

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TOYS "R" US (CANADA) LTD. /
TOYS "R" US (CANADA) LTEE (the "Applicant")

FACTUM OF THE APPLICANT
(Returnable April 1, 2026)

March 30, 2026

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PART I - INTRODUCTION

1. On February 3, 2026 (the “**Filing Date**”), Toys “R” Us (Canada) Ltd. / Toys “R” Us (Canada) Ltee (the “**Applicant**”) was granted protection under the *Companies’ Creditors Arrangement Act*, RSC 1985 c. C-36 (the “**CCAA**”) pursuant to an Initial Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).¹

2. This factum is filed in support of a motion by the Applicant for an Order (the “**SISP Order**”), among other things:

- (a) approving the sale and investment solicitation process attached as **Schedule “A”** to the SISP Order (the “**SISP**”);
- (b) authorizing and directing the Monitor (as defined below) and the Applicant to take any and all actions as may be necessary or desirable to implement and carry out the SISP in accordance with its terms and the SISP Order;
- (c) increasing the permitted borrowings under the DIP Facility to the maximum principal amount of \$15,000,000; and
- (d) extending the Stay Period (as defined below) to July 13, 2026.

PART II - FACTS

3. The facts underlying this motion are more fully set out in the affidavit of Neil Taylor sworn March 23, 2026 (the “**Third Taylor Affidavit**”). Background information on the Applicant and

¹ Affidavit of Neil Taylor sworn March 23, 2026 at [para 6](#) [“**Third Taylor Affidavit**”]. Capitalized terms not otherwise defined have the meaning ascribed to them in the Third Taylor Affidavit.

these CCAA Proceedings are more fully set out in the affidavits of Neil Taylor sworn February 2, 2026 (the “**First Taylor Affidavit**”) and February 10, 2026 (the “**Second Taylor Affidavit**”).

A. Background

4. The Initial Order, among other things, (i) appointed Alvarez & Marsal Canada Inc. as monitor in these CCAA Proceedings (in such capacity, the “**Monitor**”); (ii) granted a stay of proceedings against the Applicant and the Monitor for an initial 10-day period, up to and including February 13, 2026 (the “**Initial Stay Period**”); (iii) authorized the Applicant to borrow under a credit facility (the “**DIP Facility**”) from 2625229 Ontario Inc. (the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Initial Stay Period, subject to certain conditions and pursuant to the DIP Facility Loan Agreement dated as of February 2, 2026 (the “**DIP Loan Agreement**”); and (iv) granted priority charges over all present and future assets, property and undertakings (the “**Property**”) of the Applicant.²

5. At the comeback hearing held on February 13, 2026 (the “**Comeback Hearing**”), this Court granted the Amended and Restated Initial Order (the “**ARIO**”), which, among other things, (i) extended the stay of proceedings up to and including May 1, 2026 (the “**Stay Period**”); (ii) authorized the Applicant to borrow up to the maximum principal amount of \$13,000,000 under the DIP Facility pursuant to the DIP Loan Agreement; (iii) increased the maximum amount secured by the Administration Charge to \$1,000,000, and the maximum amount secured by the Directors’ Charge to \$4,000,000; (iv) authorized the Applicant to pay certain pre-filing obligations of the Applicant, in an aggregate amount not to exceed \$800,000; and (v) authorized the Applicant to

² Third Taylor Affidavit at [para 8](#).

conduct a liquidation sale of the Applicant's inventory and furniture, fixtures and equipment ("FF&E") at select closing store locations in accordance with the Sale Guidelines (as defined in the ARIO).³

B. Developments Since the Comeback Hearing

6. Since the Comeback Hearing, the Applicant, in consultation with the Monitor, has commenced a liquidation sale of the Applicant's inventory and FF&E at select closing store locations.⁴

7. In accordance with paragraph 14 of the ARIO and the Sale Guidelines (as defined in the ARIO), on March 2, 2026, the Applicant issued notices to the landlords of the St. John's Store and the St. Laurent Store advising of its intention to close those stores and conduct a closing Sale (as defined in the Sale Guidelines).⁵

8. The Applicant identified certain real estate leases that it wished to disclaim and delivered Notices to Disclaim or Resiliate pursuant to subsection 32(1) of the CCAA in respect of the Niagara Pen Centre Store, the St. John's Store, the Vaudreuil Store and the St. Laurent Store, the particulars of which are set out in the chart at paragraph 14 of the Third Taylor Affidavit.⁶

C. The SISP

9. As discussed in the First Taylor Affidavit, the primary objectives of these CCAA Proceedings are to engage with the Applicant's principal stakeholders and to advance a structured

³ Third Taylor Affidavit at [para 10](#).

⁴ Third Taylor Affidavit at [para 12](#).

⁵ Third Taylor Affidavit at [para 13](#).

⁶ Third Taylor Affidavit at [para 14](#).

process to address its current financial circumstances and maximize the value of its Business. To meet these objectives, and to complement the Applicant’s ongoing operational restructuring efforts, the Applicant developed the SISP, in consultation with the Monitor and the DIP Lender. The Applicant believes that the SISP is the best available option to maximize value for the Applicant’s stakeholders, and the Monitor and the DIP Lender support approval of the SISP.⁷

i. Overview of the SISP

10. The SISP will be conducted by the Monitor over approximately fourteen weeks and is intended to culminate in the closing of one or more transactions by no later than July 13, 2026, which date constitutes the outside date for completion of a Successful Bid under the SISP (the “**Outside Date**”).⁸

11. The SISP provides for two phases. Phase 1 contemplates the solicitation of non-binding letters of interest (“**LOIs**”). Following the Phase 1 bid deadline, the Monitor, in consultation with the Applicant, will assess the LOIs received and determine which bids constitute a “**Phase 1 Qualified Bid**”, and which bidders will be permitted to proceed to the second phase of the SISP as “**Phase 2 Qualified Bidders**”.⁹

12. The SISP contemplates the following key milestones and deadlines:¹⁰

Milestone	Deadline
Commencement of marketing and due diligence (the “ Commencement Date ”)	As soon as reasonably practicable, but no later than April 2, 2026

⁷ Third Taylor Affidavit at [paras 20-23](#).

⁸ Third Taylor Affidavit at [para 24](#).

⁹ Third Taylor Affidavit at [para 25](#).

¹⁰ Third Taylor Affidavit at [para 26](#).

Milestone	Deadline
Deadline to submit a non-binding LOI (Phase 1 Bid Deadline)	5:00 p.m. (Eastern Time) on May 1, 2026
Deadline to submit a Binding Offer (Phase 2 Bid Deadline)	5:00 p.m. (Eastern Time) on May 29, 2026
Selection of Successful Bid(s) (including any auction, if required)	No later than 5:00 p.m. (Eastern Time) on June 5, 2026
Motion for Court approval of Successful Bid(s)	As soon as reasonably practicable following selection, but no later than June 26, 2026
Closing of Successful Bid(s)	No later than July 13, 2026

13. The Applicant believes that the foregoing milestones provide sufficient time to market the Business broadly and to solicit competitive bids, while appropriately balancing the Applicant's liquidity constraints and available interim financing, subject to the proposed increase in the Interim Borrowings (as defined in the ARIO) under the DIP Facility.¹¹

14. The SISP provides that the Monitor, in consultation with the Applicant, may extend the above deadlines by up to two weeks without Court approval, provided that the milestone with respect to the closing of the Successful Bid(s) can only be extended or amended, without Court approval, with the prior written consent of the DIP Lender, acting reasonably.¹²

15. Each of the key milestones of the SISP are described in greater detail below.

¹¹ Third Taylor Affidavit at [para 27](#).

¹² Third Taylor Affidavit at [para 28](#).

ii. Solicitation of Interest and Notice of the SISP

16. Prior to the Commencement Date, the Monitor, in consultation with the Applicant, shall take steps to initiate the marketing process, including preparing a list of known potential bidders, publishing notice of the SISP, preparing a process summary (the “**Teaser Letter**”) and a form of non-disclosure agreement (the “**NDA**”), and preparing and maintaining a virtual data room (the “**VDR**”) containing due diligence materials relating to the Applicant, its Business, and its assets. The Monitor has commenced preparations of those materials and the VDR.¹³

17. The Monitor has also been contacted by a small group of parties who have expressed interest in participating in the SISP, and the Applicant has executed an NDA with certain of those parties to begin discussions and the sharing of preliminary information. To provide sufficient time for potential bidders to participate in the SISP and perform diligence, the Monitor intends to send the Teaser Letter and NDA to each known potential bidder and to any other party who requests a copy following service of the proposed SISP Order and related Motion Record on the service list.¹⁴

iii. Phase 1 – Non-Binding Letters of Interest

18. In order to participate in Phase 1, interested parties are required to execute an NDA and, if requested by the Monitor, provide evidence satisfactory to the Monitor of their financial capacity to complete a transaction. Thereafter, the Monitor will grant the interested party access to the VDR to perform its due diligence. Any party wishing to submit an LOI must do so by the Phase 1 Bid Deadline of May 1, 2026.¹⁵

¹³ Third Taylor Affidavit at [paras 30-31](#).

¹⁴ Third Taylor Affidavit at [paras 31-32](#).

¹⁵ Third Taylor Affidavit at [paras 33-34](#).

19. An LOI will be considered a Phase 1 Qualified Bid only if it complies with the minimum requirements set out in the SISP. Following the Phase 1 Bid Deadline, the Monitor, in consultation with the Applicant, shall assess the LOIs and, if the Monitor determines that there is at least one Phase 1 Qualified Bid, the SISP will proceed to Phase 2. Only the bidders that submit a Phase 1 Qualified Bid will be deemed a “Phase 2 Qualified Bidder” and permitted to participate in Phase 2 of the SISP, except that the DIP Lender shall be deemed to be a Phase 2 Qualified Bidder even if it does not submit an LOI or Phase 1 Qualified Bid.¹⁶

20. If no Phase 1 Qualified Bid is received, or if the Monitor determines that it would not be appropriate to select any Phase 2 Qualified Bidders, the Monitor will declare the SISP concluded or take such other steps as it considers appropriate in consultation with the Applicant and the DIP Lender.¹⁷

iv. Phase 2 – Binding Offers

21. Phase 2 of the SISP affords the Phase 2 Qualified Bidders the opportunity to perform further due diligence and submit a formal Binding Offer. Any Phase 2 Qualified Bidder wishing to make a formal offer must submit a Binding Offer by May 29, 2026. An offer will only be considered to be a Binding Offer where it complies with certain criteria identified in the SISP, including the requirements identified at paragraphs 38 to 39 of the Third Taylor Affidavit.¹⁸

¹⁶ Third Taylor Affidavit at [paras 34-35](#).

¹⁷ Third Taylor Affidavit at [para 36](#).

¹⁸ Third Taylor Affidavit at [paras 37-39](#).

v. *Insider Bids*

22. The SISP allows for a full or partial credit bid by (a) the DIP Lender, and (b) 1001485743 Ontario Inc. (“**1001 Ontario**”), as assignee of the secured obligations relating to the Applicant’s intellectual property, in connection with the secured obligations that remain outstanding as against the intellectual property.¹⁹

23. Given the potential that each of the DIP Lender and 1001 Ontario may participate in the SISP as a bidder, the SISP contains certain insider bid provisions to protect the integrity of the SISP, including provisions (i) requiring the Monitor’s direct supervision of communications involving any Insider; (ii) restricting the sharing of information unless and until the Insider irrevocably confirms that it will not submit a bid; and (iii) permitting the Monitor to implement such information and consultation restrictions as it determines appropriate.²⁰

vi. *Selection, Approval and Closing of the Successful Bid(s)*

24. At the conclusion of Phase 2 of the SISP, the Monitor, in consultation with the Applicant, will review and evaluate each offer received.

25. If more than one Binding Offer is received, which the Monitor determines constitute Phase 2 Qualified Bids, the Monitor may, in its sole discretion, (i) select one or more of those bids as the Successful Bid(s); (ii) continue negotiations with Phase 2 Qualified Bidders, or (iii) conduct an auction (the “**Auction**”) in respect of some or all of the Property or Business, which Auction shall be governed by an auction procedures letter (“**Auction Procedures Letter**”).²¹

¹⁹ Third Taylor Affidavit at [para 39](#).

²⁰ Third Taylor Affidavit at [para 45](#).

²¹ Third Taylor Affidavit at [para 40](#).

26. If any Binding Offers are received, the Monitor will, in consultation with the Applicant, review and evaluate each Binding Offer based on the factors and in accordance with the process described in paragraph 42 of the Third Taylor Affidavit, including where the consideration payable under a Binding Offer is insufficient.²²

27. The SISP provides that where, as applicable, a Binding Offer does not provide cash consideration sufficient to repay the DIP Lender's indebtedness or the secured obligations assigned to 1001 Ontario in full, the Monitor must consult with the affected secured creditor regarding any proposed assumption and related shortfall, and, if that creditor has submitted a Binding Offer, it may designate its offer as a back-up bid to enable the approval of an alternative Successful Bid.²³

28. After the selection of the Successful Bid(s), the Applicant will make a motion to the Court for one or more Orders approving such Successful Bid(s), vesting title to the purchased assets in the name of the successful bidder(s), and/or vesting unwanted liabilities out of one or more of the Applicant (the "**Approval Order(s)**"). On the closing of the transaction(s) contemplated in the Successful Bid(s), all Binding Offers other than the Successful Bid(s) will be deemed rejected.²⁴

D. Increase in Interim Borrowings Under the DIP Facility

29. The Applicant seeks to increase the maximum permitted amount of Interim Borrowings under the DIP Facility from \$13,000,000 to \$15,000,000, which increase corresponds to the Applicant's forecasted interim financing needs over the proposed extension of the Stay Period, in accordance with the cash flow projections prepared by the Monitor. In the Applicant's view, that

²² Third Taylor Affidavit at [para 42](#).

²³ Third Taylor Affidavit at [para 42](#).

²⁴ Third Taylor Affidavit at [paras 43-44](#).

increase is appropriate and necessary to enable the Applicant to continue operating the Business in the ordinary course and to implement and carry out the SISP, and the Monitor supports the requested increase.²⁵

PART III - ISSUES

30. The issues to be determined on this motion are whether this Court should:

- (a) approve the extension of the Stay Period until July 13, 2026;
- (b) increase the permitted borrowings under the DIP Facility to the maximum principal amount of \$15,000,000; and
- (c) approve the SISP.

PART IV - LAW AND ANALYSIS

A. The Extension of the Stay Period Should be Granted

31. Pursuant to subsections 11.02(2) and 11.02(3) of the CCAA, the Court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence.²⁶ The Court may also extend the stay in favour of the directors and officers of the Applicant under section 11.03 of the CCAA in the same circumstances.²⁷ There is no statutory time limit on how long a stay of proceedings can be extended.

²⁵ Third Taylor Affidavit at [paras 46-51](#).

²⁶ *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s.11.02\(2\)](#); *Harte Gold Corp. (Re)*, [2022 ONSC 653](#) at para [87](#).

²⁷ *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s.11.03\(1\)](#).

32. The authority conferred upon the courts to stay proceedings under section 11.02 “should be broadly construed to accomplish the legislative purpose of the CCAA”.²⁸ These purposes include, *inter alia*, supporting the continuation of the applicant’s business, mitigating the social and economic consequences of liquidation and facilitating a value-maximizing restructuring.²⁹

33. The Applicant asks that the Stay Period be further extended to and including July 13, 2026. Extending the Stay Period is necessary and appropriate to permit the Applicant, with the assistance of the CRO and under the oversight of the Monitor, to, among other things, implement and carry out the SISP.³⁰ The requested extension accords with the timelines in the proposed SISP.

34. The Applicant has acted in good faith and with due diligence in these CCAA Proceedings. Subject to the Court’s approval of the requested increase in the permitted borrowings under the DIP Facility in the form requested in the proposed SISP Order, the Applicant’s cash flow projections demonstrate that the Applicant will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period.³¹

35. The Monitor supports the extension of the Stay Period to July 13, 2026.³²

36. The Applicant submits that the proposed extension of the Stay Period is in the best interests of both the Applicant and its stakeholders, is consistent with the purposes of the CCAA, and is appropriate in the circumstances.

²⁸ *Canwest Global Communications Corp*, [2011 ONSC 2215](#) at para 24.

²⁹ *Canwest Global Communications Corp*, [2011 ONSC 2215](#) at para 24; *Century Services Inc v Attorney General (Canada)*, [2010 SCC 60](#) at para 15; *Timminco Limited (Re)*, [2012 ONSC 2515](#) at para 15; *Target Canada Co. (Re)*, [2015 ONSC 303](#) at para 8.

³⁰ Third Taylor Affidavit at [para 53](#).

³¹ Third Taylor Affidavit at [para 55](#).

³² Third Taylor Affidavit at [para 56](#).

B. Additional Borrowings under the DIP Facility Should be Authorized and the DIP Lender's Charge Should be Increased

37. Pursuant to the Initial Order, the Applicant was granted interim funding under the DIP Facility during the Initial Stay Period, subject to the conditions set forth in the DIP Loan Agreement. The DIP Facility is secured by a Court-ordered charge (the “**DIP Lender's Charge**”) on all of the Property of the Applicant.³³

38. Pursuant to the ARIO, the Applicant was granted an increase to the permitted borrowings under the DIP Facility and a corresponding increase in the maximum amount of the DIP Lender's Charge to \$13,000,000.³⁴

39. The initial permitted borrowings and the subsequent increase to the permitted borrowings under the DIP Facility, together with the quantum of the DIP Lender's Charge granted in the Initial Order and the ARIO, respectively, were based on the needs of the Applicant up to this date. The Applicant now seeks to increase the permitted borrowings under the DIP Facility from \$13,000,000 to \$15,000,000 and the quantum of the DIP Lender's Charge to the maximum amount of the permitted borrowings as applicable under the DIP Loan Agreement.³⁵

40. The increase to the permitted borrowings and the DIP Lender's Charge corresponds to the forecasted interim financing needs of the Applicant over the proposed extension to the Stay Period, in accordance with the cash flow projections prepared by the Monitor. The DIP Facility is expected to provide the Applicant with the stability and breathing room to, among other things, continue

³³ Third Taylor Affidavit at [para 46](#).

³⁴ Third Taylor Affidavit at [para 47](#).

³⁵ Third Taylor Affidavit at [paras 48-49](#).

operating the Business in the ordinary course and to implement and carry out the SISP, all of which preserves value for the Applicant and its stakeholders.³⁶

41. Section 11.2 of the CCAA provides the court with the authority to grant an interim financing charge “in an amount the court considers appropriate” based on the factors set out in subsection 11.2(4) of the CCAA, which include:

- (a) the period during which the company is expected to be subject to proceedings under the CCAA;
- (b) how the company’s business and financial affairs are to be managed during the proceedings;
- (c) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
- (d) the nature and value of the company’s property; and
- (e) whether any creditor would be materially prejudiced as a result of the security or charge.³⁷

42. These factors support the proposed increase to the DIP Lender’s Charge. The increased borrowings are sized appropriately to the Applicant’s financial needs during the extended Stay Period, and will enable the Applicant to preserve the going-concern nature of its Business while advancing its restructuring efforts through the implementation of the SISP.³⁸

³⁶ Third Taylor Affidavit at [para 50](#).

³⁷ *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s.11.2\(4\)](#).

³⁸ Third Taylor Affidavit at [para 50](#).

43. Without additional financing, the Applicant will not be able to sustain its operations or pursue a viable restructuring, which would materially prejudice all stakeholders, including employees, and likely lead to lower returns for creditors.

44. The Applicant is not aware of any material prejudice that would be occasioned by the increased quantum of the DIP Lender's Charge. Even where it can be established that some creditors may be potentially prejudiced, where the benefits of financing to all stakeholders outweigh the potential prejudice to those creditors, it will be appropriate to approve the DIP financing.³⁹

45. The Monitor supports the increase of the permitted borrowings under the DIP Facility to the maximum permitted amount of \$15,000,000.⁴⁰

C. The SISP Should be Approved

46. The remedial nature of the CCAA confers broad powers to facilitate restructurings, including the power to approve a sale process in relation to a CCAA debtor's business and assets, prior to or in the absence of a plan of compromise and arrangement.⁴¹

47. In *Nortel Networks Corporation (Re)*, the Court identified a number of factors that should be considered in determining whether to authorize a sale process, including:

- (a) whether a sale transaction is warranted at the time;

³⁹ *Pride Group Holdings Inc. et al.*, [2024 ONSC 2026](#) at para 27.

⁴⁰ Third Taylor Affidavit at [para 51](#).

⁴¹ *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ON SC\)](#) at para 48; *In the Matter of the Companies' Creditors Arrangement Act and In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd.* (March 8, 2024), Toronto, CV-24-00715773- 00CL ([Endorsement](#)) (ONSC) (Commercial List), (Osborne, J) at para 15; *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, [s. 11](#), [s. 36](#).

- (b) whether the sale will benefit the entire “economic community”;
- (c) whether any of the debtors’ creditors have a *bona fide* reason to object to the sale;
and
- (d) whether there is a better viable alternative.⁴²

48. Although the *Nortel* criteria were articulated prior to the 2009 amendments to the CCAA, the Court in *Brainhunter* confirmed that the same criteria apply under the post-2009 CCAA.⁴³

49. These criteria have also been applied more recently by this Court in *Green Growth Brands*.⁴⁴

50. This Court has noted that section 36 of the CCAA directly applies only in the context of the approval of a sale, not of a sales process.⁴⁵ In other words, it is not this Court’s role in approving a sale process to apply the section 36 criteria. Such criteria will apply and be considered by the Court if the Court is eventually asked to approve the Successful Bid arising from the SISP.

51. Nevertheless, the *Nortel* criteria for approving a sales process should be evaluated in light of the considerations that may ultimately apply when seeking approval for a concluded sale under section 36 of the CCAA.⁴⁶ This Court is entitled to consider whether the proposed SISP is likely to satisfy the requirement that the process be fair and that the best price has been obtained, whether

⁴² *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ON SC\)](#) at paras 48-49.

⁴³ *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ON SC\)](#) at paras 13, 15-17; *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#) at para 23.

⁴⁴ *Green Growth Brands, (Re)*, [2020 ONSC 3565](#) at para 61.

⁴⁵ *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ON SC\)](#) at para 17.

⁴⁶ *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ON SC\)](#) at para 16.

the Monitor supports the SISP, as well as the extent to which creditors were consulted and other relevant factors.

52. In other CCAA cases, courts have also considered the following factors:

- (a) the fairness, transparency and integrity of the proposed process;
- (b) the commercial efficacy of the proposed process in light of the specific circumstances; and
- (c) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.⁴⁷

53. In consideration of the above criteria and factors, the SISP should be approved, as:

- (a) the SISP was developed by the Applicant in consultation with the Monitor and the DIP Lender (the Applicant's senior secured lender);
- (b) the SISP will provide a structured, orderly, fair and efficient process to broadly expose the Applicant's Business and Property to the market and permit interested parties to conduct due diligence and submit offers for potential transactions, with a view to maximizing value and recoveries for the Applicant's stakeholders;
- (c) the SISP will afford the Applicant and its stakeholders the optionality to pursue various transaction structures, including the ability to select multiple Successful Bidders, if appropriate, conduct an Auction in respect of some or all of the

⁴⁷ *Walter Energy Canada Holdings, Inc.*, [2016 BCSC 107](#) at paras [20-21](#); *CCM Master Qualified Fund v blutip Power Technologies*, [2012 ONSC 1750](#) at para [6](#); *U.S. Steel Canada Inc, (Re)*, [2015 ONSC 2523](#) at para 8.

Applicant's Property or Business, consider alternative restructuring transactions, including reverse vesting transactions, if proposed by Phase 2 Qualified Bidders, and navigate the complexities associated with marketing a diverse portfolio of assets, including intellectual property;

- (d) the timelines provided in Phase 1 and Phase 2 are reasonable, and strike the appropriate balance between providing sufficient time for interested parties to conduct their due diligence and maintaining a high degree of efficiency, particularly considering that the Monitor has begun disseminating the Teaser Letter and NDA to the list of Known Potential Bidders to provide additional time for interested parties to conduct due diligence;
- (e) the flexible nature of the SISP provides that the milestone deadlines described therein, while fixed, may be extended without Court approval;
- (f) the Monitor has reported on its view that the SISP is commercially reasonable and has been designed to maximize value through a competitive bidding process;
- (g) the SISP includes tailored consultation and back-up bid mechanics for certain secured parties, ensuring that bids affecting the DIP Facility and the intellectual property of the Applicant are evaluated in a commercially reasonable and creditor-sensitive manner;
- (h) the SISP contains appropriate insider bid provisions to protect the integrity of SISP;
and

(i) the Monitor is supportive of the approval of the SISP.⁴⁸

54. The features of the SISP, including the two-phase framework and the provisions regarding the participation of Insiders, are consistent with recent precedents.⁴⁹

55. The SISP is the best and only value-maximizing option available to the Applicant, and should be approved.

PART V - RELIEF REQUESTED

56. The Applicant therefore requests a SISP Order substantially in the form of the draft Order attached as Tab 3 to the Applicant's Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of March, 2026.



Ian Aversa / Matilda Lici / Samantha Hans

⁴⁸ Third Taylor Affidavit at [paras 21-23, 28, 33-45](#).

⁴⁹ See *In re QM GP Inc. and Highpoint Environmental Services Inc.*, [SISP Approval Order dated August 7, 2025](#), CV-25-00748510-00CL (allows credit bidding by secured creditors; permits insider participation; monitor tasked with overseeing all communications); *In re Earth Boring Co. Limited et al.*, [SISP Approval Order dated May 28, 2025](#), CV-25-00741419-00CL (two-phase process; consultation rights and information sharing; permits credit bids); *In re Synaptive Medical Inc.*, [SISP Approval Order dated March 26, 2025](#), CV-25-00739279-00CL (two-phase process; approval or consent rights for DIP lender; more prescriptive and DIP lender-influenced; DIP lender permitted to review LOIs and Phase 2 Bids).

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**SCHEDULE “A”
LIST OF AUTHORITIES**

1. *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ON SC\)](#);
2. *Canwest Global Communications Corp*, [2011 ONSC 2215](#);
3. *CCM Master Qualified Fund v blutip Power Technologies*, [2012 ONSC 1750](#);
4. *Century Services Inc v Attorney General (Canada)*, [2010 SCC 60](#);
5. *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#);
6. *Green Growth Brands, (Re)*, [2020 ONSC 3565](#);
7. *Harte Gold Corp. (Re)*, [2022 ONSC 653](#);
8. *In re BZAM Ltd.*, [Endorsement of Justice Osborne dated March 8, 2024](#), CV-24-00715773- 00CL;
9. *In re Earth Boring Co. Limited et al.*, [SISP Approval Order dated May 28, 2025](#), CV-25-00741419-00CL;
10. *In re QM GP Inc. and Highpoint Environmental Services Inc.*, [SISP Approval Order dated August 7, 2025](#), CV-25-00748510-00CL;
11. *In re Synaptive Medical Inc.*, [SISP Approval Order dated March 26, 2025](#), CV-25-00739279-00CL;
12. *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ON SC\)](#);
13. *Pride Group Holdings Inc. et al.*, [2024 ONSC 2026](#);
14. *Target Canada Co. (Re)*, [2015 ONSC 303](#);
15. *Timminco Limited (Re)*, [2012 ONSC 2515](#);
16. *U.S. Steel Canada Inc, (Re)*, [2015 ONSC 2523](#);
17. *Walter Energy Canada Holdings, Inc.*, [2016 BCSC 107](#).

I certify that I am satisfied as to the authenticity of every authority.

Date: March 30, 2026



Matilda Lici

**SCHEDULE “B”
RELEVANT STATUTES AND RULES**

Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — initial application

11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Restriction

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

Stays — directors

11.03 (1) An order made under section 11.02 may provide that no person may commence or continue any action against a director of the company on any claim against directors that arose before the commencement of proceedings under this Act and that relates to obligations of the company if directors are under any law liable in their capacity as directors for the payment of those obligations, until a compromise or an arrangement in respect of the company, if one is filed, is sanctioned by the court or is refused by the creditors or the court.

Exception

(2) Subsection (1) does not apply in respect of an action against a director on a guarantee given by the director relating to the company's obligations or an action seeking injunctive relief against a director in relation to the company.

Persons deemed to be directors

(3) If all of the directors have resigned or have been removed by the shareholders without replacement, any person who manages or supervises the management of the business and affairs of the company is deemed to be a director for the purposes of this section.

Meaning of *regulatory body*

11.1 (1) In this section, *regulatory body* means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province and includes a person or body that is prescribed to be a regulatory

body for the purpose of this Act.

Regulatory bodies — order under section 11.02

(2) Subject to subsection (3), no order made under section 11.02 affects a regulatory body's investigation in respect of the debtor company or an action, suit or proceeding that is taken in respect of the company by or before the regulatory body, other than the enforcement of a payment ordered by the regulatory body or the court.

Exception

(3) On application by the company and on notice to the regulatory body and to the persons who are likely to be affected by the order, the court may order that subsection (2) not apply in respect of one or more of the actions, suits or proceedings taken by or before the regulatory body if in the court's opinion

(a) a viable compromise or arrangement could not be made in respect of the company if that subsection were to apply; and

(b) it is not contrary to the public interest that the regulatory body be affected by the order made under section 11.02.

Declaration — enforcement of a payment

(4) If there is a dispute as to whether a regulatory body is seeking to enforce its rights as a creditor, the court may, on application by the company and on notice to the regulatory body, make an order declaring both that the regulatory body is seeking to enforce its rights as a creditor and that the enforcement of those rights is stayed.

Interim financing

11.2 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

Priority — secured creditors

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Priority — other orders

(3) The court may order that the security or charge rank in priority over any security or charge arising from a previous order made under subsection (1) only with the consent of the person in whose favour the previous order was made.

Factors to be considered

(4) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the company is expected to be subject to proceedings under this Act;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

(e) the nature and value of the company's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the monitor's report referred to in paragraph 23(1)(b), if any.

Disclaimer or resiliation of agreements

32 (1) Subject to subsections (2) and (3), a debtor company may — on notice given in the prescribed form and manner to the other parties to the agreement and the monitor — disclaim or resiliate any agreement to which the company is a party on the day on which proceedings commence under this Act. The company may not give notice unless the monitor approves the proposed disclaimer or resiliation.

Restriction on disposition of business assets

36 (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if

shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(5) For the purpose of subsection (4), a person who is related to the company includes

- (a) a director or officer of the company;
- (b) a person who has or has had, directly or indirectly, control in fact of the company; and
- (c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

Restriction — intellectual property

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TOYS "R" US (CANADA) LTD. / TOYS "R" US (CANADA) LTEE (the "Applicant")

Court File No. CL-26-00000042-0000

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

PROCEEDING COMMENCED AT TORONTO

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(Returnable April 1, 2026)**

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