

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

**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")

ORDER

(CRO APPOINTMENT AND SISF 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 SISF (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** Hydrx to execute the engagement letter appended hereto as Schedule "B" (the "**CRO Engagement Letter**"), and that Macpherson & Associates Inc. is hereby appointed as the chief restructuring officer of the Debtors (the "**CRO**") 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 CRO Engagement Letter, to the exclusion of all others, which, for greater certainty, the CRO shall exercise in its discretion, without interference from Hydrx's board of directors;
- (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.

13. **THIS COURT ORDERS** that the costs of the Applicant, including the costs of the Applicant's counsel, associated with the Cobra Claims Process shall be paid in the first instance by the Applicant, and that the issue of the Applicant's entitlement to indemnification or reimbursement for such costs from the Debtors and the applicability of the Administrative Charge thereto is reserved and shall be determined by this court following the final determination of the Cobra Claim Decision.

PIPEDA

14. **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.

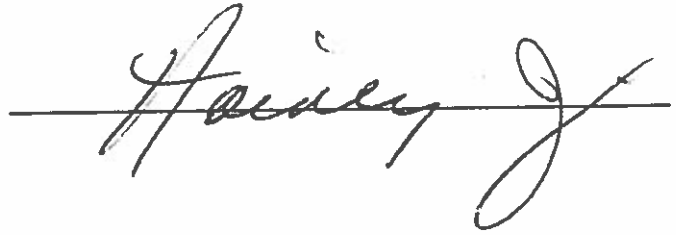
GENERAL

15. **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.

16. **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.

17. **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.

A handwritten signature in cursive script, appearing to read "Fawcett", is written over a horizontal line. The signature is fluid and stylized, with a large initial 'F' and a long, sweeping tail.

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 ARRANGEMENT OF HYDRX FARMS LTD.,
CANNSCIENCE INNOVATIONS INC. AND SCIENTUS PHARMA INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDINGS COMMENCED
IN TORONTO

ORDER
(GRO APPOINTMENT AND SIS/P)

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Lawyers for the Monitor, Schwartz Levitsky Feldman Inc.

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 SISP.

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 SISP, 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 SISP 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 SISP 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 HydrRx 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