

COURT FILE NUMBER Q.B. No. 1195 of 2020

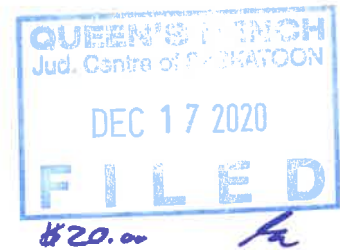
COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

APPLICANT BTA REAL ESTATE GROUP INC.

RESPONDENT FAMILY FITNESS INC.

IN THE MATTER OF THE RECEIVERSHIP  
OF FAMILY FITNESS INC.



## ORDER

### (Approval of Sale and Investment Solicitation Process, and Stalking Horse Agreement)

Order made this 23 day of November, 2020.

Before the Honourable Mr. Justice Scherman in Chambers the 23<sup>rd</sup> day of November, 2020.

Upon application by Kyle Kashuba and Jessie Mann, counsel on behalf of the receiver, Alvarez & Marsal Canada Inc. (the "**Receiver**"), and upon hearing from Mike Russell, counsel on behalf of BTA Real Estate Group Inc., and counsel on behalf of other parties participating, and upon reading the Notice of Application dated the 16<sup>th</sup> day of November, the First Report of the Receiver dated November 16<sup>th</sup>, 2020 (the "**First Report**"), a supplemental report of the Receiver (the "**Supplemental Report**"), dated November 19<sup>th</sup>, 2020, and the draft Order, all filed with proof of service; and upon reading the pleadings and proceedings herein;

### THE COURT ORDERS:

#### SERVICE

1. To the extent required, the time for service of notice of the application for this order is hereby abridged and service thereof is deemed good and sufficient.

#### SISP PROCEDURES, STALKING HORSE BID AND BREAK FEE AND EXPENSE CHARGE

2. Capitalized terms utilized in this Order that are not otherwise defined in this Order shall have the meanings ascribed to them in the Procedures for the Sale and Investment Solicitation Process (the "**SISP Procedures**") in the form attached as Appendix A to the Supplemental Report.

3. The SISP Procedures (subject to any amendments thereto that may be made in accordance therewith) are hereby approved subject to the following changes to certain of the dates noted therein:

	Previous Date and Time	Current and Approved Date and Time
Bid Deadline (Paragraph - 13)	Noon (Calgary Time) on December 18, 2020	Noon (Calgary Time) on Friday, January 8, 2021
Auction Deadline (Paragraph - 25)-__	9:00 am (Calgary Time) on December 21, 2020	9:00 am (Calgary Time) on Tuesday, January 12, 2021
Definitive Agreement (Paragraph - 29)	End of December 2020	Friday, January 15, 2021
Approval Hearing (Paragraph - 31)	End of January 2021	End of January 2021

4. The Receiver is hereby authorized and directed to carry out the SISP Procedures and to take such steps and execute such documentation as may be necessary or incidental to the SISP Procedures, including, without limitation, entering into any resulting agreement(s) or transaction(s) which may arise in connection thereto, as the Receiver determines are necessary in connection with or in order to complete any or all of the various steps, as contemplated by the SISP.
5. Each of the Receiver and the Stalking Horse Bidder (solely in its capacity as the Stalking Horse Bidder) and their respective affiliates, partners, directors, employees, advisors, agents, shareholders and controlling persons shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the SISP Procedures or the conduct thereof, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP Procedures (as determined by this Court).
6. The Receiver is hereby authorized to negotiate, finalize and execute a definitive stalking horse agreement of purchase and sale (the "**Stalking Horse Bid**") between the Receiver, as the seller (acting in its capacity as the Court-appointed receiver and manager of Family Fitness Inc. (the "**Debtor**")) and the Stalking Horse Bidder, as purchaser, substantially in the form attached as Appendix "B" to the Supplemental Report.
7. The Stalking Horse Bid submitted by the Stalking Horse Bidder is hereby approved as the Stalking Horse Bid pursuant to and for purposes of the SISP Procedures, provided that nothing herein approves the sale to and the vesting of any assets or property in the Stalking Horse Bidder pursuant to the Stalking Horse Bid and that the approval of the sale and vesting of such assets and property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Bidder is the Successful Bidder pursuant to the SISP Procedures.
8. The Receiver's obligation to pay the Break Fee and Expense Reimbursement pursuant to and in accordance with the Stalking Horse Bid is hereby approved.
9. The Receiver is hereby authorized and empowered to apply to this Court to amend, vary, or seek any advice or directions with regard to the SISP or with regard to the approval or vesting of any transactions, in connection with the SISP.

10. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver may disclose personal information of identifiable individuals to Potential Bidders and their advisors in connection with the SISP Procedures, but only to the extent desirable or required to carry out the SISP Procedures. Each Potential Bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction in respect of the Receiver and/or the Debtor and the Property, and if it does not complete such a transaction, shall return all such information to the Receiver, or in the alternative destroy all such information. The Successful Bidder shall be entitled to continue to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### GENERAL

11. Service of this Order shall be deemed good and sufficient by:
- (a) serving the same on the persons listed on the service list created in these proceedings; and
  - (b) posting a copy of this Order on the Receiver's website at <https://www.alvarezandmarsal.com/familyfitness> and service on any other person is hereby dispensed with.
12. The Receiver is at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
13. This Order and all of its provisions are effective as of 12:01 a.m. Saskatchewan Time on the date of the issuance of this Order.

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this 17 day of December, 2020.



REGISTRAR DLI

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

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