restructuring Officer (“CRO”);
- (d) the Monitor’s proposal in respect of a Sale and Investment Solicitation Process (the “SISP”);
- (e) the Applicant’s motion for an order extending the Stay Period to July 30, 2021 and the Monitor’s motion to increase the Administration Charge from \$250,000 to \$400,000;
- (f) the Monitor’s recommendations with respect to the above.

TERMS OF REFERENCE

6. In preparing this Second Report, and making comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Applicants, discussions with management of the Applicants

(“Management”), and information from other third-party sources (collectively, the “Information”). Except as described in this Report:

- (a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards (“GAAS”) pursuant to the Chartered Professional Accountants Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
- (b) some of the information referred to in this First Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Handbook, has not been performed.

7. Future oriented financial information referred to in this First Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

8. Unless otherwise indicated, the Monitor's understanding of factual matters expressed in this Report concerning the Applicants' and their business is based on the Information, and not independent factual determinations made by the Monitor.

9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND

10. Hydrx Farms Ltd. ("Hydrx") is a private corporation incorporated under the *Canada Business Corporations Act* on April 29, 2014.

11. Hydrx has two wholly owned subsidiaries, Scientus Pharma Inc. (Scientus Pharma) and CannScience Innovations Inc. ("CannScience"). Scientus Pharma was incorporated with the expectation that it would be the corporate vehicle through which Hydrx would carry on business in the event of an initial public offering. CannScience was acquired in March 2017 principally for its patents. Neither company has carried on any active business while owned by Hydrx.

12. Hydrx is a vertically-integrated biopharmaceutical company with a focus on developing and commercializing pharmaceutical grade cannabinoid derivative products.

13. The company was approved by Health Canada as a Controlled Dry Substance Licensed Dealer in October of 2016 and subsequently received a Licensed Product Cultivation License in September of 2017 which was subsequently amended to include among other things:

- (a) cultivation;
- (b) the sale of dried flowers;
- (c) the processing of capsules and oils;
- (d) the sale of capsules and oils; and
- (e) the processing and sale of edibles and extracts.

14. Hydrx operates out of a 46,000 square foot facility which it owns at 1130 Champlain Court, Whitby, Ontario.

HYDRX'S ACTIVITIES SINCE THE FIRST REPORT

15. In the time since these proceedings were last before this court, Hydrx has recommenced operations, and has taken a number of steps in furtherance thereof or consequent thereto.

16. Cash Flow. Subject to a deferral of sales, Hydrx has managed its cash flow and disbursements in accordance with the cash flow statement appended as an exhibit to the affidavit of Domenico Serafino dated March 19, 2021. A copy of the updated cash flow statement for the period March 22, 2021 to July 30, 2021, is **Appendix A to this report**. This statement is substantially the same as the prior statement, save that it reflects the aforementioned delay in restarting production occasioned by Hydrx's efforts to ensure compliance with all rules and regulations, and makes additional provision in respect of forecast professional costs, in light of the dispute between Hydrx's shareholders.

17. Indemnity. With the Monitor's assistance, Hydrx negotiated an Indemnity Agreement (the Indemnity"), between Hydrx Farms Ltd. (the "Indemnitee"), Schwartz Levitsky Feldman Inc., in its capacity as the Monitor of the Applicant (the "Monitor") and Domenico Serafino (the "Indemnitor"), to enable Hydrx to restart production. The Indemnity has two components which, together, serve to mitigate the risk of prejudice to creditors by the recommencement of operations. First, the Indemnity covers the cost of any repairs arising directly as a result of the Indemnitee's use of Hydrx's equipment during the Indemnity Period, where such cost is not otherwise reimbursed to the Indemnitee under warranty or subject to insurance coverage. Second, the Indemnity holds harmless the Indemnitee from and against all operating losses incurred by the Indemnitee during the Indemnity Period. A copy of the Indemnity is **Appendix B** to this report.

18. Libra Advisory Inc. To facilitate the restart of operations and ensure regulatory compliance, Hydrx retained, Libra Advisory Inc., a company that provides regulatory and compliance support to help Hydrx administer its license and address regulatory issues with Health Canada as they may arise. Upon being retained, Libra's representatives conducted an initial four hour onsite inspection together with a review of select documentation relevant to regulatory and operational compliance. While Libra had some minor observations and recommendations, it concluded that the site was compliant and operating within the permissions of their site licence. A copy of Libra's Regulatory and Operational Compliance Monitoring Report for Hydrx Farms Ltd. dated April 23, 2021 is **Appendix C** to this report.

19. Health Canada Inquiry. Hydrx has responded to an information request from Health Canada dated April 13, 2021, regarding the status of the Responsible Person and confirmation of the status of the key personnel and their valid security clearances. As part of the restart of operations and further to the indemnity provided by it, the Applicant has sought to replace Tom Jefferd with Philip Hemans as the Responsible Person for Hydrx. The Applicant has been unable to effect this change, however, because Health Canada requires a director's resolution to that effect, which is not forthcoming in light of the deadlock on the Board.

20. Payment of Excise Taxes. It came to the Applicant's attention that Hydrx had not filed its excise tax return with CRA. The timely filing of this return is critical to keeping Hydrx's Health Canada licence in good standing. In order to protect and preserve the license, Hydrx made the filing and remitted the amount outstanding.

21. Shareholders' Meeting. A special meeting of Hydrx's shareholders has been called for April 28, 2021 to:

- (a) consider a resolution to replace one of Hydrx's directors; and,
- (b) receive a report from the independent Director of the Corporation and from counsel to the Corporation regarding the status of the Corporation's procedures under the *Companies' Creditors Arrangement Act*.

ACTIVITIES OF THE MONITOR SINCE THE FIRST REPORT

22. Since the First Report, the Monitor has undertaken the following activities:

- (a) The Monitor has complied with all statutory requirements, including, but not limited to;
- (i) filing Form 1 and Form 2 with the Office of the Superintendent of Bankruptcy;
 - (ii) mailing notice of these proceedings in prescribed form to all known creditors of the Applicant;
 - (iii) advertising notice of the these proceedings in the Globe and Mail (National Edition) on March 27, 2021 and April 6, 2021
- (b) The Monitor has updated its website as necessary from time to time, to post copies of all court orders, motion materials and related documents.
- (c) The Monitor has maintained an information hotline at 1-844-572-2235 and at insolvency@slf.ca, and has responded to any inquiries regarding the CCAA Proceedings.
- (d) The Monitor has assisted Hydrx in respect of its communications with Health Canada regarding the CCAA Proceedings and the preservation of Hydrx licenses.
- (e) The Monitor monitored Hydrx's cash flow and supervised the preparation of Hydrx's updated cash flow statement for the period March 22, 2021 to July 30, 2021, to ensure that all payments made by Hydrx were consistent with previously filed cash flow statement, and consisted of essential payments

and reimbursements to the secured creditor for any essential payments made by the secured creditor after the CCAA filing.

- (f) The Monitor assisted with the negotiation of and approved the Indemnity.
- (g) The Monitor arranged for the preparation of a full listing of Hydrx's assets by X-Sell Auction Services Inc., a liquidator.
- (h) The Monitor toured the premises with a representative of Hydrx's secured creditor.
- (i) The Monitor interviewed a number of individuals for the position of Chief Restructuring Officer.
- (j) The Monitor has prepared the proposed SISF, in consultation with counsel for each of Cobra and the Applicant.

CHIEF RESTRUCTURING OFFICER

23. The business of the Applicant's currently has two directors, Domenico Serafino and Richard Goldstein. In light of disagreements between them, the Monitor is concerned that Hydrx's board will be deadlocked and unable to function, and that this will interfere with and hinder Hydrx's restructuring efforts, including with respect to :

- (a) dealings with Health Canada, such as with respect to the designation of the Responsible Person, as described above;
- (b) operational decision-making outside of the ordinary course;

- (c) the conduct of a Sale and Investment Solicitation Process;
- (d) the solicitation of financing, if necessary; and,
- (e) the efficient conclusion of these restructuring proceedings (e.g., through the formulation of a plan of arrangement, the filing of an assignment in bankruptcy, and/or otherwise).

24. To address the potential deadlock on the board, and to ensure that Hydrx is operated in a fair and even-handed way while these proceedings are ongoing, the Monitor recommends that a Chief Restructuring Officer be appointed to:

- (a) oversee and, where necessary, provide direction in respect of Hydrx's limited operations, including, among other things, by reviewing any short-term supply and distribution contracts and ensuring compliance with Health Canada and other regulatory requirements;
- (b) oversee and, where necessary, provide direction in respect of the preparation of ongoing cash flow projections and statements, liaising with Hydrx's former accountant, managing cash requirements and ensuring adequate funding is available and in place;
- (c) attend to Hydrx's banking needs, including, where the CRO believes necessary, by establishing a protocol for receipts and disbursements, and acting as signatory to Hydrx's operating accounts;

- (d) in close consultation with the CCAA Monitor, advise and, where necessary, providing direction in respect of communications between Hydrx and its stakeholders, including, where necessary, dealings with Hydrx's lenders, creditors, and other stakeholders in connection with the CCAA proceedings;
- (e) solicit financing for the CCAA proceedings, where necessary;
- (f) with the Monitor's consent, retaining professional advisors (including counsel) to Hydrx, if necessary;
- (g) in consultation with the Monitor, make staffing decisions necessary to effect the CCAA restructuring and efficiently managing Hydrx, including with respect to the designation of a Responsible Person;
- (h) maintain stable and efficient business operations throughout Hydrx's SISP;
- (i) manage costs in connection with the successful consummation of the CCAA restructuring, whether by way of the SISP or otherwise;
- (j) provide information, advice and assistance required by the CCAA Monitor in its administration of the SISP and in its reporting to Court;
- (k) assist with any improvements necessary during the term of appointment;

- (l) assist with the preparation of all filings, applications or similar materials necessary or desirable for any regulatory approvals in connection with the CCAA proceedings; and,
- (m) do such other things as the CRO considers necessary in the interests of Hydrx for the purpose of the CCAA proceedings.

25. The Monitor has solicited and interviewed a number of candidates for the CRO position, having regard to their restructuring experience, their relevant operational expertise, and their accounting qualifications. Based on these interviews, the Monitor recommends that Macpherson & Associates Inc. (“**MAI**”), of which James Macpherson is the principal, be appointed as CRO in accordance with the terms of the engagement letter attached as **Appendix D** to this report. A copy of Mr. Macpherson’s *curriculum vitae* is also enclosed as part of this appendix.

26. The Monitor recommends that MAI be appointed as CRO principally for the following reasons:

- (a) In addition to his CPA designation, Mr. Macpherson is a licensed trustee in bankruptcy, and a Chartered Insolvency and Restructuring Professional, subject to and cognizant of all related professional obligations;
- (b) Mr. Macpherson has previously been the CRO of a Cannabis facility;
- (c) Mr. Macpherson is available to assume the appointment immediately; and,

- (d) Mr. Macpherson and MAI are independent of all of the major stakeholders in this case, not having had any prior dealings with Hydrx or its subsidiaries, the Applicant, Cobra or Goldstein.

27. It has been brought to the Monitor's attention that MAI currently has two ongoing engagements, unrelated to Hydrx, in which it, as a court-appointed, is represented by Serafino's counsel, Timothy Dunn. The Monitor does not believe this to be a conflict of interest or impediment to a CRO appointment in this case because:

- (a) The counsel in question are not engaged by Mr. Macpherson or MAI, personally, but rather in their capacity as court officers. It is not unusual for insolvency professionals to maintain open engagements with multiple counsel representing different parties in various cases;
- (b) As a licensed insolvency professional, Mr. Macpherson is alert to his professional obligation of independence to stakeholders and to the Court;
- (c) Mr. Macpherson and MAI have not had any prior dealings or relationships with any of the stakeholders in this case;
- (d) given the purpose of the CRO appointment, the Monitor does not expect that the CRO will have extensive, or perhaps any dealings directly with counsel for the stakeholders, and, in any event, has undertaken not to discuss this case with the Applicant's counsel without the presence of a representative of the Monitor;

- (e) Mr. Macpherson's conduct remains subject to scrutiny by the Monitor and review by the Court.

SISP

28. Having regard to Hydrx's circumstances and following discussions with representatives of Cobra and Serafino, the Monitor is of the view that a SISP should be commenced as soon as possible, and has prepared the draft SISP appended as **Appendix E** to this report.

29. A summary of the SISP follows below. Capitalized terms not otherwise defined in the course of that summary have the same meaning as in the SISP.

SISP Overview

30. The SISP is based upon and largely the same as the process recently approved by this court in January, 2021, in the FIGR Brands case (Court File No. CV-21-00655373-00CL). It is intended to be a flexible and expedited process to maximize opportunities for the restructuring of Hydrx. A potential transaction may include a restructuring, recapitalization, sale and/or other form of reorganization of the business and affairs of Hydrx, either as a going concern or on a piecemeal basis (the "Opportunity").

31. Importantly, however, the SISP attempts to take account of Cobra's advice that it presently intends to bid all or some of its alleged debt (the "Cobra Debt") for the Property, and the Applicant's advice that it intends to dispute Cobra's rights in respect of the Cobra Debt, including Cobra's entitlement to bid the entirety of the Cobra Debt. The dispute between Cobra and Applicant presents a gating issue, as Cobra's entitlement to bid the

Cobra Debt may impact the degree of participation by other potential bidders, and will certainly impact the Monitor's assessment of the bids received in Phase 1 of the SISP, and the procedure thereafter.

32. In these circumstances, the Monitor is of the view that Cobra's rights should be adjudicated as soon as possible, and, in any event, by the end of June 2021. In this way, having regard to the timelines set out below, Phase 1 of the SISP will be completed prior to the expiry of the proposed Stay Period, and the Monitor will be in a position to provide a progress report to the court in respect of the results of Phase 1, and, if appropriate, to seek directions in respect of a transaction.

33. The Monitor proposes that stakeholders having an interest in the adjudication of the Cobra Debt and its related rights should give notice of that interest (including a brief description of their position) to the court by no later than 1:00 p.m. on Friday, May 7, 2021, and that a case conference be scheduled no later than Monday, May 10, 2021, to establish a process and to set a timetable to resolve the issue by no later than June 30, 2021. In the event that the court calendar cannot accommodate the proposed schedule, the Monitor recommends that the issues be referred, for determination, to a Claims Officer recommended by the Monitor and approved by the court.

34. The SISP's the key milestones, which are driven by the determination of rights in respect of the Cobra Debt, are as follows:

Milestone	Deadline
“Solicitation of Interest Deadline”	Preliminary solicitation efforts will commence immediately after issuance of the SISP Approval Order. The Monitor will send the Teaser Letter and NDA to each Known Potential Bidder by no later than 14 days from the date of the SISP Approval Order. (collectively, the “Solicitation Period”).
“Phase 1 Bid Deadline”	21 days from the Cobra Claims Decision (as defined in the proposed SISP Approval order), or such later date as the Monitor, in its discretion, may specify, in writing, by notice given to each Known Potential Bidder.
“Phase 2 Bid Deadline”	To be specified in the Phase 2 Bid Process letter.

35. These milestones and the SISP generally are subject to procedural discretion on the part of the Monitor, as in the FIGR Brands case. Among other things, the Monitor, in consultation with and on notice to both Serafino and Cobra, may pause, terminate, amend or modify the SISP, remove Property from the SISP, and establish further or other procedures. In addition, the Monitor, in consultation with and on notice to both Serafino and Cobra, may bring a motion to the Court to seek approval of a transaction whether or not such sale or investment is in accordance with the terms or timelines set out in this SISP or a stalking horse agreement.

36. The Monitor believes that such discretion is particularly important in light of the uncertainty caused by: (a) the prevailing pandemic, such the illness of a key individual or travel restrictions or other emergency orders impeding a bidders’ ability to inspect Hydrx’s premises; and (b) the dispute between Cobra and the Applicant, including the potential for delays caused by appeals.

Solicitation of Interest

37. The Monitor, in consultation with the CRO, Serafino and Cobra, will develop a list of potential bidders, including any parties that have approached the Monitor or Hydrx and advised that they have an interest in the Opportunity, any local or international strategic or financial parties who may be interested in the Opportunity, and any other parties suggested by a stakeholder as a potential bidder.

38. To advertise of the Opportunity, the Monitor intends to publish notice of the SISP (the "Notice") in the Globe and Mail (National Edition), HortiDaily.com, and any other newspaper or journal the Monitor considers appropriate, if any, as soon as practically possible after approval of the SISP. In addition, Hydrx will issue a press release with similar information as provided in the Notice.

39. The Monitor, in consultation with Serafino and Cobra will prepare a process summary (the "Teaser Letter") describing the Opportunity and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP, together with a non-disclosure agreement in form and substance satisfactory to the Monitor (an "NDA"). The Monitor will post the Notice, the Press Release, the Teaser Letter and the form of NDA on the Monitor's Website.

Redemption of Secured Debt and Filing of CCAA Plan

40. Upon the Cobra Claim Decision becoming final, the Companies are afforded an opportunity to redeem the secured debt owing to Cobra. Where they do so, the SISP will be suspended for a period of 30 days to permit the Companies to file a CCAA plan,

whereupon the suspension of the SISP will continued pending consideration of the Plan by the Court and creditors. If they choose not to redeem the debt, or if they fail to file a plan or upon rejection of the plan by the court or creditors, the SISP will continue.

Phase 1

41. A potential bidder who submits an executed NDA will be deemed to be a “Phase 1 Qualified Bidder”.

42. The Monitor will provide each Phase 1 Qualified Bidder with access to a data room (the “Data Room”) containing due diligence materials (the “Diligence Materials”) that the Monitor, in consultation with the CRO and major stakeholders, believes may be useful to bidders.

43. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of interest to the Monitor by the Phase 1 Bid Deadline, which, to be considered a qualified letter of interest (a “Qualified LOI”), must, in addition to other criteria which are detailed in the SISP:

- (a) in the case of a Sale Transaction:
 - (i) contain a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (ii) indicate the purchase price or price range in Canadian Dollars; and

- (iii) evidence of the financial capability of the bidder to consummate the transaction and the expected structure and financing of the transaction;
- (b) in the case of an Investment Transaction:
 - (i) contain a description of how the bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;
 - (ii) indicate:
 - 1) the aggregate amount of the equity and/or debt investment to be made in Canadian Dollars; and
 - 2) the key assumptions supporting the bidder's valuation; and,
 - 3) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interests or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
- (c) a description of all anticipated conditions to closing and all conditions and approvals required for the bidder to be in a position to submit a final and binding offer;

(d) such other information as the Monitor may request.

44. The Monitor may waive compliance with any one or more of the requirements specified above and deem such non-compliant bids to be a Qualified LOI.

Review of Qualified LOIs

45. Following the Phase 1 Bid Deadline, the Monitor, in consultation with the CRO, will assess any Qualified LOIs received, including, with due regard to Credit Claim Decision, a credit bid, if any, submitted by Cobra (a “Cobra Credit Bid”).

46. In the event that, following its review of the Qualified LOI's, the Credit Claim Decision, and a Cobra Credit Bid, the Monitor concludes that it is not reasonable to expect that any bids will exceed the Cobra Credit Bid, then, subject to the right of Hydrx to repay the debt and redeem the related security, the Monitor shall apply to court for approval of the Cobra Credit Bid. Otherwise, the Monitor will proceed to identify Phase 2 Qualified Bidders and establish the Phase 2 Bid Process.

47. Where the Monitor determines that a bidder that has submitted a Qualified LOI (i) has a bona fide interest in completing a Sale Transaction or Investment Transaction, and (ii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction, then the bidder will be deemed a “Phase 2 Qualified Bidder”. The Monitor may, in its reasonable business judgment, limit the number of Phase 2 Qualified Bidders (and thereby eliminate any bidders from the process) taking into account various factors. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISF.

48. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, the Monitor, in consultation with the CRO, shall determine the process and timing to be followed in pursuing Qualified LOIs based on such factors and circumstances as the Monitor considers appropriate in the circumstances, having regard to a non-exhaustive set of factors provided in the SISP. Thereafter, the Monitor will prepare a bid process letter for Phase 2 (the “Bid Process Letter”), which will be sent by the Monitor to all Phase 2 Qualified Bidders as soon as practically possible following the Phase 1 Bid Deadline, and posted by the Monitor on the Monitor’s Website.

Phase 2

49. Phase 2 Qualified Bidders that wish to make a formal offer to purchase or invest will be required to submit a binding offer (a “Phase 2 Bid”) that complies with all of the requirements indicated in the SISP prior to the date set out in the Bid Process Letter (the “Phase 2 Bid Deadline”).

50. Following the Phase 2 Bid Deadline, the Monitor, in consultation with the CRO, will assess the Phase 2 Bids received. The Monitor, in consultation with the CRO will designate the most competitive bids that comply with the foregoing requirements to be “Qualified Bids”. Only Phase 2 Qualified Bidders whose bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s). All Phase 2 Qualified Bidders which have submitted a formal bid by the Phase 2 Bid Deadline will receive notice in writing as to whether their bid is a Qualified Bid within ten (10) business days of the Phase 2 Bid Deadline. The Monitor may aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

51. The Monitor, in consultation with CRO, will review and evaluate each Qualified Bid, and, subject to any further negotiation, identify the highest or otherwise best bid (the “Successful Bid”, and the Phase 2 Qualified Bidder making such Successful Bid, the “Successful Bidder”) for any particular Property or the Business in whole or part.

52. The Monitor has no obligation to enter into an agreement with the Successful Bidder, and reserves the right, in consultation with the Monitor and the CRO, to reject any or all Phase 2 Qualified Bids.

Court Approval

53. Where a Successful Bid is identified, the Monitor shall apply to court for approval of the Successful Bid, and consequent relief.

STAY EXTENSION

54. The Stay Period is currently set to expire on May 3, 2021. The Applicants are requesting an extension of the Stay Period until July 30, 2021.

55. The Monitor is of the view that the requested extension of the Stay Period is appropriate for the following reasons:

- (a) It appears to the Monitor that Hydrx and the Applicant have been acting in good faith and with due diligence since the date of the Initial Order;
- (b) Hydrx will require at least 3 months to implement a SISP and complete its restructuring. An extension of less than 3 months will serve to materially increase costs and thereby deplete Hydrx’s assets.

- (c) Hydrx's current cash flow statement, which the Monitor believes to be a fair and reasonable forecast, indicates that Hydrx will have sufficient liquidity to fund its operations through to the end of the proposed Stay Period.
 - (d) The Monitor will take steps to immediately report to stakeholders and the court in the event of a material change in circumstances.
56. However, the Monitor notes that Hydrx's current cash flow statement contemplates professional fees totalling \$395,000 and cash balances, over the next three months, dropping below \$50,000 in some weeks. In these circumstances, the Monitor believes that it is prudent to increase the Administration Charge to \$400,000 to better assist the Debtors in managing their cash flow and to manage the risk of prejudice to the professionals involved.

CONCLUSIONS AND RECOMMENDATIONS

57. In keeping with the foregoing, the Monitor recommends that:
- (a) the Stay Period be extended to July 30, 2021, and that the Administration Charge in these proceedings be increased from \$250,000 to \$400,000;
 - (b) Jim Macpherson be appointed as CRO on the terms set forth in his engagement, and as proposed in the Monitor's motion; and,
 - (c) the SISP be approved in the form proposed by the Monitor, and the court provide direction in respect of a process to determine rights in respect of the Cobra Claim by no later than June 30, 2021.

**SCHWARTZ LEVITSKY FELDMAN INC., in its capacity
as Monitor of the Applicants, and not in
its corporate or personal capacity.**



Per: Alan Page, CPA, CA, CIRP, LIT

APPENDIX “A”

Unaudited Cash Flow - Prepared by Management

Hydra Farms Ltd.
90 Day Cash Flow Summary

Week Ending (Friday)	Mar 22 to April 19	Week 1	7-May	Week 2	14-May	Week 3	21-May	Week 4	28-May	Week 5	4-Jun	Week 6	11-Jun	Week 7	18-Jun	Week 8	25-Jun	Week 9	2-Jul	Week 10	9-Jul	Week 11	16-Jul	Week 12	23-Jul	Week 13	30-Jul	Total	
CASH IN TRUST																													
Receipts	2,000	3,000	7,500	4,000	7,500	4,800	7,500	5,760	7,500	6,912	7,500	8,294	10,000	9,953	10,000	11,944	15,000	14,333	17,199	15,000	30,000	20,639	15,000	30,000	30,000	30,000	29,720	163,322	
Medical Cannabis Sales (1)	5,000	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	10,000	10,000	10,000	10,000	11,944	15,000	14,333	17,199	15,000	30,000	20,639	15,000	30,000	30,000	30,000	29,720	132,500	
Contract Processing (2)																													195,000
Retail Sales (3)																													66,000
Cultivation																													490,822
Operating Disbursements																													
Payroll and Benefits (4)		(8,700)	(4,800)	(10,500)	(4,800)	(4,800)	(4,800)	(10,500)	(4,800)	(4,800)	(4,800)	(4,800)	(10,500)	(10,500)	(4,800)	(10,500)	(4,800)	(4,800)	(4,800)	(12,000)	(4,800)	(12,000)	(4,800)	(4,800)	(4,800)	(4,800)	(4,800)	(12,000)	(142,200)
Consulting Fees (5)																													(62,400)
General Labour																													(43,375)
COGS																													(43,623)
Supplies and Raw Materials		(1,800)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(2,625)	(19,000)
Regulatory Advisor																													(9,000)
Utilities																													(34,125)
Office Administration																													(6,000)
Other Operating Expenses (6)																													(113,600)
Interest																													
Capital Expenditures		(10,000)																											(22,000)
Total Operating Disbursements		(34,950)	(27,175)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)	(30,220)	(31,397)
Restructuring Professional Fees																													(38,393)
Net Cash Inflows / (Outflows)	(193,000)	(74,450)	(193,000)	(65,675)	(22,175)	(22,920)	(20,304)	(43,675)	(13,215)	(2,477)	(11,458)	(23,618)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)	(37,875)	(44,467)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)
Cash																													
Beginning Balance	500,000	307,000	307,000	232,550	166,875	166,875	143,955	143,955	101,476	123,651	123,651	101,476	47,064	57,801	44,587	47,064	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	141,161	
Net Cash Inflows / (Outflows)	(193,000)	(74,450)	(193,000)	(65,675)	(22,175)	(22,920)	(20,304)	(43,675)	(13,215)	(2,477)	(11,458)	(23,618)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)	(36,505)	(37,875)	(44,467)	(37,875)	(44,467)	(37,875)	(44,467)
Ending Balance	307,000	232,550	166,875	166,875	143,955	143,955	101,476	47,064	57,801	44,587	47,064	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	59,216	58,522	205,499

NOTES:

- (1) Existing inventory to be marketed on Hydra.ca medical sales platform
- (2) Contract Processing revenue contracts have been executed and will start production March 15
- (3) Retail sales can commence following 60 day notification period to Health Canada
- (4) Employees have been laid off or furloughed in 2020
- (5) Key Personnel are currently engaged as consultants
- (6) Repairs, Reconfigure production line for new contract

APPENDIX “B”

INDEMNITY AGREEMENT

DATE: April 8, 2021

TO: Hydrx Farms Ltd. (the “Indemnitee”)

AND TO: SCHWARTZ LEVITSKY FELDMAN INC., in its capacity as the Monitor of the Applicant (the “Monitor”)

FROM: Domenico Serafino (the “Indemnitor”)

RE: In the matter of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“CCAA”), and in the matter of the plan of compromise or arrangement of the Indemnitee, CannScience Innovations Inc., and Scientus Pharma Inc. (collectively, the “Applicant”)

WHEREAS the Applicant is subject to proceedings under the CCAA pursuant to an Initial Order issued by the Ontario Superior Court of Justice (“**Court**”) on March 22, 2021, and an Amended and Restated Initial Order issued by the Court on March 31, 2021 (“**Amended and Restated Initial Order**”).

AND WHEREAS pursuant to the Amended and Restated Initial Order, the Court granted a broad stay of proceedings in favour of the Applicant, which stay of proceeding is effective from March 22, 2021 through to and including May 3, 2021 and which stay of proceeding may be extended by further Order of the Court (“**Stay Period**”)

AND WHEREAS the Indemnitor has agreed to indemnify the Indemnitee in respect of: (i) any repair costs (“**Repair Costs**”) incurred by the Indemnitee specifically relating to the use of the Equipment (as defined herein) during the period of March 31, 2021 through the remainder of the Stay Period (the “**Indemnity Period**”); and (ii) any Operating Losses (as defined herein) incurred by the Indemnitee during the Indemnity Period, subject to the Indemnitor’s right to end the Indemnity Period as provided herein.


NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Indemnitor shall indemnify and hold harmless the Indemnitee from and against all costs of repairs arising directly as result of the Indemnitee’s use of the Equipment during the Indemnity Period where such costs of repairs are not otherwise reimbursed to the Indemnitee under warranty or subject to insurance coverage. In the event repair costs are incurred as a result of the action or inaction of a third party, and the Indemnitee has a claim against such third party for such damages, the Indemnitor shall have a right of subrogation. For the purposes of this Indemnity Agreement, “**Equipment**” shall mean all equipment owned by the Indemnitee and used in connection with the ordinary course of its business operations.

2. The Indemnitor shall indemnify and hold harmless the Indemnitee from and against all Operating Losses incurred by the Indemnitee during the Indemnity Period. For purposes of this Indemnity Agreement, “**Operating Losses**” shall mean the extent, if any, to which: (i) the operating expenses plus costs of goods sold of the Indemnitee exceed (ii) the revenue generated by the Indemnitee, all as determined by the Monitor in its sole discretion, during the Indemnity Period. In determining the operating expenses and costs of goods sold, the Monitor will take into account, without limitation, those costs and expenses set out in Schedule “A” hereto.
3. The Indemnitor shall not be obligated to indemnify the Indemnitee under Sections 1 and 2 of this Indemnity Agreement in respect of any Repair Costs or Operating Losses incurred by the Indemnitee outside of the duration of the Indemnity Period.
4. The Indemnitor may provide notice, in writing by email, to the Indemnitee and the Monitor of his intention to end the Indemnity Period. After receiving such notice, the Indemnity Period shall end upon Hydrx and the Monitor confirming, in writing, both acting reasonably, that all of the following conditions have been satisfied to its satisfaction:
 - a. Hydrx has no continuing contractual obligations in respect of production for production to any third party;
 - b. all production at Hydrx’s facility has ceased; and
 - c. Hydrx’s facility and all equipment that was used during the Indemnity Period has been cleaned to a reasonable commercial standard and in compliance with applicable regulations.
5. This Indemnity Agreement shall be binding upon and enure to the benefit of the Indemnitor and Indemnitee, and their respective successors and assigns.
6. No waiver by any party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the party so waiving.
7. This Indemnity Agreement and all matters arising out of or relating to this Indemnity Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties hereto have duly executed this Indemnity Agreement with effect as and from the date first written above.




Witness



DOMENICO SERAFINO

HYDRX FARMS LTD.

Per: 

Name: *Dom Serafino*
Title: *DIRECTOR*

Per: _____
Name: _____
Title: _____

I/We Have Authority to bind the Corporation

SCHEDULE "A"**Cost of Goods Sold**

Primary Packaging
Primary Packaging Label
Excise Label
SHRINK
THC Label
Non cannabis ingredients, if applicable
Distillate sourced from other LPs
Shipping
Labour for Filling and Packing
Secondary Packaging Label
Secondary Container
Pack and ship labour
Shipping Master Container
Pallets
Lab Testing

Operating Expenses

Insurance
Electricity
Natural Gas
Property Tax
Water/Sewer
Security Monitoring
Software License
Pest Control
Licensing Fees
Urgent Maintenance
Preventative Maintenance
PPE/Cleaning

APPENDIX “C”

Monitoring Report
Regulatory and Operational Compliance
Hydrx Farms Ltd.



Regulatory and Operational Compliance Monitoring Report for Hydrx Farms Ltd.

Prepared By: Samuel Bouabane
Principal Consultant
Libra Advisory Inc.

A handwritten signature in blue ink, appearing to be "S. Bouabane".

Signature

APR 23, 2021
Date

Background:

Hydrx Farms Ltd. requires a third-party firm to provide regulatory and operational compliance monitoring services with respect to the Cannabis Act and Regulations, and specifically, Good Production Practices (GPP) as outlined in the Regulations.

Libra Advisory Inc. is a privately owned, independently operated consulting firm that provides quality, regulatory and compliance consultation services to operators in consumer packaged goods industries including pharmaceuticals, controlled substances, natural health products, food and cannabis.

Libra Advisory Inc. is qualified to practice such activities based on quality, regulatory and industry experience. Please refer to the enclosed curriculum vitae for Samuel Bouabane, Principal Consultant, Libra Advisory Inc.

Executive Summary:

A four (4) hour onsite inspection was performed at Hydrx Farms Ltd. on April 15, 2021 followed by a review of select site documentation with respect to site regulatory and operational compliance. The review was conducted by Samuel Bouabane, Principal Consultant, Libra Advisory Inc., and will be conducted as part of an ongoing review of regulatory and operational compliance as requested by a court appointed monitor, Alan Page.

Despite minor observations and recommendations described herein, the site was found to be compliant and operating within the permissions of their site licence that was issued under the Cannabis Regulations, which include standard cultivation, standard processing, medical sales and sales authorization for all classes of cannabis products.

Note: Consistent with Health Canada's model for inspection, major and critical observations are only issued in cases where public safety concerns, fraud or malicious/illegal activity are observed.

Scope:

The enclosed report provides a point-in-time review of regulatory and operational compliance of the Hydrx Farms Ltd. site located at 1130 Champlain Court, Whitby, ON, L1N 6K9, as performed by Samuel Bouabane, Principal Consultant, Libra Advisory Inc., as a four (4) hour on-site inspection (April 15, 2021), followed by an eight (8) hour desktop documentation review (April 21, 2021).

The on-site meeting was hosted by the following attendees from Hydrx Farms Ltd.:

- Thomas Jefferd, Head of Security (acting Responsible Person)
- Carol-Ann Scott, Quality Assurance Person
- Trevor Folk, company representative

The following was reviewed:

- Physical site inspection (tour) and review of ongoing operations
- Health Canada inspection findings and responses
- Select Standard Operating Procedures (SOPs)
- Select Deviations and Complaint Investigations
- Close out discussion

This report serves solely to describe observations and recommendations as presented. It does not require any response. No edits, changes, additions, removals or clarifications have been made by the site with respect to this report.

Key Observations/Recommendations:**1. Physical site inspection and review of ongoing operations:**

a) Review of Site Licence

The site is currently licensed to perform standard cultivation, standard processing and medical sales. The site also possesses sales authorization for all classes of cannabis products. Ancillary to these licensed activities, the site is capable of performing research and development (R&D) activities limited to cultivation and processing based R&D, which could include innovation in harvesting and drying techniques, formulation trials and packaging and product stability trials.

The site does not possess an exclusive Cannabis R&D Licence for human sensory testing, and therefore, it is not permitted to test any products on humans.

Based on on-site observation of site activities and review of the company's business plans, the site is operating and will continue to operate within the permissions of its licences.

b) Organizational Security Plan

Section 45 of the *Cannabis Regulations* requires licence holders to maintain and submit an updated Organization Security Plan. Pursuant to Health Canada's website, *Manage your cannabis licence: Cultivation, processing or sale for medical purposes*, licence holders are required to submit updates to their Organizational Security Plan to Health Canada within 5 days of making a change (for example, making a change with respect to key personnel associated with the licence).

The site is currently experiencing a change with respect to the Responsible Person, which is a key role as outlined in the *Cannabis Regulations*. Although a formal decision has not been made with respect to the individual who will occupy such role by Health Canada, it is recommended for the site to provide an updated Organizational Security Plan to Health Canada immediately.

Based on discussion with the Hydrx team, Hydrx maintains the following individuals in key roles, and these individual possess valid Health Canada Security Clearances:

- Thomas Jefferd, Responsible Person/Head of Security/Master Grower/Corporate Officer
- Carol-Ann Scott, Quality Assurance Person

c) Regulatory Reporting

While on site, the site demonstrated that key regulatory reporting such as Monthly Sales and Inventory Reports and Key Investor Reports are being performed and submitted, and will continue to be prepared and submitted, thereby confirming that it is meeting its regulatory reporting obligations per the *Cannabis Regulations*.

d) Site Tour

- i) While entering the production corridor, it was mentioned that personnel and visitors who are not coming in contact with cannabis product do not need to perform full gowning with respect to covering of “street” clothing. Section 88.92 of the Cannabis Regulations, with respect to Good Production Practices, requires a licence holder for processing to ensure that any individual who enters into a part of a building where cannabis is produced, packaged, stored, etc. to wear clothing, footwear and protective coverings that are in good, clean and sanitary condition.

It is recommended that the site take measures to ensure that all individuals who enter the production area are fully gowned, irrespective of their purpose for entering the area.

- ii) It was noted during the tour that the site’s physical security exceeds the requirements of the Cannabis Regulations. For example, the site maintains access controls to exit the Sanitation Room into the Maintenance Area behind the lab. As per Section 68(1) of the *Cannabis Regulations*, the site is only required to restrict access to operations and storage areas where cannabis is present.

The introduction of security in excess could cause unnecessary administrative burden and concerns for internal compliance, and as such, it is recommended that the site consider disabling such security devices and ensure SOPs and the site’s Organizational Security Plan are reflective of such changes.

- iii) During the site tour, certain products located in the Secure Storage Room identified as the Level 9 Vault, were greater than one (1) year old; however, no expiry date was indicated on the product labels.

Although Part 7 of the Cannabis Regulations does not require an exact expiry date to be indicated on the product label, it is recommended that the site take proactive measures to ensure the stability, quality and safety of all materials intended for human consumption. This may include but is not limited to, performing acceptable quality limit sampling and testing, conducting ongoing stability studies, trending product complaint and quality data, and performing annual product quality review.

Despite this recommendation, the site is permitted to continue to sell existing QA released cannabis product inventory as part of its medical sales licence.

- iv) During the site tour, the site was found to be drying cannabis in the Drying Room. This activity was found to be appropriately documented and no issues were noted.

2. Health Canada Inspection Findings and Responses

The site's most recent Health Canada Inspection was conducted on July 20-29, 2020. A total of eight (8) multi-part minor observations were issued. As part of the inspection, Health Canada issued a 'Compliant' rating for the site with no major or critical violations.

The site submitted its final round of monitoring and follow up responses to Health Canada on November 30, 2020 with no further follow-up or recourse required by Health Canada.

Final responses included enhancement to process related controls and are appropriate and sustainable based on site operations. There are no concerns with respect to the responses; however, the site should take steps to review the responses to ensure regulatory obligations based on the responses will continue to be met, particularly due to the change in management.

3. Select Standard Operating Procedures (SOPs)

A review of the site's SOP Table of Contents, as well as select SOPs were reviewed as part of the review of the site Quality Management System. These include the following:

- SOP-MMP-0004 Complaint Handling and Investigation
- SOP-MMP-0005 Master Sanitation Program
 - SOP-MMP-0005 Master Sanitation Schedule Cultivation
 - SOP-MMP-0005 Master Sanitation Schedule Manufacturing
- SOP-MMP-0031 Storage and Inventory Control

The site's SOP Table of Contents and the selected SOPs were found to be compliant and appropriate based on existing site operations.

The site is actively planning to manufacture new cannabis products within the facility. SOPs will need to be developed and approved for the manufacture of these new products. Further review of actual operations in relation to specific SOPs (new and existing) will be conducted during future on-site monitoring visits.

4. Deviations and Complaint Investigations

Two deviations were reviewed, these include:

- i) Deviation #: DVR-PLN-SAN-2020-05 and DVR-PLN-SAN-2020-06
This record described deviations related to the approved Master Sanitation Plan, such that certain sanitation activities would not be performed during a temporary site shut down that occurred during the COVID-19 pandemic. The investigations were found to be complete with appropriate regard for risks and actions required to be performed as a result of the operational shut down.

ii) Deviation #: DVR-QA-PRO-2021-01

This record described a deviation with respect to discrepancies in physical inventory quantities as observed during secure room inventory verification. The site determined that the inventory discrepancy occurred as a result of transcription error in a batch record. The deviation remains to be completed.

5. Close out Discussion

During a close out meeting held on site on April 15, 2021, with the individuals listed below, the following was discussed:

Thomas Jefferd, Head of Security (acting Responsible Person)

Carol-Ann Scott, Quality Assurance Person (QAP)

Trevor Folk, company representative

Samuel Bouabane, Principal Consultant, Libra Advisory Inc.

a) Manufacturing activities being conducted at the site

The QAP provided insight into the manufacturing activities currently being conducted at the site. The QAP is actively working to qualify the activities and ensure necessary batch record documentation is available to demonstrate that GPP, quality and inventory concerns are addressed prior to the manufacture of new batches.

b) Preventive Control Plan (PCP)

The site is undertaking the production of new extract products. Although the site maintains a site PCP, the site was reminded that as per Section 88.94 of the *Cannabis Regulations*, the site must prepare, retain, maintain and implement a PCP that is approved by the QAP prior to the conduct of any manufacturing activities related to edibles and extracts. More specifically, a separate or supplemental PCP may be required based on unique process or ingredient hazards that are inherent for the manufacture of an edible or extract as opposed to a general PCP for the entire facility. The site is required to approve and implement the PCP prior to manufacturing such products.

A future monitoring visit will confirm that appropriate PCPs have been created, approved and implemented, and that a system is in place to routinely update the PCPs as living documents based on changes that site may make from time-to-time respect to changes in suppliers, ingredient, manufacturing process, specifications, etc.

c) Customer Complaints Investigation Process

During the meeting, it became apparent that clarifications to the customer complaints process may be required to ensure that Customer Service Representatives are able to appropriately discern between complaints that require investigation or adverse event reporting (eg. related to safety or quality), versus those related to matters such as price, product supply or product availability. This is required to ensure that complaints are appropriately investigated as per Section 19(2)(b) of the *Cannabis Regulations*.

d) Site Start Up Plan

The site was encouraged to develop and implement a site start up plan to ensure all of it's regulatory obligations with respect to GPP are appropriately addressed prior to full scaled operations. Such activities may include, but are not limited to, third party pest control, full sanitation, utilities, cannabis destruction, waste removal, physical security, human resources, insurance, etc.

A copy of the site start-up plan is pending.

Conclusion:

Based on the point-in-time on-site inspection conducted on April 15, 2021 and desktop documentation review conducted on April 21, 2021, the site was found to be operating in compliance with the Cannabis Act and Regulations.

Additional monitoring will be performed and reported on an ongoing basis.

HIGHLIGHTS OF QUALIFICATIONS

- Management and leadership of quality and regulatory teams specializing in food, pharmaceuticals, cannabis, natural health products, clinical trials, retail, security, cultivation industries
- Business development and regulatory strategy for +100 companies
- Operational and quality knowledge of GxP principles
- Demonstrated ability to process map, develop and implement procedures
- Solid project management ability with strong interpersonal and communication skills

CANNABIS, PHARMACEUTICAL AND CLINICAL EXPERIENCE

Founder, Principal Consultant Libra Advisory Inc.	Sep 2020 – Present
Head of Quality and Regulatory (QAP) New Leaf Canada Inc.	Sep 2020 – Present
Quality Assurance Person The Hypoint Company Limited	Dec 2020 – Present
Quality Assurance Person Transagro Inc. dba Hwy 8 Cannabis	Jan 2021 – Present
Front Shop Supervisor/Pharmacy Assistant Rexall PharmaPlus	Oct 2005 – Present
Senior Manager, Risk Advisory	Dec 2019 – Sep 2020
Director, Quality and Regulatory	Dec 2018 – Dec 2019
Manager, Cannabis Strategic Licensing	Dec 2017 – Dec 2018
Senior Consultant, Quality & Regulatory CCI Deloitte (formerly Cannabis Compliance Inc.)	Jul 2017 – Dec 2017
Supervisor, QA-Controlled Substances	Apr 2015 – Jul 2017
Associate QPIC, QA-Controlled Substances Apotex Inc.	Jan 2012 – April 2015
Clinical Pharmacy & Quality Control Coordinator, QPIC/ RPIC Lambda Therapeutic Research Inc.	Mar 2011 – Jan 2012
Clinical Pharmacy Technician Kendle Early Stage – Toronto	May 2008 – Mar 2011
Technician Agropur Natrel	Apr 2007 – May 2008

EDUCATION

Honours Bachelor of Science

University of Toronto

Toronto, Ontario

2002 – 2007

- Majors in Chemistry and Botany, Minor in Spanish

PROFESSIONAL MEMBERSHIPS

Committee Member – ASTM D37

Committee Member – Canadian Hemp Trade Alliance

Committee Member – C45 Quality Association

APPENDIX “D”

ENGAGEMENT AGREEMENT

(the "**Agreement**")

BETWEEN: HydRx Farms Ltd, Cannscience Innovations Inc. & Scientus Pharma Inc.
(collectively "**HFL**")

AND: Macpherson & Associates Inc. ("**MAI**")

RECITALS:

- A.** Whereas pursuant to an Initial Order of Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "CCAA Court") dated March 22, 2021 (the "**Initial CCAA Order**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**") (the "**CCAA Proceedings**"), HFL availed itself of a procedure to restructure itself and Schwartz Levitsky Feldman Inc. ("SLF") was appointed as Monitor (in such capacity, the "**CCAA Monitor**").
- B.** Whereas HFL wishes to retain the Services of MAI as set out and defined below in section 2(e) herein, and the CCAA Court has made an order appointing MAI as Chief Restructuring Officer ("**CRO**"), to perform the Services (as defined below) (the "CRO Appointment Order"), with the understanding that Jim Macpherson ("**JM**"), MAI's President and sole owner, will be the primary person providing the Services for MAI and will report to the CCAA Court and the board of directors of HFL (the "**Board**")..

NOW THEREFORE in consideration of the premises and the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. TERM

The term of this Agreement is effective from the date of the CRO Appointment Order (the "**Effective Date**") and shall continue until the CRO is discharged by the Court.

2. DUTIES

- (a) **General.** MAI shall provide the Services to HFL in connection with the implementation of the CCAA Restructuring (as hereinafter defined) in the best interests of HFL, and with due regard to the interests of all of various stakeholders, as set out in this Agreement.
- (b) **Appointment.** In accordance with the CRO Appointment Order, MAI is hereby appointed CRO. MAI shall cause JM to devote his working time, skills and competence as circumstances require to the role of CRO and to assist with the CCAA Restructuring, as defined below. HFL acknowledges and agrees that MAI and JM may engage in other commitments and business activities (including outside directorships) during the term of this engagement, provided that such activities do not interfere with the effective performance of the Services of MAI hereunder and in accordance with the terms of the CRO Appointment Order.

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- (c) **Reporting relationships.** MAI and JM shall report to and subject to the direction of the CCAA Court and shall be subject to the oversight of the CCAA Monitor. MAI and JM shall report to the Board, provided that in the absence of binding directions from the Board, the CRO shall be entitled to act in his discretion in furtherance of the CCAA Restructuring, always subject to the direction of the CCAA Court.
- (d) **Standard of Performance.** MAI shall provide the Services, including all ancillary services, in good faith. MAI shall ensure that the Services are performed diligently and in accordance with professional standards of an appointment of this nature. In carrying out the Services, MAI and JM agree that they shall at all times act in a manner which is in the best interests of HFL and in furtherance of the CCAA Restructuring.
- (e) **Specific Duties.** In connection with initiatives to address HFL's insolvency, which may include, without limitation, efforts to render HFL solvent, preserve its business as a going concern, and/or effect a recovery for some or all of its creditors (the "**CCAA Restructuring**"), MAI shall provide the following services (collectively, the "**Services**"), in each case, in accordance with the CRO Appointment Order and this Agreement, subject to all orders of the CCAA Court. For greater certainty, MAI may, from time to time, exercise management and control of any sites or facilities operated by HFL and such other operational activities of HFL. The Services shall include without limitation:
- (i) overseeing and, where necessary, providing direction in respect of HFL's limited operations, including a review of any short-term supply and distribution contracts and ensuring compliance with Health Canada and other regulatory requirements;
 - (ii) overseeing and, where necessary, providing direction in respect of the preparation of ongoing cash flow projections and statements, liaising with HFL's former accountant, managing cash requirements and ensuring adequate funding is available and in place;
 - (iii) attending to HFL's banking needs, including, where MAI and JM believe necessary, establishing a protocol for receipts and disbursements, and acting as signatory to HFL's operating accounts;
 - (iv) in close consultation with the CCAA Monitor, advising and, where necessary, providing direction in respect of communications between HFL and its stakeholders, including, where necessary, dealings with HFL's lenders, creditors, and other stakeholders in connection with the CCAA Restructuring;
 - (v) soliciting financing for the Restructuring Proceedings, where necessary;
 - (vi) where MAI deems it necessary and appropriate for the purpose of the CCAA Restructuring, and with the Monitor's consent, retain professional advisors

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(including counsel) to HFL;

- (vii) in consultation with the CCAA Monitor, making staffing decisions necessary to effect the CCAA Restructuring, and efficiently managing HFL, including, without limitation, appointing a Responsible Person, and, for greater certainty, no Board or other approval will be required for any personnel changes MAI determines are appropriate;
- (viii) maintaining stable and efficient business operations throughout HFL's sale and investor solicitation process (the "**SISP**"), when implemented;
- (ix) managing costs in connection with the successful consummation of the CCAA Restructuring, whether by way of the SISP or otherwise;
- (x) where necessary, providing information, advice and assistance required by the CCAA Monitor in its administration of the SISP, and in its reporting to Court;
- (xi) assisting with any improvements necessary during the term of appointment;
- (xii) assisting with the preparation of all filings, applications or similar materials necessary or desirable for any regulatory approvals in connection with the CCAA proceedings; and,
- (xiii) doing such other things as MAI considers necessary in the interests of HFL for the purpose of the CCAA Restructuring.

3. CONSIDERATION FOR CONSULTING SERVICES

Subject to receipt of the CRO Approval Order, HFL shall provide the following consideration to MAI for Services rendered hereunder:

- (a) **Remuneration/Hourly Rate** – MAI will invoice HFL on a bi-weekly basis for its time spent on completing this engagement at the rate of \$425 per hour commencing on the Effective Date. Invoices will provide a detailed description of the work done and will be payable within 7 days of presentation.
- (b) **Expenses.** HFL shall reimburse MAI for all reasonable documented out-of-pocket expenses incurred by it (including any applicable taxes) in connection with the Services (the "**Expenses**") upon submission of invoices therefor (including without limitation travel). In addition to its Remuneration, MAI shall submit an invoice for the Expenses plus applicable: taxes on a monthly basis within 30 days of month end in which the Expenses are incurred. The reimbursable Expenses shall include reasonable legal fees incurred, if any, by MAI in connection with the negotiation and performance of this Agreement.

4. INFORMATION

HFL represents and warrants to MAI, and will use its commercially reasonable efforts to ensure, that all information to be provided to MAI, directly or indirectly, orally or in

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writing, in connection with MAI's engagement hereunder will be accurate and complete in all material respects and will not be misleading in any material way and will not omit to state any fact or information which might reasonably be considered material to MAI in performing the Services. MAI shall be entitled to rely upon such information and MAI shall be under no obligation to verify independently any such information so provided or otherwise obtained by MAI. MAI shall also be under no obligation to investigate any changes in any of such information occurring after the date it was provided to or obtained by MAI. MAI shall identify and require from HFL all information it needs to provide the Services. In the event that MAI believes it does not have the cooperation of HFL in the provision of information required to provide the Services, it shall promptly inform the CCAA Monitor of such situations.

5. ADDITIONAL SERVICES

If MAI is requested to perform services in addition to those described herein, then the terms and conditions relating to such services will be outlined in a separate agreement and the fees for such services will be in addition to fees payable hereunder and will be negotiated separately and in good faith.

6. TERMINATION

On termination of the MAI's appointment, MAI shall be entitled to receive any actual outstanding Remuneration and reimbursement of all Expenses up to the effective termination date, and the Indemnity shall not be affected by the termination of this Agreement.

7. CONFIDENTIALITY

MAI recognizes that the Services to be performed by it hereunder are special, unique and extraordinary in that, by reason of the Services it shall provide hereunder, it will acquire Confidential Information and trade secrets concerning the operation of HFL, the use or disclosure of which could cause HFL, substantial losses and damages which could not be readily calculated and for which no remedy at law would be adequate. Accordingly, MAI covenants and agrees with HFL on behalf of itself and its officers, directors and employees, including JM, that it will not at any time, except as required by law or with the prior written consent of HFL or to a party bound by a confidentiality agreement if required in connection with the provision by MAI of the Services hereunder, directly or indirectly, either disclose to any person, or use for their personal benefit, any secret or Confidential Information that it may learn or have learned by reason of MAI's association with HFL. MAI and its representatives shall use the Confidential Information for the sole purpose

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of rendering the Services. The term "**Confidential Information**" means any information not previously disclosed or otherwise available to the public including but not limited to, HFL's products and services, facilities and methods, trade secrets and other intellectual property, systems, procedures, manuals, confidential reports, product price lists, customer lists, financial information, business plans, prospects or opportunities, and non-public information obtained by MAI from its partners, suppliers and clients. Confidential Information shall also include, without limitation, all reports prepared by MAI for HFL (which reports shall be the sole property of HFL), notes, analyses, compilations, studies, summaries and other materials prepared by MAI or JM containing or based, in whole or in part, on Confidential Information. If any such Confidential Information is disclosed or otherwise made available to the public (other than by way of a breach of this covenant by MAI) from a source not bound by a confidentiality agreement or under another legal or fiduciary obligation of confidentiality to HFL, its clients, suppliers or partners, it shall no longer be subject to the covenant set out in this section 8.

In the event that MAI or JM, by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena or other similar processes, are requested or become legally compelled to disclose any of the Confidential Information, MAI agrees that it will provide HFL with prompt written notice of such request or requirement so that HFL may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained or HFL grants a waiver hereunder, MAI or JM may furnish that portion of the information which, in the written opinion of counsel reasonably acceptable to MAI, it is legally compelled to disclose; provided, however, that MAI shall use its best efforts to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information so disclosed.

Upon HFL's request, for any reason, MAI and JM will promptly deliver to HFL all documents and other materials (and all copies and extracts thereof) constituting Confidential Information without retaining a copy of extract thereof; provided, however, that MAI may retain copies of the Confidential Information (a) that is stored on MAI's information technology backup and disaster recovery systems until the ordinary course deletion thereof, (b) that is maintained for compliance purposes, or (c) to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information. If HFL requests or gives its prior written consent, MAI and JM shall destroy all documents or other documents or other materials constituting Confidential Information in their possession, including in electronic form, (subject to the exception in the preceding sentence) with any such destruction confirmed by MAI in writing to HFL. Whether or not there is a return or destruction of the Confidential Information, MAI and JM will continue to be bound by their obligations of confidentiality and other obligations hereunder.

8. INDEMNITY

HFL hereby agrees to provide MAI and JM with an Indemnity, in accordance with Schedule A hereto, which Schedule A forms part of this Agreement, the consideration for which is the entering into of this Agreement. Such indemnity (the "**indemnity**") shall be executed and delivered to MAI and JM on the execution of this Agreement. The

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Indemnity shall also apply to any additional services provided pursuant to Section 5 above until superseded or replaced by agreement of the parties in the form agreed upon.

9. GENERAL PROVISIONS

(a) **Independent Contractor.** Nothing contained in this Agreement shall be construed as creating a relationship between HFL, on the one hand, and MAI and JM, on the other hand, other than that of an independent contractor. MAI and any of its employees, agents or representatives, including JM, shall not be deemed a partner, employee, joint venture or agent of HFL by virtue of this Agreement. HFL shall not be responsible for any employee deductions or contributions which an employer would be required to effect if MAI were HFL's employee.

(b) **Notices.** Any notice hereunder by either party to the other shall be given in writing by personal delivery, or certified mail, return receipt requested, or by facsimile transmission, in any case delivered to the applicable address set forth below:

(i) To MAI:

Macpherson & Associates Inc.
Suite 900, 150 Ferrand Drive,
Toronto, Ontario, M3C3E5

Attention: Jim Macpherson
Tel: 416-520-7155
Fax: 1-866-812-6223
Email: jim@macphersonandassociates.com

or to such other persons or other addresses as either party may specify to the other in writing.

(c) **Amendment; Waiver.** No provision of this Agreement may be amended, modified, waived or discharged unless such amendment, modification, waiver or discharge is agreed to in writing and: signed by the parties. No waiver by either party hereto, at any time, of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

(d) **Severability.** The parties have carefully reviewed the provisions of this Agreement and agree that they are fair and equitable. However, the parties agree that if any one or more of the provisions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall, to the extent permitted by law, remain in full force and effect and shall in no way be affected, impaired or invalidated. Moreover, if any of the provisions contained in this Agreement is determined by a court of competent jurisdiction to be excessively broad as to duration, activity, geographic application or subject, such provision shall be construed, by limiting or reducing it to the extent legally permitted, so as to be enforceable to the extent compatible with then applicable law.

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- (e) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal law of Canada applicable therein.
- (f) **Entire Agreement.** This Agreement contains the entire agreement of HFL, MAI and JM and any predecessors or affiliates thereof with respect to the subject matter hereof, and supersedes all prior agreements, understandings and arrangements, oral and written between the parties either jointly or individually, with respect to the subject matter hereof.
- (g) **Survival.** The following provisions will survive the termination of this Agreement: Sections 3, 4, 7, 8, 9, and 10.
- (h) **Counterparts.** This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed an original, but both such counterparts shall together constitute one and the same document.
- (o) **Headings.** The headings of this Agreement are for convenience and reference only and shall not be considered in construing the provisions hereof.
- (k) **Currency.** All financial references in this Agreement are to Canadian dollars unless otherwise indicated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this 23rd day of April, 2021.

**HydRx Farms Ltd, Cannscience
Innovations Inc. & Scientus
Pharma Inc.**

Macpherson & Associates Inc.

By:
Name:
Title:

By:
Name: Jim Macpherson, CAIRP, LIT
Title: President



Jim Macpherson, CAANZ, CIRP, LIT, C.Dir
Licensed Insolvency Trustee,
Chartered Insolvency and Restructuring Professional,
Chartered Director
Curriculum Vitae

Professional Profile

With over 30 years of public practice experience in Australia and Canada with both large and medium sized professional accounting firms, my experience covers audit, taxation, consulting and insolvency expertise relating to a variety of industries including government, financial services organizations and industrial concerns. The last 20 years have focused on insolvency and restructuring, and I am a licensed Trustee in Bankruptcy. Over the years I have performed or been engaged in many corporate reorganizations, business investigations, shareholder dispute resolutions, receivership assignments, proposals, bankruptcy matters and liquidations. My aim is to always find solutions, maximize recoveries and facilitate the restructuring processes available in the circumstances.

From 2014 through May 2018, I was the CFO of Newstrike Brands Ltd. a publicly listed licensed cannabis producer. During that time we achieved a very large number of milestones in a very short space of time, including obtaining our cultivation and sales license from Health Canada, signed a major deal with The Tragically Hip as a brand partner, participated in a hostile takeover between Cannimed and Aurora and shortly after raised \$150 million dollars in a bought deal on the Canadian markets. We operationalized the business quickly after receiving the additional funding, growing quickly to 150 employees and several locations having acquired additional capacity on a 16 acre site in Grimsby Ontario. In May 2018 I returned to my practice to focus on corporate restructuring and strategy work.

In recent years I have also enhanced my corporate strategy and advisory skills through various appointments to Corporate Boards. I am currently a Director of i) Elexicon Corporation, one of Ontario's largest local distribution hydro companies (www.elexiconcorp.com) and was a member of the steering committee in the merger of Veridian and Whitby Hydro in 2019, ii) formerly a director of the Rouge Valley Hospital during its government driven restructuring process and led the board transition team for that transaction. I have recently completed the director education program at The Director's College, (A joint venture between McMaster University and the Conference Board of Canada) and am now a designated Chartered Director (C.Dir).

I have authored and co-authored many articles on insolvency issues regarding a range of matters including: construction lien issues; Director's liability exposure; Provincial Collection and Recovery Remedies, the operation of the liquor licensing provisions of the Alcohol and Gaming Commission in Ontario and its impact on the insolvency practice for licensed Trustees, Receivers and Managers.

Jim Macpherson, CAANZ, CIRP, C. Dir
Licensed Insolvency Trustee, Chartered Insolvency and Restructuring Professional
Curriculum Vitae

Academic Qualifications

- | | | |
|-----------------------|---|---|
| Chartered Director | • | McMaster University/DeGroot Business College, 2012 |
| Trustee in Bankruptcy | • | Trustee License issued by Industry Canada, 2001 |
| CIRP | • | Chartered Insolvency and Restructuring Professional, 1999 |
| CA | • | Institute of Chartered Accountants of Australia and New Zealand, 1987 |
| B. Comm. | • | Bachelor of Commerce – Deakin University, Victoria, Australia, 1984 |

Professional and Board Memberships

- Licensed Trustee in Bankruptcy
- Association of Canadian Insolvency and Restructuring Professionals (“CAIRP”)
- Institute of Chartered Accountants in Australia and New Zealand
- Institute of Corporate Directors,
- Chartered Director (C.Dir), and
- Board Director of Elexicon Corporation (formerly Veridian Corporation), Chair of Audit Committees,

Employment History

- | | | |
|----------------|---|---|
| 2011 – Present | • | President, Macpherson & Associates Inc. |
| 2014 – 2018 | • | CFO, Newstrike Brands Ltd |
| 2006 – 2011 | • | Vice President, Shimmerman Penn Title & Associates Inc. |
| 2005 – 2006 | • | Insolvency Manager, Ontario Ministry of Finance |
| 1996 – 2004 | • | Vice President, Mintz & Partners Limited (now Deloitte) |

Summary of Experience

- Currently I am President of Macpherson & Associates Inc., a boutique corporate insolvency and restructuring practice based in Toronto. We have managed small, medium and larger files with sales and merger mandates including preparation and marketing of the Confidential Information Memorandum and data room processes. We have managed and vetted offers and had consulting engagements specifically in the last few years in the cannabis space for interested purchasers and advising debtors.
- From 2014 through May 2018, I was CFO of Newstrike Brands Inc. a publicly listed licensed cannabis producer in which we have achieved a very large number of milestones in a very short space of time, including obtaining our cultivation and sales license from Health Canada, signed a major deal with The Tragically Hip as a brand partner, participated in a hostile takeover between Cannimed and Aurora and shortly after raised \$150 million dollars in a bought deal on the Canadian markets. We operationalized the business quickly after receiving the additional funding, growing quickly to 150 employees and several locations having acquired additional capacity on a 16 acre site in Grimsby Ontario. In May 2018 I returned to my practice to focus on corporate restructuring and strategy work.
- Board mandated Governance overview and creation of “Framework for Effective Governance” for Veridian Corporation, including Board and Committee Chair assessment processes, skills gap analysis and matrix, creation and adoption of board and committee charters and other Governance process improvements,
- Adoption of IFRS reporting and transition planning and execution with management and external audit at Elexicon Corporation (formerly Veridian Corporation),
- Assignments involving the resolution of shareholder and stakeholder disputes
- Actively involved in various formal and informal administrations and negotiations for clients and their lenders regarding analysis of corporate operations, their efficiency and likelihood of

Jim Macpherson, CAANZ, CIRP, C. Dir
Licensed Insolvency Trustee, Chartered Insolvency and Restructuring Professional
Curriculum Vitae

- recovery for lenders, including preparation of reports with recommendations and appropriate courses of action
- Provided expertise to maximize realizations in many private and court-appointed receivership assignments for secured lenders
 - Involved in the execution of favourable restructurings under the Proposal provisions of Part III of the Bankruptcy and Insolvency Act, including feasibility reviews to determine the most appropriate course of action, stakeholder meetings and obtaining support of secured creditors, government and trade creditors
 - Extensive real estate experience in the residential construction industry including appointments as Construction Lien Trustee
 - Ongoing involvement of liquor licensing issues effecting the transfer of same within the Bankruptcy framework
 - Orchestrated and executed the restructuring of the insolvency collection/recovery operations and processes for the Ontario Ministry of Finance. Changes included computer systems overhaul and reconfiguration and collection/recovery policy update resulting in substantially higher recoveries for the overall portfolio under management of \$750 million.

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APPENDIX “E”

Procedures for the Sale and Investment Solicitation Process

1. Upon application by Domenico Serafino (“**Serafino**”) to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), on March 22, 2021, HydRx Farms Ltd. (“**HydRx**”), Cannscience Innovations Inc. (“**Cannscience**”) and Scientus Pharma Inc. (“**Scientus**”, and together with HydRx and Cannscience, the “**Companies**”) were granted creditor protection pursuant to an initial order, as subsequently amended and restated (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act* (“**CCAA**”).
2. Pursuant to the Initial Order, Schwartz Levitsky Feldman Inc. was appointed as court-appointed monitor of the Companies (the “**Monitor**”).
3. By order dated April 30, 2021 (the “**SISP Approval Order**”), the Court approved the Sale and Investment Solicitation Process (“**SISP**”) set out herein.
4. This SISP shall govern the process for soliciting and selecting bids for (i) the acquisition of all or substantially all of the property, assets and undertakings of the Companies (the “**Property**”) or all or substantially all of the equity of HydRx (either, a “**Sale Transaction**”), or (ii) the restructuring, recapitalization or refinancing of the Companies, including pursuant to any CCAA plan of compromise or arrangement (an “**Investment Transaction**”). Both a Sale Transaction and Investment Transaction will be referred to herein as an “**Opportunity**”.
5. Set forth below are the procedures (the “**SISP Procedures**”) to be followed with respect to the SISP and, following determination of a Successful Bid (as defined below), to complete the Transaction contemplated thereby.

Defined Terms

6. All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Initial Order.

Solicitation Process and Timeline

7. These SISP Procedures describe the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Companies, their businesses and operations (the “**Business**”) and their Property, the manner in which a bid becomes a Qualified LOI, the receipt and negotiation of bids received, the ultimate selection of a Successful Bid, if any, and the approval thereof by the Court.
8. The Monitor shall independently implement these SISP Procedures without involvement or consultation with the Companies, Serafino or Cobra Ventures Inc. (“**Cobra**”) except as expressly permitted herein. As set out herein, the Monitor will consult with [name of CRO], the Chief Restructuring Officer of HydRx (the “**CRO**”). In the event that there is disagreement as to the interpretation or application of these SISP Procedures, the Court will have jurisdiction to hear and resolve any such dispute.

9. The following table sets out the key deadlines under this SISP pursuant to and in accordance with these SISP Procedures:

Milestone	Deadline
“Solicitation of Interest Deadline”	Preliminary solicitation efforts will commence immediately after issuance of the SISP Approval Order The Monitor will send the Teaser Letter and NDA to each Known Potential Bidder by no later than 14 days from the date of the SISP Approval Order. (collectively, the “Solicitation Period”)
“Phase 1 Bid Deadline”	21 days from the Cobra Claim Decision (as defined in the SISP Approval order), or such later date as the Monitor, in its discretion, may specify, in writing, by notice given to each Known Potential Bidder.
“Phase 2 Bid Deadline”	To be specified in the Phase 2 Bid Process letter.

Solicitation of Interest

10. As soon as reasonably practicable following the granting of the SISP Approval Order, the Monitor shall, in consultation with the CRO, Serafino and Cobra (a) prepare a list of potential bidders, including (i) local and international strategic and financial parties who may be interested in pursuing an Opportunity; (ii) parties who have approached the Monitor, the CRO, Serafino, or Cobra and advised that they have an interest in an Opportunity; (iii) any other credible parties as determined by the Monitor and the CRO to be a potential bidder (**“Known Potential Bidders”**); (b) prepare a summary teaser describing the opportunity to participate in the SISP and an overview of the SISP Procedures (the **“Teaser Letter”**); (c) prepare a non-disclosure agreement (**“NDA”**); and (d) establish a data room (the **“Data Room”**) of due diligence materials (the **“Diligence Materials”**) that the Monitor believes may be useful for Known Potential Bidders. The Monitor may consult with, and obtain information from, the Companies, Serafino and Cobra as the Monitor may require in its discretion in preparing the Teaser Letter, the Data Room and the Diligence Materials.

11. As soon as reasonably practicable following the granting of the SISP Approval Order, and in any event no later than the Solicitation of Interest Deadline the Monitor shall contact the Known Potential Bidders to introduce the Opportunity, providing a copy of the Teaser Letter and NDA, and shall post a copy of the SISP and the Teaser Letter on the website maintained by the Monitor in respect of the CCAA proceedings. The Monitor shall also provide a copy of the Teaser Letter and NDA to any party who is identified to the Monitor as a potential bidder or who requests a copy of the Teaser Letter and NDA, if deemed a credible bidder by the Monitor as soon as reasonably practicable after such request or identification, as applicable.

Redemption of Secured Debt and Filing of CCAA Plan of Arrangement

12. Within 29 days of the Cobra Claim Decision becoming final, the Companies shall have the right to redeem the secured debt owing to Cobra as established by the Cobra Claims Decision and any appeals therefrom (the **“Cobra Secured Debt”**).

13. Upon payment of the Cobra Secured Debt in readily available funds, Cobra shall, at the sole option of the Companies, either discharge its security interest in the Property of the Companies or assign the same to a third party as directed by the Companies. For greater certainty: the form of any assignment of security shall be on an “as is, where is” basis with no

recourse to Cobra, and to avoid or reduce a potential residual security interest in favour of Windsor Private Capital Limited Partnership (“Windsor”) in the assets of Hydrx, the first funds payable by Hydrx as part of its redemption of the Cobra Secured Debt shall be paid directly to Windsor up to the extent of any indebtedness owing by Cobra to Windsor, in the event that Windsor continues to hold a security interest in the assets of Hydrx at the time of such redemption payment. The quantum of any such payment to Windsor by Hydrx shall reduce on a dollar for dollar basis any indebtedness owing by Hydrx to Cobra in respect of the Cobra Secured Debt.

14. Upon payment being made to Cobra and/or Windsor, the Companies shall provide written notification to the Monitor of such payment (the “**Payment Notice**”). Immediately upon receipt of the Payment Notice, the SISP process shall be suspended for an initial period of 30 days (the “**Initial Suspension Period**”) to permit the Companies to prepare and file a Plan of Arrangement (the “**Plan**”). The Monitor shall notify all interested parties in writing of the Initial Suspension Period.

15. Should the Companies fail to file a Plan on or before the expiration of the Initial Suspension Period, the SISP shall resume on and subject to the terms as set out herein.

16. In the event that the Plan is filed on or before the expiration of the Initial Suspension Period, the SISP shall be suspended pending consideration of the plan by creditors and the Court.

17. Should the Plan be accepted by the creditors and approved by the Court, the SISP shall be considered terminated upon the Order sanctioning the Plan becoming final and the Monitor shall notify all interested parties in writing of the SISP termination.

18. Should the Plan be rejected by the court or by creditors, with all appeals being unsuccessful and finally determined, the SISP shall resume on and subject to the terms as set out herein, with such modifications as may be required by the passage of time.

Phase 1: Non-Binding LOIs

19. Any party who wishes to participate in the SISP (a “**Potential Bidder**”) must provide to the Monitor an NDA executed by it, which shall enure to the benefit of any purchaser of or investor in the Companies or Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, and the contact information for such Potential Bidder (each a “**Phase 1 Qualified Bidder**”).

20. The Monitor will provide access to the Data Room and Diligence Materials to each Phase 1 Qualified Bidder. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated, provided that, if such representative is not the CRO or an employee of the Monitor, such representative shall provide written confirmation satisfactory to the Monitor that he or she will not participate in the SISP as a Potential Bidder, Phase 1 Qualified Bidder or Phase 2 Qualified Bidder and is not and will not be affiliated with any Potential Bidder, Phase 1 Qualified Bidder or Phase 2 Qualified Bidder.

21. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Companies in connection with their participation in the SISP and any transaction they may enter into with the Monitor.

Non-Binding Letters of Intent from Phase 1 Qualified Bidders

22. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of interest (an “**LOI**”) to the Monitor in accordance with these SISP Procedures

at the addresses specified in **Appendix “A”** hereto (including by email) so as to be received by the Monitor no later than 5:00 PM (Eastern Time) on the **Phase 1 Bid Deadline**.

23. Subject to paragraph 17, an LOI so submitted will be considered a qualified LOI (each, a **“Qualified LOI”**) only if it includes:

- (a) the identity of the Phase 1 Qualified Bidder, the contact information for such Phase 1 Qualified Bidder and full disclosure of the direct and indirect owners of the Phase 1 Qualified Bidder and their principals;
- (b) the identity of each entity or person that will be sponsoring or participating in or benefiting from the transaction contemplated by the LOI;
- (c) in the case of a Sale Transaction,
 - (i) the purchase price in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
 - (ii) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (iii) evidence of the financial capability of the Phase 1 Qualified Bidder to consummate the transaction and the expected structure and financing of the transaction;
- (d) in the case of an Investment Transaction,
 - (i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Companies in Canadian dollars;
 - (iii) key assumptions supporting the Phase 1 Qualified Bidder’s valuation;
 - (iv) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interests or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
- (e) an outline of any additional due diligence required to be conducted to submit a final and binding offer;
- (f) a description of the Phase 1 Qualified Bidder’s proposed treatment of any obligations or liabilities and information sufficient for the Monitor to determine whether the Phase 1 Qualified Bidder has the ability to satisfy such obligations or liabilities;
- (g) a description of all conditions to closing that the Phase 1 Qualified Bidder expects to include in its final and binding offer, including without limitation any regulatory approvals and any form of agreement required from a government body, stakeholder or other third party and an outline of the principal terms thereof;

- (h) a description of the conditions and approvals required for the Phase 1 Qualified Bidder to be in a position to submit a final and binding offer, including any anticipated corporate, security holder or other internal approvals and any anticipated impediments for obtaining such approvals;
- (i) such other information as requested by the Monitor.

24. The Monitor may waive compliance with any one or more of the requirements specified above and deem such non-compliant bids to be a Qualified LOI.

Review of Qualified LOIs

25. Following the Phase 1 Bid Deadline, the Monitor, in consultation with the CRO, will assess any Qualified LOIs received. If it is determined by the Monitor that a Phase 1 Qualified Bidder that has submitted a Qualified LOI: (i) has a bona fide interest in completing a Sale Transaction or Investment Transaction (as the case may be); and (ii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided, then such Phase 1 Qualified Bidder will be deemed a **"Phase 2 Qualified Bidder"**, provided that the Monitor may, in its reasonable business judgment, limit the number of Phase 2 Qualified Bidders (and thereby eliminate any bidders from the process) taking into account the factors identified in paragraph 26 below. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISF.

26. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, the Monitor, in consultation with the CRO, shall determine the process and timing to be followed in pursuing Qualified LOIs based on such factors and circumstances as they consider appropriate in the circumstances including, but not limited to: (i) the number of Qualified LOIs received; (ii) the extent to which the Qualified LOIs relate to the same Property or Companies or involve Investment Transactions predicated on certain Property or Companies; (iii) the scope of the Property or Companies to which any Qualified LOIs may relate; (iv) the conditions to closing contained in the Qualified LOIs; and (v) whether to proceed by way of sealed bid or auction (with or without a stalking horse bidder) with respect to some or all of the Property.

27. Following the receipt of any LOI, the Monitor may seek clarification with respect to any of the terms or conditions of such LOI and/or request one or more amendments to such LOI prior to determining if the LOI should be considered a Qualified LOI.

28. Upon the determination by the Monitor of the manner in which to proceed to Phase 2 of the SISF, the Monitor will prepare a bid process letter for Phase 2 (the **"Bid Process Letter"**), and the Bid Process Letter will be: (i) sent by the Monitor to all Phase 2 Qualified Bidders as soon as practically possible following the Phase 1 Bid Deadline; and (ii) posted by the Monitor on the Monitor's Website.

29. In the event that the Monitor determines that no Qualified LOIs are received or if the Qualified LOIs received are not in an amount sufficient to repay the secured indebtedness owing to Cobra (as determined by the Court pursuant to the Cobra Claim Decision) in immediately available funds on closing, the Monitor shall report to the Court, and subject to any contrary provision contained in the Cobra Claim Decision or any order contrary direction from the Court, or unless otherwise agreed by Cobra in writing, the Monitor shall not proceed with Phase 2 of the SISF and shall proceed to complete a credit-bid transaction with Cobra..

30. Notwithstanding the process and deadlines outlined above with respect to Phase 1 of the SISF and the process to supplement Phase 2 by way of the Bid Process Letter,

- (a) the Monitor may, in consultation with and on notice to both Serafino and Cobra, at any time:
 - (i) pause, terminate, amend or modify the SISP or these SISP Procedures;
 - (ii) remove any portion of the Companies and the Property from the SISP;
 - (iii) establish further or other procedures for Phase 1;
- (b) the Monitor may, in consultation with and on notice to both Serafino and Cobra, at any time bring a motion to the Court to seek approval of:
 - (i) a sale of, or investment in, all or part of the Property or the Companies whether or not such sale or investment is in accordance with the terms or timelines set out in this SISP Procedure or the Bid Process Letter; or
 - (ii) a stalking horse agreement in respect of some or all of the Property or Companies and related bid procedures in respect of such Property.

Phase 2: Formal Offers and Selection of Successful Bidder

31. Paragraphs **32** to **37** below and the conduct of Phase 2 are subject to: paragraphs **25** to **30**, above; any adjustments made to Phase 2 in accordance with the Bid Process Letter; and, any further Court order regarding the SISP.

Formal Binding Offers

32. Phase 2 Qualified Bidders who wish to make a formal offer to purchase or make an investment in the Companies or their Property shall submit a binding offer (a "**Phase 2 Bid**") that complies with all of the following requirements to the Monitor at the addresses specified in **Appendix "A"** hereto (including by email), so as to be received by them no later than the date set out in the Bid Process Letter (the "**Phase 2 Bid Deadline**"):

- (a) the bid shall comply with all of the requirements set forth in paragraph 16 above in respect of Phase 1 Qualified LOIs;
- (b) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Companies or their Property and is consistent with any necessary terms and conditions established by the Monitor and communicated to Phase 2 Qualified Bidders;
- (c) the bid includes a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- (d) the bid includes duly authorized and executed transaction agreements, including the purchase price (in an exact figure and not expressed as a range), investment amount and any other key economic terms expressed in Canadian dollars (the "**Purchase Price**"), together with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed order to approve the transaction by the Court;

- (e) the bid includes a blackline comparison between the transaction agreements submitted and the template provided to Phase 2 Qualified Bidder in the data room;
- (f) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Monitor to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;
- (g) the bid is not conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld in Phase 1 from the Phase 2 Qualified Bidder; or (ii) obtaining financing, but may be conditioned upon the Companies receiving the required approvals or amendments relating to the licenses required to operate its business, if necessary;
- (h) the bid fully discloses the identity of each entity that will be (directly or indirectly) entering into the transaction or the financing (including through the issuance of debt in connection with such bid), or that is participating or benefiting from such bid, and such disclosure shall include, without limitation: (i) in the case of a Phase 2 Qualified Bidder formed for the purposes of entering into the proposed transaction, the identity of each of the actual or proposed direct or indirect equity holders of such Phase 2 Qualified Bidder and the terms and participation percentage of such equity holder's interest in such bid; and (ii) the identity of each entity that has or will receive a benefit from such bid from or through the Phase 2 Qualified Bidder or any of its equity holders and the terms of such benefit;
- (i) for a Sale Transaction, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 5% of the cash Purchase Price offered upon the Phase 2 Qualified Bidder being selected as having a Qualified Bid or as being the Successful Bidder, as provided below;
- (j) for an Investment Transaction, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 5% of the total new investment contemplated in the bid upon the Phase 2 Qualified Bidder being selected as having a Qualified Bid or as being the Successful Bidder, as provided below;
- (k) the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder: (i) confirms that the transaction is on an "as is, where is" basis; (ii) has had an opportunity to conduct any and all due diligence regarding the Property and the Companies prior to making its offer (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld in Phase 1 from the Phase 2 Qualified Bidder); (iii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and (iv) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Companies or the Property, or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Monitor on behalf of HydRx;

- (l) the bid contains other information required by the Monitor in consultation with the CRO including, without limitation, such additional information as may be required in the event Phase 2 is supplemented in accordance with paragraph 16 to contemplate that an auction of certain Property be conducted; and
- (m) the bid is received by the Phase 2 Bid Deadline.

33. Following the Phase 2 Bid Deadline, the Monitor, in consultation with the CRO, will assess the Phase 2 Bids received. The Monitor will designate the most competitive bids that comply with the foregoing requirements to be “**Qualified Bids**”. Only Phase 2 Qualified Bidders whose bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).

34. The Monitor, in consultation with the CRO, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Phase 2 Bids to be a Qualified Bid.

35. The Monitor shall notify each Phase 2 Qualified Bidder in writing as to whether its Phase 2 Bid constituted a Qualified Bid within ten business days of the Phase 2 Bid Deadline, or at such later time as the Monitor deems appropriate, and within 7 days of the Monitor giving such notice, the Qualified Bidder shall provide a refundable deposit (the “**Deposit**”) in the form of a wire transfer (to a bank account specified by the Monitor) payable to the order of the Monitor, in trust, in an amount equal to 5% of the cash consideration in the Qualified Bid, which Deposit is to be held and dealt with in accordance with these SISP Procedures, provided that the Deposit provided by a credit bidder shall not exceed the amount of any prior ranking secured debt, as determined by the Monitor;

36. If the Monitor, in consultation with the CRO, is not satisfied with the number or terms of the Qualified Bids, the Monitor may, subject to contrary direction obtained from the Court, extend the Phase 2 Bid Deadline, or the Monitor may amend the SISP or this SISP Procedure in accordance with the terms set out herein.

37. The Monitor may aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

Evaluation of Competing Bids

38. A Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the value provided by such bid; (ii) the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transactions; (iii) the proposed transaction documents; (iv) factors affecting the speed, certainty and value of the transaction; (v) the assets or liabilities included or excluded from the bid; (vi) any related restructuring costs; (vii) whether the Qualified Bid would provide sufficient cash consideration to repay the secured debt owing to Cobra (as determined pursuant to the Cobra Claim Decision); and, (viii) the likelihood and timing of consummating such transaction, each as determined by the Monitor in consultation with the CRO.

Selection of Successful Bid

39. The Monitor, in consultation with the CRO, will: (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated between the Monitor on behalf of HyDRx and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Phase 2 Qualified Bid as a result of such negotiations; and (b) identify the highest or otherwise best bid (the “**Successful Bid**”, and the Phase 2 Qualified Bidder making such Successful Bid, the “**Successful Bidder**”) for any particular Property or the Companies in whole

or part. The determination of any Successful Bid by the Monitor on behalf of HydRx shall be subject to approval by the Court.

40. Upon identifying the Successful Bid, the Monitor shall notify each Qualified Bidder, in writing, of the identity of the Successful Bidder, and within 48 hours of the Monitor giving such notice or such later time as the Monitor may permit, the Successful Bidder shall supplement their Deposit, by wire transfer (to a bank account specified by the Monitor) payable to the order of the Monitor, in trust, such that the Deposit is equal to 5% of the cash consideration in the Successful Bid, which Deposit is to be held and dealt with in accordance with these SISP Procedures, provided that the Deposit provided by a credit bidder shall not exceed the amount of any prior ranking secured debt, as determined by the Monitor;

41. The Monitor shall have no obligation to enter into a Successful Bid on behalf of HydRx, and it reserves the right to reject any or all Phase 2 Qualified Bids.

42. Notwithstanding the process and deadlines outlined above with respect to Phase 2 of the SISP and the process to supplement Phase 2 by way of the Bid Process Letter

(a) the Monitor may at any time:

- (i) pause, terminate, amend or modify the SISP or this SISP Procedure;
- (ii) remove any portion of the Companies and the Property from the SISP;
- (iii) establish further or other procedures for Phase 2;

(b) the Monitor may at any time bring a motion to the Court to seek approval of:

- (i) a sale of, or investment in, all or part of the Property or the Companies whether or not such sale or investment is in accordance with the timelines set out in this SISP Procedure or the Bid Process Letter; or
- (ii) a stalking horse agreement in respect of some or all of the Property or Companies and related bid procedures in respect of such Property.

Sale Approval Motion Hearing

43. At the hearing of any motion to approve any transaction with a Successful Bidder (the "**Sale Approval Motion**"), the Monitor shall seek, among other things, approval from the Court to consummate such Successful Bid. To the extent other Phase 2 Qualified Bids other than the Successful Bid are in respect of the same Property as such Successful Bid, such other Phase 2 Qualified Bids shall be deemed to be rejected on and as of the date of approval of the Successful Bid by the Court.

44. For the avoidance of doubt, the completion of any Sale Transaction or Investment Transaction shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

Confidentiality and Access to Information

45. The Monitor, the CRO, and their respective advisors make no representation or warranty as to the information contained in the Confidential Information Package, data room or otherwise made available pursuant to the SISP, except in respect of the Monitor to the extent expressly

contemplated in any definitive agreement with a Successful Bidder ultimately executed and delivered by the Monitor on behalf of HydRx.

46. Participants and prospective participants in the SISP, including Serafino and Cobra, 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, Phase 1 Qualified Bidders, Phase 2 Qualified Bidders, Phase 2 Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Monitor and such other bidders or Potential Bidders in connection with the SISP, except where the Monitor, in its discretion believes that it is advisable to share such information: (i) with the consent of the applicable participants, for the purpose of combining separate bids from Phase 1 Qualified Bidders or Phase 2 Qualified Bidders; or (ii) to negotiate a compromise or arrangement of the debt owing to Cobra, as an alternative to a credit bid.

Supervision of the SISP

47. The Monitor shall oversee, in all respects, the conduct of the SISP and, without limitation to that role, the Monitor will participate in the SISP in the manner set out in these SISP Procedures, the SISP Approval Order, the Initial Order and any other orders of the Court, and is entitled to receive all information in relation to the SISP.

48. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor and any Phase 1 Qualified Bidder, any Phase 2 Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Monitor on behalf of HydRx.

49. Without limiting the preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, the Successful Bidder, the Companies, Serafino, Cobra, or any other creditor or other stakeholder of the Companies, for any act or omission related to the process contemplated by these SISP Procedures, except to the extent such act or omission is the result from its gross negligence or wilful misconduct. By submitting a bid, each Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Monitor.

Court Approval

50. The Monitor shall apply to the Court (the “**Approval Motion**”) for an order (the “**Approval Order**”) approving a Successful Bid.

51. All Qualified Bids (other than a Successful Bid) shall be deemed rejected on and as of the date of the Approval Order.

Deposits

52. All Deposits shall be retained by the Monitor and deposited in a non-interest bearing trust account.

53. If there is a Successful Bid, the Deposit paid by the Successful Bidder whose bid is approved at the Approval Motion shall be applied (without interest) to the Purchase Price to be

paid or cash consideration amount to be paid by the Successful Bidder upon closing of the Successful Bid and will be non-refundable.

54. The Deposits of Qualified Bidders not selected as the Successful Bidder shall be returned (without interest) to such bidders within two Business Days of the earlier of (i) the date of the Approval Order or (ii) the date that this SISP is terminated.

Approvals

55. 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 CCAA, or any other statute or as otherwise required at law in order to implement or complete a Successful Bid.

“As Is, Where Is”

56. Any Transaction will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by any member of the Companies or the Monitor or any of their employees, agents or estates, except to the extent expressly provided under a Definitive Agreement with a Successful Bidder executed and delivered by the Monitor on behalf of HydRx.

Further Orders

57. At any time during the SISP, the Monitor may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

Appendix "A"
Monitor Address for Notices

If to the Monitor:

SCHWARTZ LEVITSKY FELDMAN INC.
2300 Yonge Street
Suite 1500, Box 2434
Toronto, ON M4P 1E4

Attention : Alan Page
Email: alan.page@slf.ca
Tel : 416-780-2206

With a copy to:

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
Barristers & Solicitors
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Attention: Jeffrey Larry, Max Starnino, Elizabeth Rathbone
Email: Jeff.Larry@paliareroland.com, Max.Starnino@paliareroland.com,
Elizabeth.Rathbone@paliareroland.com
Tel: 416-646-4330

Court File No. CV-21-00659187-00CL

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

**AND DOMENICO SARAFINO AS A PERSON INTERESTED IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGMENT OF HYDRX
FARMS LTD., CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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