

**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 QM GP INC. AND HIGHPOINT
ENVIRONMENTAL SERVICES INC.**

Applicants

**FACTUM OF THE APPLICANTS
(RE: SALE APPROVAL AND ANCILLARY RELIEF)**

October 22, 2025

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PART I – OVERVIEW¹

1. On August 7, 2025, the Court granted the SISP Approval Order, which approved a sale and investment solicitation process (the “**SISP**”) to solicit offers for a sale, recapitalization, refinancing, restructuring or other strategic transaction in respect of some or all of the Company’s Property and/or Business.
2. The Court-approved SISP resulted in two Successful Bids: (a) a Back-Stop Credit Bid from WeShall Investments Inc. (the “**QM Purchaser**”), which constituted an offer to purchase substantially all of the Company’s Business and Property through a reverse vesting transaction; and (b) a Bid from 1001367859 Ontario Inc. (the “**HWT Purchaser**”), which constituted an offer to purchase the assets related to the waste transfer station business in Hamilton, Ontario (the “**Hamilton Waste Transfer Station**”), through an asset purchase agreement.

3. On this motion, the Applicants seek approval of:

- (a) an Approval and Reverse Vesting Order (the “**RVO**”) substantially in the form of the draft Order at Tab 3 of the Motion Record to, among other things:
 - (i) approve the Subscription Agreement dated October 3, 2025 (the “**Subscription Agreement**”) entered into between QM GP Inc., Highpoint Environmental Services Inc., QM LP, QMF LP and Quantum Holdings LP, each by their general partner QM GP Inc., as vendors (the “**QM Vendors**”), and the QM Purchaser, as purchaser;
 - (ii) approve the transactions contemplated in the Subscription Agreement (the “**QM Transaction**”), and authorize and direct the QM Vendors to perform their obligations under the Subscription Agreement and to take such

¹ Capitalized terms used herein and not otherwise defined have the meanings given to them in the Affidavit of Ian Grégoire sworn October 17, 2025 [“[Grégoire Affidavit](#)”], Tab 2, Motion Record of the Applicants dated October 17, 2025.

additional steps and execute such additional documents as are necessary or desirable for the completion of the QM Transaction;

- (iii) add 1001387025 Ontario Inc. (“**ResidualCo**”) as an Applicant to the CCAA Proceedings;
- (iv) approve the D&O Released Claims in favour of the Released D&Os;
- (v) approve the Released Claims in favour of the Released Parties;
- (vi) grant certain enhanced powers to the Monitor; and
- (vii) order that no person shall be permitted to preserve or perfect Pre-Filing Lien Claims, and that any such Pre-Filing Lien Claims be vacated and shall only be entitled to seek recovery on account of any Pre-Filing Lien Claims by way of a claim on the Lien Charge.

- (b) an Approval and Vesting Order (the “**AVO**”) substantially in the form of the draft Order at Tab 4 of the Motion Record to, among other things:

- (i) approve the Asset Purchase Agreement dated October 17, 2025 (the “**APA**”) entered into between TWT LP by its general partner QM GP Inc. dba Quantum Murray Materials Management, as vendor (the “**HWT Vendor**”) and the HWT Purchaser, as purchaser; and
- (ii) approve the transactions contemplated in the APA (the “**HWT Transaction**”, together with the QM Transaction, the “**Transactions**”) and authorize and direct the HWT Vendor to take such additional steps and execute such additional documents as are necessary or desirable for the completion of the HWT Transaction.

(c) an Order for ancillary relief (the “**Ancillary Relief Order**”) substantially in the form of the draft Order at Tab 6 of the Motion Record to, among other things:

- (i) extend the Stay until and including January 30, 2026 (the “**Stay Period**”); and
- (ii) seal the Confidential Exhibit to the Affidavit of Ian Grégoire sworn October 17, 2025 (the “**Grégoire Affidavit**”) and the Confidential Appendix to the Second Report of the Monitor dated October 22, 2025 (the “**Second Report**”).

4. Together, the Transactions will result in the continuation of substantially all of QM’s ongoing Business, retention of at least 200 employees, the continuation of several significant ongoing construction projects for the benefit of the Company’s sureties, vendors, subcontractors and project owners, and substantial recovery to QM’s secured creditors, including the DIP Lender and the Company’s pre-filing senior secured creditor, the Bank of Nova Scotia (“**BNS**”).

PART II – FACTS

5. The facts with respect to this motion are more fully set out in the Grégoire Affidavit.

A. The CCAA Proceedings

6. The Company has operated for over 40 years and is a leading national provider of environmental and industrial services, offering a wide range of demolition, remediation and emergency response services across Canada.²

7. The Company commenced the CCAA Proceedings to allow it to access interim funding to address its immediate working capital needs, provide the necessary stability to continue operating, undertake a project-by-project review with the assistance of the Monitor and continue

² Grégoire Affidavit at [para 8](#).

work on profitable projects, and ultimately to commence the SISP.³

8. On July 29, 2025, the Court granted the Initial Order, which, among other things: (a) appointed Alvarez & Marsal Canada Inc. as Monitor of the Company; (b) granted the Stay for the Initial Stay Period; (c) approved the DIP Facility; and (d) granted the Charges (as defined in the ARIQ).⁴ On that same date, the Court also granted the Lien Regularization Order (the “LRO”), which, among other things, established a streamlined Court-supervised process, administered by the Monitor, to replace the process typically utilized by lien claimants’ to preserve and perfect a lien under the Provincial Lien Legislation (as defined in the LRO).⁵

9. On August 7, 2025, the Court granted the ARIQ, which, among other things: (a) extended the Stay Period until and including November 7, 2025; (b) authorized the Company to borrow additional amounts under the DIP Facility; and (c) approved the KERP and granted the KERP Charge.⁶ On that same date, the Court also granted the SISP Approval Order, which, among other things: (a) approved the SISP; and (b) authorized and directed the Monitor and the Company to implement the SISP.⁷

B. The SISP

10. The SISP was a Monitor-led process designed to broadly canvas the market for interest in the Company’s Business and Property, conducted over approximately 11 weeks.⁸

11. A total of five Bids were submitted by the Bid Deadline of September 29, 2025: (a) a Bid from the HWT Purchaser (the “**Successful Purchase Bid**”) for certain assets related to the Hamilton Waste Transfer Station; (b) a Bid from Bidder #2 for the Emergency Response Business, all of QM’s equipment, hard assets, intellectual property and certain other assets, but specifically

³ Grégoire Affidavit at [para 11](#).

⁴ Grégoire Affidavit at [para 12](#).

⁵ Grégoire Affidavit at [para 13](#).

⁶ Grégoire Affidavit at [para 14](#).

⁷ Grégoire Affidavit at [para 15](#).

⁸ Grégoire Affidavit at [para 17](#).

excluding all of QM's employees and the Continuing QM Projects (including associated accounts receivable, holdbacks and accounts payable); (c) a Bid from Bidder #3 for certain assets related to the Hamilton Waste Transfer Station; (d) a Bid from Bidder #4 for certain assets related to the Hamilton Waste Transfer Station; and (e) a Bid from Bidder #5 for a grouping of assets and equipment relating to Highpoint Environmental Services Inc.⁹

12. On September 29, 2025, the DIP Lender submitted its initial Back-Stop Credit Bid, which the Monitor reviewed in consultation with BNS and the Company, and assessed it alongside the Bids submitted by the Bid Deadline.¹⁰

13. Following its review and assessment, the Monitor engaged in negotiations with all Bidders, including the QM Purchaser, to determine if Bids could be improved and to assess which Bid(s) constituted the highest or otherwise best offer(s).¹¹ The QM Purchaser improved and revised its Back-Stop Credit Bid, including to carve out certain cash, as well as the Hamilton Waste Transfer Station assets, which allowed the Monitor to negotiate and finalize the Successful Purchase Bid with the HWT Purchaser.¹²

14. On October 3, 2025, the Monitor determined that the Back-Stop Credit Bid, in combination with the Successful Purchase Bid, constituted the best Bids received. As such, the Back-Stop Credit Bid and the Successful Purchase Bid were selected as the Successful Bids. The Transactions contemplated by the Successful Bids will avoid liquidation or a piecemeal sale of the Company's assets.¹³

C. The Subscription Agreement

15. The Subscription Agreement constitutes an offer to purchase substantially all of QM's

⁹ Grégoire Affidavit at paras [23](#) and [26](#).

¹⁰ Grégoire Affidavit at [para 34](#).

¹¹ Grégoire Affidavit at [para 35](#).

¹² Grégoire Affidavit at [para 37](#).

¹³ Grégoire Affidavit at [para 38](#).

Business and Property through a reverse vesting transaction.¹⁴ This structure is necessary and appropriate to preserve a substantial portion of the Business and maximize value for stakeholders by ensuring the QM Vendors continue as a going concern. This will preserve employment for at least 200 employees and permit the completion of the Continuing Projects (as defined in the Subscription Agreement), thereby minimizing exposure on performance bonds.¹⁵

16. The principal terms of the Subscription Agreement are summarized below and are more fully set out in the Subscription Agreement and the Grégoire Affidavit.¹⁶

Term	Details
QM Purchaser	WeShall Investments Inc.
QM Vendors	QM GP Inc., Highpoint Environmental Services Inc., QM LP, QMF LP and Quantum Holdings LP
Purchased Interests	The QM Vendors shall issue to the QM Purchaser the Purchased Shares and the QM Vendors shall transfer to the QM Purchaser or its designee(s) the Transferred LP Interests equal to the Transferred LP Interest Price.
Purchase Price	The total aggregate consideration includes a credit bid equal to approximately \$7.198 million, or the amount outstanding under the DIP Facility at the Closing Time. The Purchase Price also includes amounts accrued after the Filing Date for ordinary course goods and services requested by the QM Vendors.
Retained Assets & Liabilities	The QM Vendors retain the Retained Assets, including Retained Contracts, Account Receivables, and Licences and Permits, along with the Retained Liabilities, including the remaining obligations under the DIP Facility and the BNS Credit Facility. The Subscription Agreement contemplates that all Cure Costs for Retained Contracts will be paid.
Vested Out Assets & Liabilities	All Excluded Assets, Excluded Liabilities, Excluded Contracts, and Excluded Leases are transferred and vested in ResidualCo, which shall be added as an Applicant. This results in the QM Vendors being free from all liabilities other than the Retained Liabilities.
Continuation of Business	The QM Vendors will continue operating, completing Continuing QM Projects, and retaining all Post-Filing Trade Liabilities.

¹⁴ Grégoire Affidavit at [para 41](#).

¹⁵ Grégoire Affidavit at [para 43\(a\)](#).

¹⁶ Grégoire Affidavit at [para 42](#).

D. The APA

17. The Hamilton Waste Transfer Station has been carved out of the QM Transaction to allow the Company to enter into the APA with the HWT Purchaser, an unrelated third party to the Company and the DIP Lender, for these assets.¹⁷

18. The purchase price in the APA constitutes the highest consideration offered for the Hamilton Waste Transfer Station in comparison to the other Bids received and, accordingly, constitutes the best Bid for these assets.¹⁸ The principal terms of the APA are summarized below and are more fully set out in the APA and the Grégoire Affidavit.¹⁹

Term	Details
HWT Purchaser	1001367859 Ontario Inc.
HWT Vendor	TWT LP by its general partner QM GP Inc. dba Quantum Murray Materials Management.
Purchased Assets	The right, title and interest of the HWT Vendor, if any, in and to the Equipment, Licences and Permits, Inventory, Intangibles, Assumed Contracts, and Books and Records, in each case relating to the Hamilton Waste Transfer Station business.
Assumed Contracts	Certain Equipment Leases, the Real Property Lease associated with the Hamilton Waste Transfer Station, and the Collective Agreements.
Assumed Obligations	(a) all obligations and liabilities of the HWT Vendor under the Assumed Contracts; and (b) the Assumed Employee Liabilities.
Closing Date	October 31, 2025.

PART III – ISSUES

19. The issues to be determined by this Honourable Court are whether to:

- (a) approve the Subscription Agreement and the QM Transaction;

¹⁷ Grégoire Affidavit at [para 64](#).

¹⁸ Grégoire Affidavit at [paras 38](#) and [67](#).

¹⁹ Grégoire Affidavit at [para 67](#).

- (b) cancel the Existing Shares and add ResidualCo as an Applicant;
- (c) grant the D&O Releases and the Releases;
- (d) grant the Monitor certain enhanced powers;
- (e) approve the APA and the HWT Transaction;
- (f) extend the Stay until and including January 30, 2026; and
- (g) seal the Confidential Exhibit and the Confidential Appendix (the “**Confidential Materials**”).

PART IV – LAW & ARGUMENT

A. The Subscription Agreement and the QM Transaction Should be Approved

20. The proposed QM Transaction is structured as a reverse vesting transaction to preserve the value of the Business, which typically involves a series of steps whereby: (a) the purchaser becomes the sole shareholder of the debtor company; (b) the debtor company retains its assets, including contracts and permits; and (c) the liabilities not assumed by the purchaser or related to the purchased assets are vested out and transferred, together with any excluded assets, to a newly incorporated entity. The assets and liabilities vested in the newly incorporated entity (in this case, ResidualCo) are then addressed through a bankruptcy or similar process.²⁰

21. The jurisdiction to approve a transaction implemented through an RVO is found in section 11 of the CCAA, which gives the Court broad discretion to make any order it sees fit.²¹ Reverse vesting orders have been granted by the Court in circumstances where it is satisfied that a reverse

²⁰ *Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al*, 2022 ONSC 6354 [“**Just Energy**”] [McEwen J.] at [para 27](#) citing *Arrangement relatif à Blackrock Metals Inc*, 2022 QCCS 2828 [“**Blackrock**”] (original English version) [Paquette C.J.] at [para 85](#), leave to appeal ref’d [2022 QCCA 1073](#), leave to appeal ref’d [2023 CanLII 36969](#) (SCC).

²¹ *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 [“**CCAA**”], [ss 11](#) and [36](#); **see also** *Just Energy* at [paras 29-32](#); *Blackrock* at [para 87](#); *Harte Gold Corp (Re)*, 2022 ONSC 653 [“**Harte Gold**”] at [paras 18-20](#) and [37](#).

vesting structure is appropriate and warranted.²²

(i) Section 36(3) and *Soundair* Factors Support the QM Transactions

22. The following factors enumerated in subsection 36(3) of the CCAA and *Royal Bank v. Soundair* (“**Soundair**”) are to be considered when determining whether the approval of a reverse vesting transaction is appropriate: (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; (c) whether the monitor filed with the court a report stating that in their opinion the sale 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 on the creditors and other interested parties; (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value; (g) whether sufficient effort has been made to obtain the best price and that the debtors have not acted improvidently; (h) the efficacy and integrity of the process by which offers have been obtained; (i) whether the interests of all parties have been considered; and (j) whether there has been unfairness in the working out of the process.²³ Further, the business judgment of the parties and the court-appointed monitor will normally be accepted where the marketing and sale process was fair, reasonable, transparent and efficient.²⁴ The QM Transaction satisfies the section 36(3) and *Soundair* factors, as:

(a) **The SISP was developed with the Monitor.** The SISP was developed with the Monitor and approved by the Court, providing a robust, court-approved framework for soliciting market interest in the Company's Business.²⁵ Given that the QM

²² *Harte Gold* at [para 38](#). See *Validus Power Corp et al v Macquarie Equipment Finance Limited*, 2024 ONSC 250 (“**Validus**”) at [paras 43-44](#); *Fresh City Farms and Mama Earth Organics*, 2024 ONSC 2016 (“**Fresh City Farms**”) at [paras 34-35](#); *Atlas Global Brands Inc*, 2024 ONSC 5570 (“**Atlas Global**”) at [paras 10-21](#).

²³ *Canwest Global Communications Corp*, 2010 ONSC 2870 at [para 13](#) citing *Royal Bank of Canada v Soundair Corp, (1991) 4 OR (3d) 1 (CA)*; *Acerus Pharmaceuticals Corporation (Re)*, 2023 ONSC 3314 at [paras 10-11](#).

²⁴ *Sanjel Corporation (Re)*, 2016 ABQB 257, [para 57](#); see also *Arrangement relatif à FormerXBC Inc (Xebex Adsorption Inc)*, 2023 QCCS 1818 at [para 13](#).

²⁵ Grégoire Affidavit at paras [15](#), [17](#) and [83](#).

Purchaser acts both as the DIP Lender and the principal shareholder of QM, the SISP explicitly contemplated the non-typical procedure of allowing a Back-Stop Credit Bid by an insider,²⁶ which mandated continuous consultation with the Monitor and BNS.²⁷ The Monitor reviewed the Back-Stop Credit Bid in consultation with BNS and the Company and assessed it alongside the other Bids submitted;²⁸

- (b) **The SISP was fair, transparent, and reasonable.** The resulting QM Transaction is commercially reasonable and maximizes value for stakeholders by ensuring the Business continues as a going concern.²⁹ The Monitor administered the SISP in an open and transparent manner, thoroughly canvassing the market by contacting 107 Interested Parties;³⁰
- (c) **The SISP made sufficient effort to obtain the best price.** The SISP provided adequate time (approximately 11 weeks)³¹ for Interested Parties to prepare and submit Bids.³² The Monitor reviewed, provided feedback and negotiated with all Bidders to improve their Bids.³³ The QM Transaction was the *only* Bid received that would preserve QM's Business as a going concern, thereby maximizing value relative to the liquidation scenario presented by other Bidders;³⁴
- (d) **The Transactions are in the best interests of the stakeholders.** The QM Transaction ensures the core Business continues as a going concern, preserving employment for at least 200 employees³⁵ and permitting the QM Vendors to complete the Continuing Projects, minimizing losses for sureties and project

²⁶ Grégoire Affidavit at [para 19](#).

²⁷ Grégoire Affidavit at paras [31](#), [72](#) and [73](#).

²⁸ Grégoire Affidavit at para [34](#).

²⁹ Grégoire Affidavit at paras [6](#), [32](#), [38](#), [39](#), [40](#).

³⁰ Grégoire Affidavit at paras [22](#), [23](#), [30](#).

³¹ Grégoire Affidavit at para [23](#).

³² Grégoire Affidavit at para [27](#), [22](#).

³³ Grégoire Affidavit at paras [26](#), [34](#), [33](#) and [36](#).

³⁴ Grégoire Affidavit at paras [32](#), [38](#), and [39](#).

³⁵ Grégoire Affidavit at paras [6](#) and [40](#).

owners.³⁶ Critically, the QM Purchaser ensures the QM Vendors retain liability for all Post-Filing Trade Liabilities, and funds will be provided to satisfy certain unpaid obligations related to Terminated Employees, including KERP obligations, ensuring creditors and employees are addressed;³⁷

- (e) **The Monitor supports the Transactions.** The Monitor is of the view that together, the Transactions constitute best available offer. The Transactions avoid a liquidation or a piecemeal sale of the Business, maximize creditor recover, and preserve a substantial portion of the Business;³⁸
- (f) **There is no viable alternative to the Transactions.** The QM Transaction is the only available option that ensures the continuity of the core Business operations, including Environmental Services, Construction, and Emergency Response.³⁹ Absent the QM Transaction, the Company would be forced into liquidation, resulting in the destruction of value and greater exposure to creditors;⁴⁰
- (g) **The consideration given by the QM Purchaser is fair and reasonable.** The consideration provided by the QM Purchaser is fair and reasonable in the circumstances, particularly given the going-concern preservation achieved where no other Bidder offered a comparable solution.⁴¹ The purchase price includes the Credit Bid Consideration, extinguishing the DIP Facility obligations (approximately \$7.198 million).⁴² Furthermore, the RVO structure is necessary to preserve valuable, non-transferrable Certifications, bonding arrangements, and critical contractual relationships, thereby ensuring the inherent value of the going concern

³⁶ Grégoire Affidavit at [para 56](#).

³⁷ Grégoire Affidavit at [para 43\(c\)](#).

³⁸ Grégoire Affidavit at [para 39](#); Second Report of the Monitor dated October 22, 2025 ["Second Report"] at [para 6.8\(iii\)](#).

³⁹ Grégoire Affidavit at paras [6](#), [32](#) and [38](#).

⁴⁰ Grégoire Affidavit at paras [32](#) and [38](#).

⁴¹ Grégoire Affidavit at paras [32](#) and [38](#).

⁴² Grégoire Affidavit at [para 42](#).

Business is preserved, justifying the consideration provided;⁴³ and

(h) **There is no material prejudice to creditors.** No creditor is materially prejudiced by the QM Transaction, as the outcome is superior to the liquidation scenario.⁴⁴

23. Given that the QM Purchaser acts both as the DIP Lender and the principal shareholder of QM, the QM Transaction is a related party transaction for the purposes of section 36(4) of the CCAA. When considering a related party transaction, the Court must be satisfied that the following additional criteria in section 36(4) of the CCAA have been met: (a) that good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and (b) that 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.⁴⁵ The Court should be satisfied that sufficient safeguards were adopted to ensure that a related party transaction is in the best interests of all stakeholders and that the risks associated with a related party transaction have been mitigated.⁴⁶

24. The section 36(4) factors have been met, as:

(a) **Good Faith Efforts were Made to Solicit Third-Party Interest.** QM Transaction represents the culmination of a comprehensive, fair and transparent Court-approved and Monitor-led SISP. The Monitor contacted 107 Interested Parties, including 67 strategic buyers and 40 financial sponsors and other parties;⁴⁷ and

(b) **The Transactions are Superior to the Alternative Bids.** The Monitor is of the view that the proposed Transactions are the best going concern outcome for stakeholders and are superior to the alternative liquidation of the Business as: (a)

⁴³ Grégoire Affidavit at [para 58](#).

⁴⁴ Grégoire Affidavit at [para 73](#).

⁴⁵ CCAA, [s 36\(4\)](#).

⁴⁶ *Pride Group Holdings Inc et al*, [2025 ONSC 357](#) at [para 9](#) citing *Re Target Canada Co*, [2015 ONSC 2066](#) at para 15.

⁴⁷ Second Report at [para 5.2](#).

the Transactions are estimated to provide a similar or higher economic recovery to the Affected Creditor Group as they would otherwise receive in a bankruptcy or liquidation; and (b) the Transactions also provide incremental going concern benefit to the majority of the Company's stakeholders.⁴⁸

(ii) *Harte Gold* Factors are Met

25. The parties seeking approval of a reverse vesting transaction should also be prepared to address the following additional questions: (a) why the reverse vesting order is necessary in this case; (b) whether the reverse vesting transaction structure produces an economic result at least as favourable as any other viable alternative; (c) whether any stakeholder is worse off under the reverse vesting transaction structure than they would have been under any other viable alternative; and (d) whether the consideration being paid for the debtors' business reflects the importance and value of the licences and permits (or other intangible assets) being preserved under the reverse vesting transaction structure.⁴⁹

26. RVOs have been deemed appropriate in circumstances where: (a) the debtor operates in a highly regulated environment in which its existing permits, licences or other rights are difficult or impossible to reassign to a purchaser; (b) the debtor is a party to certain key agreements that would be similarly difficult or impossible to assign to a purchaser; and (c) where maintaining the existing legal entities would preserve certain tax attributes that would otherwise be lost in a traditional vesting order transaction.⁵⁰

27. In this matter, the reverse vesting structure is necessary and appropriate in the circumstances, as:

(A) The RVO is necessary and critical to the QM Transaction.

⁴⁸ Second Report at [para 6.8](#).

⁴⁹ *Harte Gold* at [para 38](#).

⁵⁰ *Just Energy* at [para 34](#).

28. The QM Purchaser has concluded that a reverse vesting structure is necessary and appropriate in these circumstances to preserve and maximize the value of the QM Vendors' Business.⁵¹

29. The QM Vendors are party to hundreds of project contracts and subcontracts across approximately 50 active projects.⁵² Many of these contracts contain clauses that prohibit or restrict assignment without express consent. A conventional asset sale requiring individual consents to assignment would be time-consuming, uncertain, and risks interruption to critical contracts, which would fundamentally impair the Business value. By leaving the Retained Contracts within the existing legal entity, the RVO obviates the need for assignment and consent. Furthermore, the Company relies on active bonding arrangements with its sureties (Intact and Aviva) for numerous ongoing projects. Preserving the existing entity through the RVO ensures that current bonding arrangements remain in full force and effect.

30. QM operates in a highly regulated environment, providing environmental services, hazardous waste management, and construction services.⁵³ The continuation of the Business is dependent on retaining its existing array of approximately 15 specialized licences, certifications, and permits.⁵⁴ These certifications are difficult, if not impossible, to transfer to a new entity, making the RVO the most cost-effective, efficient, and certain mechanism to allow the QM Purchaser to retain the QM Vendors' existing legal entity structure and preserve its critical regulatory approvals.⁵⁵ An asset sale as an alternative to an RVO would result in extensive delays, costs and significant uncertainty, thereby disrupting operations.

(B) The RVO provides an economic result at least as favourable as any other viable alternative.

⁵¹ Grégoire Affidavit at [para 50](#).

⁵² Grégoire Affidavit at [para 52](#).

⁵³ Grégoire Affidavit at [paras 58-63](#).

⁵⁴ Grégoire Affidavit at [para 58](#).

⁵⁵ Grégoire Affidavit at [para 60](#).

31. The Back-Stop Credit Bid was the sole Bid received that would preserve the Company as a going concern, whereas all other Bids submitted by the Bid Deadline would have resulted in a liquidation. The QM Transaction, utilizing the RVO structure, directly results in the continuation of substantially all of QM's Business operations.⁵⁶

(C) No stakeholder is worse off under the RVO than under any viable alternative.

32. The proposed RVO ensures that no stakeholder is worse off than under any viable alternative. In fact, the reverse vesting transaction structure positions stakeholders to fare significantly better than they would in a traditional asset sale or liquidation scenario.

33. The QM Transaction will allow the Company to continue operating as a going concern, preserving at least 200 jobs and enabling completion of the Continuing Projects, which will benefit suppliers, trade creditors, project owners, and sureties far more than a liquidation or piecemeal sale of the Business and Property would.⁵⁷

34. As detailed in the liquidation analysis attached as the Confidential Appendix to the Second Report, the Monitor believes that a liquidation scenario would likely result in significant set-off claims that would materially impair the Company's ability to collect outstanding receivables, as well as the incurrence of significant additional liabilities.⁵⁸

35. Conversely, the QM Transaction will provide meaningful recoveries through several mechanisms:

- (a) all Cure Costs for the Retained Contracts and Retained Leases will be satisfied and paid notwithstanding that no contractual assignments are required;

⁵⁶ Grégoire Affidavit at [para 67](#).

⁵⁷ Grégoire Affidavit at [para 39](#).

⁵⁸ Second Report at [para 6.7\(ii\)](#).

- (b) there will be no deficiency claims against ResidualCo as all outstanding DIP Facility and BNS Credit Facility obligations will remain as Retained Liabilities; and
- (c) the Excluded Assets, including \$1 million in cash and the sale proceeds from the HWT Transaction, are anticipated to generate distributions to creditors through ResidualCo.⁵⁹

36. Most critically, the proposed RVO is necessary to preserve and maximize value by maintaining the contractual relationships essential to the Continuing Projects and safeguarding critical bonding arrangements with the Company's sureties, Intact and Aviva. These benefits would not be achieved in a traditional asset sale.⁶⁰

(D) The consideration provided by the Purchaser reflects the value of the assets being preserved.

37. The Purchase Price reflects the market value obtained after a broad canvassing of potentially interested parties during the SISP. The resulting bid represents the best price achieved, as validated by the lack of any superior Qualified Bids.⁶¹ The RVO structure was specifically requested by the QM Purchaser and deemed necessary to secure the value of the non-transferable assets, namely the Certifications, Continuing Project Contracts, and Bonding Arrangements. The Monitor supports approval of the Transactions.⁶²

(iii) The Court Should Cancel the Existing Shares and add ResidualCo as an Applicant

38. As part of the RVO, all "Existing Shares", being all equity interests in the Vendors other than the Purchased Shares, will be deemed terminated and cancelled without consideration.

⁵⁹ Grégoire Affidavit at [para 43\(e\)](#).

⁶⁰ Grégoire Affidavit at [para 54](#).

⁶¹ Grégoire Affidavit at [para 50](#).

⁶² Second Report at [para 6.9](#).

Courts have granted this relief in similar circumstances pursuant to section 11 of the CCAA and the applicable provisions of the Ontario *Business Corporations Act*.⁶³

39. The RVO also seeks to add ResidualCo as an applicant in these proceedings. Upon the transfer of all of the Excluded Assets and Excluded Liabilities to ResidualCo, ResidualCo will have minimal assets and at least \$5 million in debt. Therefore, it will also be a “debtor company” to which the CCAA applies.⁶⁴

(iv) The Releases in the RVO Should be Approved

40. The Court has jurisdiction to grant third-party releases under section 11 of the CCAA.⁶⁵ Third-party releases are commonly approved by this Court outside of a CCAA plan in the context of a transaction, including reverse vesting transactions.⁶⁶

41. The CCAA expressly contemplates that claims against the directors and officers of a debtor company can be released in a plan, subject to certain exceptions,⁶⁷ which also applies where a CCAA restructuring involves a reverse vesting transaction without a plan.⁶⁸

42. Releases in the form sought by the Applicants have been granted by CCAA courts in recent decisions.⁶⁹ The Court has approved releases for directors and officers, in the context of a share purchase and subscription agreement despite opposition to the release.⁷⁰ In *Atlas*, the Court determine that the releases, which are substantially similar to the releases in the proposed

⁶³ CCAA, s 11. *Just Energy* at [paras 64-66](#); *Harte Gold* at [paras 61-65](#). See *Business Corporations Act*, RSO 1990, c B.16, s 186(2).

⁶⁴ CCAA, s 3.

⁶⁵ CCAA, s 11.

⁶⁶ *Blackrock* at [para 128](#).

⁶⁷ CCAA, s 5.

⁶⁸ *Re Green Relief Inc.*, 2020 ONSC 6837 [“**Green Relief**”] (Koehnen J) at [para 76](#); *Atlas Global Brands Inc.*, 2024 ONSC 5570 [“**Atlas Global**”] at [paras 101-102](#); *Re Atlas Global Brands Inc.* (29 October 2024), Toronto CV-24-00722386-00CL (ONSC) (Order and Endorsement) (Steele J) [“**Atlas Global 2**”] at [para 30](#).

⁶⁹ *Re Aleafia Health Inc. et al* (1 March 2024), Toronto CV-23-00703350-00CL (ONSC) ([CCAA Termination Order](#) and [Endorsement](#)); 2675970 Ontario Inc. et al (28 November 2024), Toronto CV-24-00726584-00CL (ONSC) ([Approval and Reverse Vesting Order](#) and [Endorsement](#)); *Atlas Global* at [paras 101-102](#); *Atlas Global 2* at [paras 24-30](#); *Plan of Arrangement of Fire & Flower Holdings Corp et al*, 2023 ONSC 4934 at [paras 24-26](#); *Green Relief* at [para 76](#).

⁷⁰ *Atlas Global* at [paras 101-102](#).

RVO, were “appropriately and rationally connected to relevant aspects of the restructuring, and appropriately limited to the extent necessary”.⁷¹ The Court has also approved releases where such releases were sufficiently narrow and did not waive rights or barred any claim or liability arising out of (a) gross negligence or wilful misconduct; (b) that was not permitted to be released under section 5.1(2) of the CCAA; or (c) that was identified as an insured claim.⁷²

43. In assessing whether third-party releases are appropriate, courts have referred to the *Metcalfe* and *Lydian* factors, recognizing that those factors are all part of a global analysis.⁷³ It is not necessary for each factor to be satisfied, nor is any single factor determinative.⁷⁴ The factors are reproduced below with their application to the facts of this case:

- (a) **The Released Parties have significantly contributed to and were necessary for the restructuring.** The Released Parties have made significant and material contributions to the CCAA Proceedings including the implementation of the SISP and the negotiation of the Subscription Agreement. These individuals have been critical to the success of this restructuring;
- (b) **The Releases are rationally connected to the restructuring and are fair, reasonable and not overly broad.** The Releases are limited to and directly connected to the CCAA proceedings and the proposed Transactions. The Releases ensure that the Released D&Os and the Released Parties will be able to implement the proposed Transactions with certainty and finality. The Releases are sufficiently narrow in the circumstances, as the Releases both preserve claims (a) arising out of any gross negligence or willful misconduct; and (b) that are not

⁷¹ *Atlas Global* at [paras 101-102](#).

⁷² *Atlas Global* 2 at [para 29](#).

⁷³ *Metcalfe & Mansfield Alternative Investments II Corp. (Re)*, 2008 ONCA 587 at [para 70](#) (leave to appeal to SCC dismissed, [2008 CanLII 46997](#)); *Lydian International Limited (Re)*, 2020 ONSC 4006 (Morawetz C.J. (as he then was)) at [para 54](#); *Green Relief* at [para 27](#); *Atlas Global* at [para 26](#).

⁷⁴ See *Green Relief* at [paras 27-28](#); *Harte Gold* at [paras 79-80](#); *Just Energy* at [para 67](#).

permitted to be released pursuant to section 5.1(2) of the CCAA;

(c) **The Transactions cannot succeed without the Releases.** The Releases are necessary to encourage the directors and officers to continue their service and to provide them with the certainty required to focus their efforts on the successful closing of the Transactions.⁷⁵ The Company's directors and officers have been instrumental to these restructuring proceedings, and their continued involvement, is key to the proposed Transactions and the Business going forward;⁷⁶

(d) **The Monitor's Support.** The Monitor supports the granting of the Releases as part of the approval of the proposed Transactions;⁷⁷ and

(e) **The stakeholders have knowledge of the nature and effect of the Releases.** The Applicants served the parties on the Service List with the motion materials for this motion alerting them to the nature and effect of the Releases.

B. The Court Should Prevent the Enforcement of Pre-Filing Lien Claims

44. As part of the RVO, the Applicants are also seeking relief to prevent any person from preserving or perfecting a Pre-Filing Lien Claim on any Continuing Project Contracts in respect to services or work performed prior to the Filing Date.

45. The Court has the jurisdiction to make such an order under section 11 of the CCAA, which permits the Court to "make any order that it considers appropriate in the circumstance".⁷⁸

46. Following the commencement of the CCAA Proceedings, the Court granted the LRO which specifically governed claims under Provincial Lien Legislation related to the Continuing QM Projects. The LRO operated by staying the rights of any person who had a Lien Claim to serve,

⁷⁵ Grégoire Affidavit at [para 81](#).

⁷⁶ Grégoire Affidavit at [para 80](#).

⁷⁷ Grégoire Affidavit at [para 79](#); Second Report at [para 6.13](#).

⁷⁸ CCAA, [s. 11](#).

register, preserve, or perfect that claim against the projects. Instead of pursuing individual project security, the LRO provided a centralized process. Lien Claimants were required to assert their interests by delivering a Lien Notice to the Monitor. This mechanism was intended to support the Company's flow of funds and minimize disruption to the restructuring efforts caused by piecemeal lien registrations.

47. This relief is appropriate in the circumstances as the Pre-Filing Lien Claims will be vested out to ResidualCo and can be advanced as a claim against the Lien Charge against the proceeds of the Transactions. As such, the Lien Claimants will not face any prejudice. In contrast, if the lien claimants were entitled to preserve or perfect a Pre-Filing Lien Claim on the Continuing Project Contracts, that would cause prejudice to the Purchaser who is buying the Vendors free and clear of such Excluded Liabilities.⁷⁹

48. In connection with this aspect of the RVO, any amounts owing to potential lien claimants for post-filing or post-closing matters on the ongoing projects will not be released and will be obligations of the Applicants to be addressed in the ordinary course after closing and outside the context of these CCAA Proceedings.

C. The Monitor Should be Granted Enhanced Powers

49. Following the closing of the Transactions, the Company's directors and officers do not intend to continue in their roles for ResidualCo. The proposed RVO therefore expands the Monitor's powers to facilitate the effective and efficient administration of ResidualCo (including in its capacity as new general partner of TWT LP) following the closing of the Transactions, the completion of the CCAA Proceedings (or any subsequent proceeding) and the wind-down of ResidualCo and TWT LP.⁸⁰

50. The CCAA provides the Court with broad discretion in respect of the Monitor's functions.

⁷⁹ Grégoire Affidavit at [paras 107-109](#).

⁸⁰ Second Report at [para 7.1](#).

Section 23(1)(k) of provides that the Monitor can “carry out any other functions in relation to the [debtor] company that the court may direct.” In addition, section 11 of the CCAA authorizes this Court to make any order that is necessary and appropriate in the circumstances. Courts have expanded the monitor’s powers where the expanded powers are necessary to conduct an orderly wind-down and administer CCAA proceedings.⁸¹

51. The Monitor is best positioned to supervise and administer ResidualCo’s and TWT LP’s wind-down and that the proposed expansion of its powers is appropriate given, among other things that:

- (a) as of the time of Closing (as defined in the Subscription Agreement), ResidualCo and TWT LP will have no directors or officers, active business operations or retained employees;
- (b) additional steps in the CCAA Proceedings (or any subsequent proceedings) may be required to potentially distribute any available proceeds or other value resulting from the Transactions to stakeholders; and
- (c) without the proposed expansion of the Monitor’s powers, no party will have the necessary authority or capacity to administer ResidualCo’s or TWT LP’s estate or wind-down, nor advance and eventually terminate the CCAA Proceedings.⁸²

D. The Court should Approve the HWT Transaction and the APA

(i) Section 36(3) Factors and *Soundair* Factors Support the HWT Transaction

52. The Company relies on the same application of the facts above with respect to the QM Transaction as support for the section 36(3) and *Soundair* factors being met in the context of the

⁸¹ *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.*, [2025 ONSC 717](#); **see also** *DCL Corporation (Re)*, 2023 ONSC 4475 at [para 7](#); *Atlas Global Brands et. al. (Re)*, (October 29, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00722386-00CL (Endorsement of Justice Steele) at [para 37-39](#).

⁸² Second Report at [para 7.2\(iii\)](#).

HWT Transaction.⁸³ In addition to those facts, the HWT Transaction will also result in (a) payment in cash, which form proceeds of sale that can be distributed to creditors in order of priority; (b) payment by the HWT Purchaser of the Cure Costs, if any; and (c) continuation of the operations of the Hamilton Waste Transfer Station for the benefit of customers, suppliers and employees.⁸⁴

(ii) The Assumed Contracts Should be Assigned

53. A critical part of the HWT Transaction is the assumption by the HWT Purchaser of the rights and obligations of the HWT Vendor with respect to Equipment Leases and Real Property Leases (the “**Assumed Contracts**”), which include certain Equipment Leases and the Real Property Lease for the Hamilton Waste Transfer Station. The proposed AVO seeks to assign all of the rights and obligations of the HWT Vendor under the Assumed Contracts the HWT Purchaser. This Court has jurisdiction to make an order assigning the rights and obligations of a debtor company under an agreement to a third party who agrees to such assignment under section 11.3 of the CCAA.⁸⁵ The requirements in section 11.3 are met, as:

- (a) **No Exception Applies:** Pursuant to s. 11.3(2), no assignment can be granted in respect of: (i) obligations that are not assignable by reason of their nature; (ii) an agreement entered into on or after the filing date; (iii) an eligible financial contract; or (iv) a collective agreement. None of these exceptions apply, as only the Equipment Leases and Real Property Leases are being assigned;
- (b) **Assignment is Appropriate:** Pursuant to s. 11.3(3), the Court must consider, among other things: (i) whether the Monitor approves of the proposed assignments; (ii) whether the persons to whom the rights and obligations will be assigned will be able to perform such obligations; and (iii) whether it would be appropriate to assign the rights and obligations to that person. The Monitor

⁸³ See para 23 herein.

⁸⁴ Grégoire Affidavit at [para 66](#).

⁸⁵ CCAA, s. [11.3](#).

supports approval of the AVO and the assignments are necessary and appropriate in the circumstances; and

(c) **Monetary Defaults Cured:** Pursuant to s. 11.3(4), the Court must be satisfied that monetary defaults in relation to an agreement being assigned will be remedied. The APA contemplates that the HWT Purchaser will pay the Cure Costs, if any.

E. The Court Should Grant the Ancillary Relief Order

(i) Stay Extension Should be Granted

54. The current Stay Period expires on November 7, 2025. The proposed Ancillary Relief Order seeks to extend the Stay Period until and including January 30, 2026.

55. Pursuant to section 11.02 of the CCAA, the Court may grant an extension of a stay of proceedings “for any period that the court considers necessary” where it is satisfied that: (a) circumstances exist that make the order appropriate; and (b) the debtor has acted, and continues to act, in good faith and with due diligence.⁸⁶

56. The extension of the Stay Period is necessary and appropriate in the circumstances, as it will provide the Company with the necessary time and breathing room close the Transactions, which will maximize the realization of the Business and preserve going-concern operations for the benefit of stakeholders. It will also allow the Monitor to take any administrative steps necessary to advance these CCAA Proceedings, including addressing Lien Claims filed pursuant to the LRO and potential distributions to creditors.⁸⁷

57. Since the Stay was last extended, the Company has acted in good faith and with due diligence to stabilize the Business, prepare and assist the Monitor with the implementation of the

⁸⁶ CCAA, [s. 11.02](#).

⁸⁷ Grégoire Affidavit at [para 95](#).

SISP, and negotiate and consummate the Transactions.⁸⁸

58. The updated cash flow forecast appended to the Second Report reflects that the Company has sufficient liquidity to fund its operations and the costs of the CCAA Proceedings during the Stay Period.⁸⁹ Furthermore, the Monitor and the Company are not aware of any stakeholders that would be prejudiced by the proposed extension of the Stay Period and the Monitor supports the proposed extension of the Stay Period.⁹⁰

(ii) The Court Should Seal the Confidential Sale Agreement

59. The proposed Ancillary Relief Order also contemplates sealing the Confidential Materials until the earlier of the Closing of the Transactions or further Order of the Court. The Confidential Materials include: (a) the Confidential Exhibit to the Grégoire Affidavit, which is an unredacted version of the APA; and (b) the Confidential Appendix to the Second Report, which includes the Monitor's summary of the Bids and its liquidation analysis.⁹¹ This Court has jurisdiction to order that any document filed in a civil proceeding be treated as confidential, sealed and not form part of the public record.⁹²

60. In determining whether to grant a sealing order, the Court should consider whether: (a) court openness poses a serious risk to an important public interest; (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (c) as a matter of proportionality, the benefits of the order outweigh its negative effect.⁹³ The requirements set forth in *Sierra Club* and *Sherman Estate* are satisfied, as:

(a) the Confidential Materials contain commercially sensitive information that, if made

⁸⁸ Grégoire Affidavit at [para 96](#).

⁸⁹ Grégoire Affidavit at [para 97](#).

⁹⁰ Grégoire Affidavit at [para 98](#); Second Report at [para 10.2](#).

⁹¹ Grégoire Affidavit at [para 100](#).

⁹² *Courts of Justice Act*, RSO 1990, c C.43 s.[137\(2\)](#).

⁹³ *Sherman Estate v Donovan*, 2021 SCC 25 at [para 38](#); *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 at [para 53](#).

public, may affect the Company's ability to maximize value if the Transactions fail to close;⁹⁴

- (b) the order sought is necessary to mitigate this risk. No reasonable alternative measures exist that would adequately protect this confidential information;⁹⁵
- (c) the scope of the sealing provision is appropriately limited and remains subject to further order of this Court;⁹⁶ and
- (d) the benefits of granting the order outweigh any potential negative effects.⁹⁷

PART V – RELIEF REQUESTED

61. For the reasons set out above, the Applicants request the Court grant the RVO, the AVO and the Ancillary Relief Order.

PURSUANT TO RULE 4.06.1(2.1), THE UNDERSIGNED certifies that they are satisfied as to the authenticity of every authority cited in this factum.



Natasha Rambaran (LSO No. 80200N)

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of October 2025

RECONSTRUCT LLP

⁹⁴ Grégoire Affidavit at [para 102](#).

⁹⁵ Grégoire Affidavit at [para 102](#).

⁹⁶ Grégoire Affidavit at [para 101](#).

⁹⁷ Grégoire Affidavit at [para 101](#).

SCHEDULE "A"

List of Authorities

1.	<i>Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al</i> , 2022 ONSC 6354
2.	<i>Arrangement relatif à Blackrock Metals Inc</i> , 2022 QCCS 2828
3.	<i>Harte Gold Corp. (Re)</i> , 2022 ONSC 653
4.	<i>Validus Power Corp et al v Macquarie Equipment Finance Limited</i> , 2024 ONSC 250
5.	<i>Fresh City Farms and Mama Earth Organics</i> , 2024 ONSC 2016
6.	<i>Atlas Global Brands Inc</i> , 2024 ONSC 5570
7.	<i>Canwest Global Communications Corp</i> , 2010 ONSC 2870
8.	<i>Royal Bank of Canada v Soundair Corp</i> , (1991) 4 O.R. (3d) 1 (CA)
9.	<i>Acerus Pharmaceuticals Corporation (Re)</i> , 2023 ONSC 3314
10.	<i>Sanjel Corporation (Re)</i> , 2016 ABQB 257
11.	<i>Arrangement relatif à FormerXBC Inc (Xebex Adsorption Inc)</i> , 2023 QCCS 1818
12.	<i>Pride Group Holdings Inc et al</i> , 2025 ONSC 357
13.	<i>Re Target Canada Co</i> , 2015 ONSC 2066
14.	<i>Re Green Relief Inc.</i> , 2020 ONSC 6837
15.	<i>Re Atlas Global Brands Inc.</i> (29 October 2024), Toronto CV-24-00722386-00CL (ONSC) (Order and Endorsement) (Steele J)
16.	<i>Re Aleafia Health Inc. et al</i> (1 March 2024), Toronto CV-23-00703350-00CL (ONSC) (CCAA Termination Order and Endorsement)
17.	<i>2675970 Ontario Inc. et al</i> (28 November 2024), Toronto CV-24-00726584-00CL (ONSC) (Approval and Reverse Vesting Order and Endorsement)
18.	<i>Plan of Arrangement of Fire & Flower Holdings Corp et al</i> , 2023 ONSC 4934
19.	<i>Metcalfe & Mansfield Alternative Investments II Corp. (Re)</i> , 2008 ONCA 587
20.	<i>Lydian International Limited (Re)</i> , 2020 ONSC 4006

21.	<i>In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.</i> , 2025 CanLII 15118
22.	<i>DCL Corporation (Re)</i> , 2023 ONSC 4475
23.	<i>Sherman Estate v Donovan</i> , 2021 SCC 25
24.	<i>Sierra Club of Canada v. Canada (Minister of Finance)</i> , 2002 SCC 41

SCHEDULE "B"

Statutory Authorities

Companies' Creditors Arrangement Act, RSC 1985, c. C-36

Application

3 (1) This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with [section 20](#), is more than \$5,000,000 or any other amount that is prescribed.

Affiliated companies

(2) For the purposes of this Act,

- (a)** companies are affiliated companies if one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person; and
- (b)** two companies affiliated with the same company at the same time are deemed to be affiliated with each other.

Company controlled

(3) For the purposes of this Act, a company is controlled by a person or by two or more companies if

- (a)** securities of the company to which are attached more than fifty per cent of the votes that may be cast to elect directors of the company are held, other than by way of security only, by or for the benefit of that person or by or for the benefit of those companies; and
- (b)** the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the company.

Subsidiary

(4) For the purposes of this Act, a company is a subsidiary of another company if

- (a)** it is controlled by
 - (i)** that other company,
 - (ii)** that other company and one or more companies each of which is controlled by that other company, or
 - (iii)** two or more companies each of which is controlled by that other company; or
- (b)** it is a subsidiary of a company that is a subsidiary of that other company.

Compromise with secured creditors

5 Where a compromise or an arrangement is proposed between a debtor company and its secured creditors or any class of them, the court may, on the application in a summary way of the company or of any such creditor or of the trustee in bankruptcy or liquidator of the company, order a meeting of the creditors or class of creditors, and, if the court so determines, of the shareholders of the company, to be summoned in such manner as the court directs.

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.

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 (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.

Business Corporations Act, RSO 1990, c B.16

Reorganization

186(2) If a corporation is subject to a reorganization, its articles may be amended by the order to effect any change ...

Courts of Justice Act, RSO 1990, c C.43

Documents public

137 (1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

Sealing documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

Court lists public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document the person is entitled to see. R.S.O. 1990, c. C.43, s. 137.

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED

Court File No. CV-25-00748510-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF QM GP INC. AND HIGHPOINT
ENVIRONMENTAL SERVICES INC.

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

Proceedings commenced at Toronto

**FACTUM OF THE APPLICANTS
(RE: SALE APPROVAL MOTION)**

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