

NO. S-248103  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

**IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, c. 57**

**AND**

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
FELIX PAYMENT SYSTEMS LTD.**

**PETITIONER**

**ORDER MADE AFTER APPLICATION  
(STALKING HORSE AND SISF APPROVAL)**

BEFORE THE HONOURABLE  
JUSTICE MASUHARA

)  
)  
)

*Monday 9*  
FRIDAY, THE 9TH DAY  
OF DECEMBER, 2024

ON THE APPLICATION of the Petitioner, Felix Payment Systems Ltd., coming on for hearing at Vancouver, British Columbia on the 6th day of December, 2024; AND ON HEARING H. Lance Williams and Ashley Bowron, counsel for the Petitioner, and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed herein; including Affidavit #1 of Andrew Cole made November 21, 2024, Affidavit #2 of Andrew Cole made December 3, 2024, and the First Report of the Monitor, Alvarez & Marsal Canada Inc. ("A&M", in its capacity as court-appointed monitor of the Petitioner, the "Monitor") dated December 5, 2024; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. 0-36 as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES THAT:**

1. The time for service of the Application and Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
2. All capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated December 6, 2024 (the "**ARIO**"), the Sales and Investment Solicitation Process attached as **Schedule "B"** to this Order (the "**SISP**"), or the Stalking Horse Subscription Agreement (as defined herein).

**THE SALES AND INVESTMENT SOLICITATION PROCESS**

3. The SISP is hereby approved and the Petitioner and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Petitioner and the Monitor are hereby authorized and directed to perform their respective obligations thereunder and to do all things reasonably necessary to perform their respective obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.
4. The Petitioner, the Monitor, and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of any such person (with respect to such person alone), in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.
5. In overseeing and conducting the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding, and notwithstanding anything contained herein or in the SISP, the Monitor shall not take possession of any Property or be deemed to take possession of any Property.

**STALKING HORSE SUBSCRIPTION AGREEMENT**

6. The Petitioner is hereby authorized and empowered to enter into the Stalking Horse Subscription dated December 3, 2024 (the "**Stalking Horse Subscription Agreement**") between

Felix Payment Systems Ltd., as vendor (the "**Vendor**") and Jake Boxer, Doug Mordy, the CA Mordy Legacy Trust and PEL Chartered Professional Accountants Inc., as purchaser (the "**Stalking Horse Purchaser**"), attached as **Appendix "C"** to the Second Report, *nunc pro tunc*, with such minor amendments as may be acceptable to the Vendor and the Stalking Horse Purchaser, with the approval of the Monitor; provided that, nothing herein approves the sale and the vesting of any Property to the Stalking Horse Purchaser (or any of its designees) pursuant to the Stalking Horse Subscription Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the transaction set out in the Stalking Horse Subscription Agreement is the Successful Bid.

7. As soon as reasonably practicable following the Vendor and the Stalking Horse Purchaser agreeing to any amendment to the Stalking Horse Subscription Agreement permitted pursuant to the terms of this Order, the Petitioner shall: (a) file a copy thereof with this Court; (b) serve a copy thereof on the Service List; and (c) provide a copy thereof to each Participant (as defined herein) excluding from the public record any confidential information that the Vendor and the Stalking Horse Purchaser, with the consent of the Monitor, agree should be redacted.

#### **EXPENSE REIMBURSEMENT**

8. The Expense Reimbursement is hereby approved and, subject to the entry of the Stalking Horse Subscription Agreement, the Vendor is hereby authorized and directed to pay the Expense Reimbursement to the Stalking Horse Purchaser (or to such other person as it may direct) in the manner and circumstances described in the Stalking Horse Subscription Agreement.

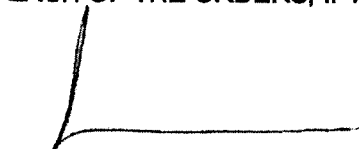
#### **PIPEDA**

9. Without limiting the provisions of the ARIO, pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any similar legislation in any other applicable jurisdictions, the Monitor, the Petitioner, and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement (each a "**Participant**") and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and,

if it does not complete a Transaction, shall return all such information to the Monitor or the Petitioner, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Monitor or the Petitioner. Any bidder with a Successful Bid shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Petitioner, and shall return all other personal information to the Monitor or the Petitioner, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the Petitioner.

10. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of Lawyer for the Petitioner  
McCarthy Tétrault LLP  
(H. Lance Williams and Ashley Bowron)

  
BY THE COURT

  
\_\_\_\_\_  
REGISTRAR



## LIST OF COUNSEL

[illegible]

**SCHEDULE "B"**  
**SISP PROCEDURES**

On November 25, 2024, Felix Payment Systems Ltd. ("**Felix**" or the "**Petitioner**") obtained an Initial Order (as amended and restated on December 6, 2024, the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985. c. C-36, as amended (the "**CCAA**") from the Supreme Court of British Columbia (the "**Court**"). Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. ("**A&M**") was appointed as the monitor (in such capacity, the "**Monitor**") in the Petitioner's CCAA proceedings (the "**CCAA Proceedings**"). Capitalized terms used herein and not otherwise defined have the meaning ascribed in the Affidavit #2 of Andrew Cole made December 3, 2024.

On December 6, 2024, the Court granted an order (the "**Stalking Horse and SISP Approval Order**") that, among other things: (i) approved a sale and investment solicitation process (the "**SISP**") and corresponding Bidding Procedures and Auction Procedures (each as defined below); (ii) authorized the Monitor and the Petitioner to implement the SISP; (iii) approved and accepted solely for the purposes of conducting the SISP, the Stalking Horse Subscription Agreement dated December 3, 2024 (the "**Stalking Horse Bid**") among Jake Boxer, Doug Mordy, the CA Mordy Legacy Trust and PEL Chartered Professional Accountants Inc. (the "**Stalking Horse Bidder**" or "**DIP Lender**"); and (iv) approved the payment of an expense reimbursement (the "**Expense Reimbursement**") in accordance with the provisions of the Stalking Horse Bid.

The SISP is intended to solicit interest in and opportunities for a sale of the Petitioner's business, including substantially all of the property, assets, and undertakings of the Petitioner (the "**Business**") in accordance with the terms below (the "**Opportunity**"). Set forth below are the bidding procedures (the "**Bidding Procedures**") and auction procedures (the "**Auction Procedures**") to be employed with respect to the sale of the Business pursuant to the Court-approved SISP.

Subject to Court availability and in accordance with the terms hereof, the Petitioner shall bring a motion (the "**Approval and Vesting Order Motion**"), seeking an order (the "**Approval and Vesting Order**") by the Court authorizing the Petitioner to proceed with the sale of the Petitioner's Business to the Qualified Bidder making the Successful Bid (each as defined below) (the "**Successful Bidder**").

## BIDDING PROCEDURES

### Key Dates<sup>1</sup>

Date	Milestone
December 13, 2024	Monitor to commence solicitation of interest from parties, including delivery of the Teaser Letter (as defined below) and sales packages, and establish confidential data room
January 31, 2025	Bid Deadline (as defined below) – due date for bids and deposits
<i>If no Qualified Bids (as defined below) are received other than the Stalking Horse Bid</i>	
February 4, 2025	Selection of Stalking Horse Bid as Successful Bid (as defined below)
February 14, 2025 (pending the Court's availability)	Approval and Vesting Order Motion
As soon as possible but no later than February 21, 2025	Closing of Stalking Horse Bid
<i>If Qualified Bids are selected other than the Stalking Horse Bid</i>	
February 4, 2025	Monitor to provide the Lead Bid(s) (as defined below) to the Stalking Horse Bidder and each Qualified Bidder
February 11, 2025	Auction (as defined below), if needed
February 14, 2025	Selection of Successful Bid and Back-Up Bid, if needed
February 21, 2025 (pending the Court's availability)	Approval and Vesting Order Motion (if there is an Auction)
As soon as possible but no later than February 28, 2025	Closing of the Successful Bid (the "Outside Date")

<sup>1</sup> The dates or time limits indicated in the table may be extended by the Monitor in consultation with the Petitioner and DIP Lender, as the Monitor deems necessary or appropriate, provided that any change to the Outside Date will be with the consent of the DIP Lender, acting reasonably, or by order of the Court.

**Solicitation of Interest: Notice of the SISP**

1. As soon as reasonably practicable, but in any event no later than December 13, 2024:
  - (a) the Monitor and the Petitioner will prepare (a) a list of potential bidders who may be interested in acquiring the Petitioner's Business in whole or in part (each a **"Known Potential Bidder"**), and (b) a process summary (the **"Teaser Letter"**) describing the Business, outlining these Bidding Procedures and inviting recipients of the Teaser Letter to express their interest pursuant to these Bidding Procedures;
  - (b) the Monitor will cause a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Petitioner, considers appropriate) (the **"Notice"**) to be published in by the Monitor on its case website at: <https://www.alvarezandmarsal.com/felixpayment> as well as in one or more trade industry and/or insolvency-related publications as may be considered appropriate by the Monitor;
  - (c) the Petitioner will issue a press release setting out the information contained in the Notice and such other relevant information which the Petitioner, in consultation with the Monitor, determine is appropriate; and
  - (d) the Petitioner, with the assistance of and in consultation with the Monitor, will prepare a form of non-disclosure agreement (an **"NDA"**), to be provided to Potential Bidders (as defined below).

The Monitor will cause the Teaser Letter and an NDA to be sent to each Known Potential Bidder by no later than December 13, 2024, and to any other party who requests a copy of the Teaser Letter or NDA or who is identified by the Petitioner or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

**Confidential Data Room**

2. A confidential virtual data room (the **"VDR"**) in relation to the Opportunity will be made available by the Petitioner and the Monitor to Potential Bidders (as defined below) that have executed an NDA. The VDR will be made available as soon as practicable following the commencement of the SISP. The Monitor, in consultation with the Petitioner, may establish or



cause the Petitioner to establish separate VDRs if the Petitioner reasonably determines that doing so would further the Petitioner's and any Potential Bidder's compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information. The Monitor may also, in consultation with the Petitioner, limit the access of any Potential Bidder to any confidential information in the VDR where the Monitor, in consultation with the Petitioner, reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or their value.

#### **The Bidding Process and the Auction**

3. The Monitor, in consultation with the Petitioner, shall be responsible for the marketing and sale of the Business pursuant to the Stalking Horse and SISP Approval Order, the SISP and these Bidding Procedures on behalf of the Petitioner (the "**Bidding Process**"). The Monitor, in consultation with the Petitioner, shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of the Bidding Process.

4. The Monitor and its advisors, with the support of the Petitioner and their advisors, will be responsible for conducting an auction (the "**Auction**"), if required in accordance with the terms of these Bidding Procedures, on behalf of the Petitioner.

#### **Participation Requirements**

5. Any interested party that wishes to participate in the Bidding Process (each a "**Potential Bidder**") must provide to the Petitioner:

- (a) an NDA executed by it, which shall enure to the benefit of any purchaser of the Business, or any portion thereof; and
- (b) a letter setting forth the identity of the Potential Bidder, and the contact information for such Potential Bidder.

6. To be a "**Qualified Bidder**", a Potential Bidder must satisfy the Required Bid Terms and Materials (as defined below).

7. If any party who is a director, officer or employee of the Petitioner intends to submit a bid pursuant to the SISP any such party must advise the Monitor of such intention in writing by no later than December 31, 2024. Any such party(ies) shall be entitled to participate in the SISP as

a Potential Bidder(s); provided that, such party(ies) (a) shall not be provided with any confidential information or bid information in respect of the SISP, including information relating to any bids, Qualified Bids, Potential Bidders or Qualified Bidders; (b) shall not participate in the review or drafting of any definitive documentation in respect of any other bid submitted pursuant to the SISP or the review, consideration, negotiation or selection of Successful Bid(s); and (c) shall be subject to such restrictions as the Monitor, in its sole discretion, determines to be necessary to ensure compliance with (a) and (b).

#### **Bid Deadline**

8. A Potential Bidder that desires to make a bid shall deliver written copies of its bid and the Required Bid Terms and Materials to the Monitor no later than 5:00 p.m. (Pacific Standard Time) on January 31, 2025 (the "**Bid Deadline**") at the addresses specified in **Schedule "1"** attached hereto.

9. The Monitor shall forthwith provide copies of any bids received to the Petitioner's legal advisor.

#### **Bid Requirements**

10. In order to constitute a Qualified Bid, a bid (other than the Stalking Horse Bid) must conform with the following requirements (collectively, the "**Required Bid Terms and Materials**"):

- (a) it is superior to the Stalking Horse Bid and provides for consideration payable in cash in full on closing (the "**Consideration Value**"), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
- (b) it contemplates closing of the proposed transaction by not later than the Outside Date;
- (c) it contains the following:
  - (i) duly executed binding transaction document(s);

- (ii) the identity of each entity or person and representatives thereof who are authorized to appear and act on behalf of the Potential Bidder for all purposes regarding the transaction, full disclosure of the Potential Bidder's direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - (iii) a redline to the Stalking Horse Bid;
  - (iv) evidence of authorization and approval from the Potential Bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the Potential Bidder's equityholder(s);
  - (v) disclosure of any connections or agreements with the Petitioner or any of their affiliates, any other bidder participating in the SISP or any officer, manager, director, member or equity security holder of the Petitioner; and
  - (vi) such other information as may be reasonably requested by the Petitioner and the Monitor in advance of the Bid Deadline, including in the Teaser Letter;
- (d) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the Back-Up Bid (as defined below) it shall only remain irrevocable until selection of the Successful Bid;
- (e) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of (i) closing of the Successful Bid or (ii) closing of the Back-Up Bid;
- (f) it provides written evidence of the Potential Bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value;
- (g) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;

- (h) it is not conditional upon:
  - (i) approval from the Potential Bidder's board of directors (or comparable governing body) or equityholder(s);
  - (ii) the outcome of any due diligence by the Potential Bidder; or
  - (iii) the Potential Bidder obtaining financing;
- (i) it includes an acknowledgment and representation that the Potential Bidder (i) has had an opportunity to conduct any and all required due diligence prior to making its bid and has relied solely upon its own independent review, investigation and inspection in making its bid, (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Petitioner, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed transaction, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed transaction documents, (iii) is making its bid on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Petitioner, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed transaction documents, (iv) is bound by this SISP and the Stalking Horse and SISP Approval Order, and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- (j) it specifies any regulatory or other third-party approvals the Potential Bidder anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals);
- (k) it includes full details of the Potential Bidder's intended treatment of the Petitioner's employees under the proposed bid;

- (l) it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Consideration Value, which Deposit shall be held by the Monitor in a trust account in accordance with the terms hereof;
- (m) it includes a statement that the Potential Bidder will bear its own costs and expenses (including any legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- (n) it is received by the Monitor by the Bid Deadline.

11. A bid from a Potential Bidder that includes all of the Required Bid Terms and Materials and is received by the Bid Deadline is a "**Qualified Bid**", and such Potential Bidder is a Qualified Bidder. The Monitor shall notify each Potential Bidder with respect to whether it has submitted a Qualified Bid as soon as practicable after the Bid Deadline.

12. In consultation with the Petitioner, the Monitor may waive compliance with any one or more of the Required Bid Terms and Materials and deem such non-compliant bid to be a Qualified Bid.

13. The Bid Deadline may be extended by: (a) the Monitor, in consultation with the Petitioner, and, subject to Section 40, with the consent of the DIP Lender and the Stalking Horse Bidder; or (b) further order of the Court.

14. The Monitor, in consultation with the Petitioner, shall be entitled to discuss, negotiate and request additional information with respect to any bid from a Potential Bidder or any Qualified Bid from any Qualified Bidder prior to the Bid Deadline for purposes of amending or clarifying the terms and form thereof.

15. If after reviewing a Qualified Bid submitted by a Qualified Bidder, the Monitor, in consultation with the Petitioner, determines that such Qualified Bidder is unlikely to be able to complete a transaction (e.g., due to not having a *bona fide* interest in completing a proposed transaction or not having the financial capability based on availability of financing, experience and other considerations), the Monitor shall advise the Qualified Bidder of that determination and may terminate such Qualified Bidder's access to the VDR and involvement in the SISF.

16. Notwithstanding the Required Bid Terms and Materials detailed above, the Stalking Horse Bid shall be deemed to be a Qualified Bid and the Stalking Horse Bidder shall be deemed to be a Qualified Bidder.

17. If no Qualified Bids are submitted by the Bid Deadline other than the Stalking Horse Bid, the Stalking Horse Bid shall be deemed to be the Successful Bid, and the SISP shall not proceed to an Auction.

#### **The Sale and Auction Process**

18. If one or more Qualified Bids (other than that submitted by the Stalking Horse Bidder) have been received by the Monitor on or before the Bid Deadline, the Monitor shall advise all Qualified Bidders of the Lead Bid (as defined below) and invite all Qualified Bidders (including the Stalking Horse Bidder) to participate in the Auction to be conducted by the Monitor and its advisors, with the support of the Petitioner and their advisors, in accordance with the Auction Procedures attached hereto as **Schedule "2"**. The Auction will be conducted by video conference and/or in person at the discretion of the Monitor.

19. The Monitor, in consultation with the Petitioner, shall review the Qualified Bids to determine which Qualified Bid is the best offer. The Monitor, in consultation with the Petitioner reserves the right to determine the value of any Qualified Bid, and which Qualified Bid (or combination of non-overlapping Qualified Bids) constitutes the best offer (the "**Lead Bid**"). A copy of the Lead Bid will be provided by the Monitor to all Qualified Bidders after the Bid Deadline and no later than 5:00 p.m. (Pacific Standard Time) three (3) days before the date scheduled for an Auction.

20. The Monitor, in consultation with the Petitioner, shall determine after each round of offers in the Auction, in its reasonable business judgment, the best bid to be designated as the Lead Bid for the following round in the Auction. In making such determination, the Monitor, in consultation with the Petitioner, may consider, without limitation: (i) the amount and nature of the consideration; (ii) the proposed assumption of liabilities, if any, and the related implied impact on recoveries for creditors; (iii) the ability of the applicable Qualified Bidder to close the proposed transaction; (iv) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (v) any purchase price adjustment; (vi) the net economic effect of any changes made to the Stalking Horse Bid; and (vii) such other considerations as the Monitor, in consultation with the Petitioner, deems relevant in its reasonable business judgment. At the end

of each round of offers, the Monitor shall advise the Qualified Bidders of the material terms of the then highest and/or best bid, and the basis for calculating the total consideration offered in such bid. If at the end of any round of bidding a Qualified Bidder has elected not to submit a further bid meeting the criteria set out herein (including the Minimum Overbid Increment (as defined in the Auction Procedures)), then such Qualified Bidder shall not be entitled to continue to participate in the next round of offers or in any subsequent round.

21. If only one Qualified Bid is submitted after a round of offers then that Qualified Bid shall be the Successful Bidder. The next highest offer, as determined by the Monitor, in consultation with the Petitioner (the "**Back-Up Bid**"), shall be required to keep its offer open and available for acceptance until the closing of the Court-approved transaction with the Successful Bidder.

#### **Highest Versus Best Offer**

22. In determining the Lead Bid, the highest and/or best offer during each round of offers, and the Successful Bid, the Monitor, in consultation with the Petitioner, is not required to select the offer with the highest purchase price and may, exercising their reasonable business judgment, select another offer on the basis that it is the best offer even though not the highest purchase price. Without limiting the foregoing, the Monitor, in consultation with the Petitioner, may give such weight to the non-monetary considerations as it determines, exercising its reasonable business judgment, is appropriate and reasonable, including those considerations described above at paragraph 20.

#### **Expense Reimbursement**

23. To provide an incentive and to compensate the Stalking Horse Bidder for performing the due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the SISF and the Bidding Process, Felix has agreed to pay the Stalking Horse Bidder, under the conditions outlined herein and in the Stalking Horse Bid, the Expense Reimbursement on account of its reasonable and documented out of pocket fees and expenses, up to a maximum of \$50,000 inclusive of sales tax, in the event that the Stalking Horse Bidder is not the Successful Bidder.

24. The Expense Reimbursement is a material inducement for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Expense Reimbursement, if

payable under the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Stalking Horse and SISP Approval Order.

**Acceptance of Qualified Bids and Deposits**

25. The highest Qualified Bid may not necessarily be accepted by the Monitor. The Monitor, with the consent of the Petitioner, reserves the right not to accept any Qualified Bid or to otherwise terminate the SISP, in which case the Stalking Horse Bid will be the Successful Bid, and the Petitioner will proceed to seek its approval at the Approval and Vesting Order Motion. The Monitor, with the consent of the Petitioner, reserves the right to deal with one or more Qualified Bidders to the exclusion of others, to accept a Qualified Bid for different parts of the business and assets of the Petitioner, or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.

26. The consummation of any transaction between a Successful Bidder and the Petitioner is expressly conditional upon the approval of such bid (the "Successful Bid") by the Court at the Approval and Vesting Order Motion. The presentation of the Successful Bid to the Court for approval does not obligate the Petitioner to close the transaction contemplated by such Successful Bid unless and until the Court approves the Successful Bid. The Petitioner will be deemed to have accepted a bid only when the bid has been approved by the Court at the Approval and Vesting Order Motion.

27. If a Successful Bid is selected and the Approval and Vesting Order authorizing the consummation of the transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable Qualified Bidder by the Monitor as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to the Approval and Vesting Order or such earlier date as may be determined by the Monitor; provided, the Deposit in respect of any Back-Up Bid shall not be returned to the applicable Qualified Bidder until the closing of the Successful Bid.



28. Notwithstanding anything to the contrary herein, the Stalking Horse Bidder will not be required to provide a Deposit in connection with the Stalking Horse Bid.

**"As Is, Where is"**

29. Any sale (or sales) of the Business or portions thereof will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Petitioner or any of their respective agents, advisors or estates (including as to any information contained in the Teaser Letter, the VDR or otherwise made available pursuant to the SISF), except for any representations and warranties that are customarily provided in purchase agreements for a debtor company subject to CCAA Proceedings. Any such representations and warranties provided for in the definitive documents will not survive closing.

**Free of Any and All Claims and Interests**

30. Except as otherwise provided in the Stalking Horse Bid or another Successful Bidder's purchase agreement, to the extent permitted by law, and subject to any permitted encumbrances therein (in each case, the "Permitted Encumbrances"), all of the Petitioner's right, title and interest in and to the Business shall be sold free and clear of all liens, pledges, security interests, encumbrances, claims, charges, options, and interests thereon and there against, except for the Permitted Encumbrances, if any (collectively, the "Claims and Interests"), pursuant to section 36(6) of the CCAA and the Approval and Vesting Order, such Claims and Interests to attach to the net proceeds of the sale of such Business and/or excluded assets, as applicable (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof).

**Approval and Vesting Order Motion Hearing**

31. The Approval and Vesting Order Motion shall, subject to the Court's availability, take place on or before February 21, 2025 (or, if there is no Auction, on or before February 14, 2025). The Petitioner, with the consent of the Monitor, reserves their right to the extent consistent with the Stalking Horse Bid to change the date of the hearing of the Approval and Vesting Order Motion in order to achieve the maximum value for the Business.

**Further Orders**

32. At any time during the SISP, the Petitioner or the Monitor may apply to the Court for advice and directions with respect to any aspect of the SISP including, but not limited to, the continuation of the SISP or with respect to the discharge of its powers and duties hereunder.

**Miscellaneous**

33. The SISP, the Bidding Process and these Bidding Procedures are solely for the benefit of the Petitioner and nothing contained in the Stalking Horse and SISP Approval Order or these Bidding Procedures shall create any rights in any other person (including, without limitation, any bidder or Qualified Bidder, and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Stalking Horse and SISP Approval Order. The Expense Reimbursement incorporated in these Bidding Procedures is solely for the benefit of the Stalking Horse Bidder.

34. The SISP, the Bidding Process and these Bidding Procedures do not, and will not be interpreted to create any contractual or legal relationship between the Petitioner and any other party, other than as specifically set forth in an NDA or any other definitive agreement executed.

35. The Petitioner and the Monitor shall be permitted, in their discretion, to provide updates and information in respect of the SISP to any creditor (including any advisor thereto) (each a "Creditor") on a confidential basis upon: (a) the irrevocable confirmation in writing from such Creditor that the applicable Creditor will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Petitioner in form and substance satisfactory to the Petitioner and the Monitor.

36. Participants in the SISP and the Bidding Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Qualified Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction, including, without limitation, any actions pursuant to these Bidding Procedures or within the Auction, except, for greater certainty, the Expense Reimbursement if payable under the Stalking Horse Bid.

37. Except as provided in the Stalking Horse and SISP Approval Order and these Bidding Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Stalking Horse and SISP Approval Order, the SISP, the

Bidding Process and these Bidding Procedures. Notwithstanding anything to the contrary herein, the Monitor shall have no liability whatsoever to any person or entity, including without limitation any Potential Bidder, Qualified Bidder, Successful Bidder or any other creditor or stakeholder, or the Petitioner, as a result of implementation or otherwise in connection with the SISP, and all such persons or entities shall have no claim against the Monitor in respect of the SISP for any reason whatsoever.

38. The DIP Lender and any other secured lender of the Petitioner shall have the right (subject to compliance with the terms of this SISP) to credit bid their secured debt against the asset secured thereby up to the full face value of such secured lender's claims, including principal, interest and any other obligations owing to such secured lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Petitioner in priority to its secured debt; and (ii) pay appropriate consideration for any assets of the Petitioner which are contemplated to be acquired and that are not subject to such secured lender's security.

39. The Monitor will oversee the conduct of the SISP and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out herein and in the Stalking Horse and SISP Approval Order, and is entitled to receive all information in relation to the SISP.

40. Any amendments to the SISP, the Bidding Process and these Bidding Procedures may only be made by the Petitioner with the written consent of the Monitor and the DIP Lender, or by further order of the Court, provided that the Petitioner shall not amend the requirements specified in Section 13 without the prior written consent of the Stalking Horse Bidder, acting reasonably, or approval of the Court.

**SCHEDULE 1  
ADDRESSES FOR DELIVERY OF BIDS**

**The Monitor:**

Alvarez & Marsal Canada Inc.  
Cathedral Place Building,  
925 West Georgia Street, Suite 902  
Vancouver, BC, V6C 3L2

Attention: Anthony Tillman (Senior Vice President) and Taylor Poirier (Senior Associate)  
Email: [atillman@alvarezandmarsal.com](mailto:atillman@alvarezandmarsal.com) / [tpoirier@alvarezandmarsal.com](mailto:tpoirier@alvarezandmarsal.com)

with copies to:

**Cassels Brock & Blackwell LLP**  
885 W Georgia St, Suite 2200  
Vancouver, BC, V6C 3E8

Attention: Vicki Tickle and Mihai Tomos  
Email: [vtickle@cassels.com](mailto:vtickle@cassels.com) / [mtomos@cassels.com](mailto:mtomos@cassels.com)

## **SCHEDULE 2 AUCTION PROCEDURES**

1. **Auction.** If an Auction is to be conducted pursuant to the Bidding Procedures to which these Auction Procedures are appended, the Monitor will notify the Qualified Bidders. The Auction will be convened by the Monitor and conducted by video conference and/or in person (at the discretion of the Monitor) at 10:00 a.m. (Pacific Standard Time) on February 11, 2025, or such other time as the Monitor may advise. Capitalized terms used but not defined have the meaning ascribed to them in the Bidding Procedures. The Auction shall be conducted in accordance with the below procedures.
2. **Participation at the Auction.** Only a Qualified Bidder is eligible to participate in the Auction. The Monitor shall provide all Qualified Bidders with the amount of the Lead Bid by 5:00 p.m. (Pacific Standard Time) three (3) days before the date scheduled for the Auction. Each Qualified Bidder must inform the Monitor whether it intends to participate in the Auction no later than 12:00 p.m. (Pacific Standard Time) on the business day prior to the Auction. Only the authorized representatives of each of the Qualified Bidders, the Monitor, the Petitioner, and their respective counsel and other advisors shall be permitted to attend the Auction.
3. **No Collusion.** Each Qualified Bidder participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the Bidding Process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid or the Back-Up Bid.
4. **Bidding at the Auction.** Bidding at the Auction shall be conducted in rounds. The Lead Bid shall constitute the "Opening Bid" for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the "Opening Bid" for the following round. In each round, a Qualified Bidder may submit no more than one Overbid. Any Qualified Bidder who bids in a round (including the Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.
5. **Monitor Shall Conduct the Auction.** The Monitor and its advisors, with the support of the Petitioner and their advisors, shall direct and preside over the Auction. At the start of each round of the Auction, the Monitor shall provide a copy of the Opening Bid to all participating Qualified Bidders at the Auction. The determination of which Qualified Bid constitutes the Opening Bid for each round shall take into account any factors that the Monitor, in consultation with the Petitioner, reasonably deems relevant to the value of the Qualified Bid, including, among other things, the

following: (i) the amount and nature of the consideration; (ii) the proposed assumption of any liabilities and the related implied impact on recoveries for creditors; (iii) the Monitor's assessment, in consultation with the Petitioner, of the certainty of the Qualified Bidder to close the proposed transaction on or before the Outside Date; (iv) the likelihood, extent and impact of any potential delays in closing; (v) any purchase price adjustment; (vi) the net economic effect of any changes from the Opening Bid of the previous round; and (vii) such other considerations as the Monitor, in consultation with the Petitioner, deems relevant in its reasonable business judgment (collectively, the **"Bid Assessment Criteria"**). All bids made after the Opening Bid shall be Overbids and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction. The Monitor shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction.

6. **Terms of Overbids.** An **"Overbid"** is any bid made at the Auction subsequent to the Monitor's announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Bidder must comply with the following conditions:

- (a) *Minimum Overbid Increment:* Any Overbid shall be made in minimum cash purchase price increments of \$100,000 above the Opening Bid, or such increments as the Monitor, in consultation with the Petitioner, may determine in order to facilitate the Auction (the **"Minimum Overbid Increment"**). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time, plus any additional Minimum Overbid Increments.
- (b) *Bid Requirements Same as for Qualified Bids:* An Overbid must comply with the Required Bid Terms and Materials (except as modified in accordance with the terms of these Auction Procedures), provided, however, that the Bid Deadline shall not apply. Any Overbid made by a Qualified Bidder must provide that it remains irrevocable and binding on the Qualified Bidder and open for acceptance as a Back-Up Bid until the closing of the Successful Bid.
- (c) *Announcing Overbids:* At the end of each round of bidding, the Monitor shall announce the identity of the Qualified Bidder and the material terms of the then highest and/or best Overbid, including the nature of the transaction, the assets proposed to be acquired, the liabilities proposed to be assumed, if any, and the basis for calculating the total consideration offered in such Overbid based on, among other things, the Bid Assessment Criteria.
- (d) *Consideration of Overbids:* The Monitor, in consultation with the Petitioner, reserves the right to make one or more adjournments in the Auction in durations set by the

Monitor to, among other things: (A) allow individual Qualified Bidders to consider how they wish to proceed; (B) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (C) give Qualified Bidders the opportunity to provide the Monitor with such additional evidence as the Monitor, in consultation with the Petitioner, may require that the Qualified Bidder has obtained all necessary internal approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Monitor and the Petitioner may have clarifying discussions with a Qualified Bidder, and the Monitor, in consultation with the Petitioner may allow a Qualified Bidder to make technical clarifying changes to its Overbid following such discussions. **BIDDERS MUST OBTAIN ALL NECESSARY APPROVALS AND FUNDING COMMITMENTS IN ADVANCE OF THE AUCTION.**

- (c) *Failure to Bid:* If at the end of any round of bidding a Qualified Bidder (other than the Qualified Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction.

7. Additional Procedures. The Monitor, in consultation with the Petitioner, may adopt additional or alternative rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction and the order of bidding, provided that they are not inconsistent with any of the provisions of the Bidding Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Bidders.

8. Closing the Auction. The Auction shall be closed once the Monitor, in consultation with the Petitioner, shall have: (i) reviewed the final Overbid of each Qualified Bidder on the basis of financial and contractual terms and the Bid Assessment Criteria; and (ii) identified the Successful Bid and the Back-Up Bid and the Monitor has advised the Qualified Bidders participating in the Auction of such determination.

9. Finalizing Documentation. Promptly following a bid of a Qualified Bidder being declared the Successful Bid or the Back-Up Bid, the Successful Bidder shall complete, execute and deliver such revised and updated definitive transaction agreement(s) as may be required to reflect and evidence the Successful Bid or Back-Up Bid, as applicable. For greater certainty, every bid made at the Auction is deemed to be a signed and binding bid based on the Qualified Bidder's original Qualified Bid.

NO. S-248103  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS*  
ACT, S.B.C. 2002, c. 57**

**AND**

**IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF FELIX PAYMENT SYSTEMS LTD.**

**PETITIONER**

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**ORDER MADE AFTER APPLICATION  
(SISP APPROVAL)**

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**McCarthy Tétrault LLP**  
Suite 2400, 745 Thurlow Street  
Vancouver, BC V6E 0C5  
Phone: (604) 643-7100  
Fax: (604) 643-7900

Attention: H. Lance Williams and Ashley Bowron  
Email: [williams@mccarthy.ca](mailto:williams@mccarthy.ca) / [abowron@mccarthy.ca](mailto:abowron@mccarthy.ca)

**\*\*FILING AGENT: HL LITIGATION\*\***