

**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 JBT  
TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,  
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN  
LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTING INC.**

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**FIRST REPORT OF THE MONITOR  
(Filed in connection with a Comeback Hearing returnable February 27, 2025)**

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February 26, 2025

**LOOPSTRA NIXON LLP**  
130 Adelaide Street W., Suite 2800  
Toronto, ON M5H 3P5

**R. Graham Phoenix (LSO No.: 52650N)**  
Tel: (416) 748-4776  
Email: [gpoenix@LN.law](mailto:gpoenix@LN.law)

**Shahrzad Hamraz (LSO No.: 85218H)**  
Tel: (416) 748-5116  
Email: [shamraz@LN.law](mailto:shamraz@LN.law)

*Lawyers for the Monitor, Dodick Landau  
Inc.*

**TO: THE ATTACHED SERVICE LIST**

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<p><b>LOOPSTRA NIXON LLP</b> 135 Queens Plate Dr., Suite 600 Etobicoke, ON M9W 6V7</p> <p><b>Graham Phoenix</b> <a href="mailto:gphoenix@LN.Law">gphoenix@LN.Law</a> Tel: 416.748.4776</p> <p><b>Shahrzad Hamraz</b> <a href="mailto:shamraz@LN.Law">shamraz@LN.Law</a> Tel: 416.748.5116</p> <p><b>Lawyers for the Monitor</b></p>	<p><b>RANDY BOWMAN</b> <a href="mailto:randy.b@jbtgroup.com">randy.b@jbtgroup.com</a></p> <p><b>Proposed DIP Lender</b></p>
<p><b>MILLER THOMSON LLP</b> 115 King Street South, Suite 300 Waterloo ON N2J 5A3</p> <p><b>Timothy J. McGurrin</b> <a href="mailto:tmcgurrin@millერთhompson.com">tmcgurrin@millერთhompson.com</a> Tel: 519.593.3221</p> <p><b>Nabiel Dawood</b> <a href="mailto:ndawood@millერთhompson.com">ndawood@millერთhompson.com</a> Tel: 519.593.3232</p> <p><b>Lawyers for Trade-Mark Industrial Inc., Trade-Crete Ltd., and Comtrade Ltd.</b></p>	
<b>CREDITORS</b>	
<p><b>MILLER THOMSON</b> 40 King Street West Suite 5800 Toronto, Ontario, M5H 3S1</p> <p><b>Craig A. Mills</b> <a href="mailto:cmills@millერთhompson.com">cmills@millერთhompson.com</a> Tel: 416.595.8596</p> <p><b>Matthew Cressatti</b> <a href="mailto:mcressatti@millერთhompson.com">mcressatti@millერთhompson.com</a> Tel: 416.597.4311</p> <p><b>Counsel for the Toronto Dominion Bank</b></p>	<p><b>ECAPITAL COMMERCIAL FINANCE (CANADA) CORP.</b> 360 Interstate N PKWY SE, Suite 630 Atlanta GA, 30339 United States of America</p> <p><a href="mailto:james.poston@ecapital.com">james.poston@ecapital.com</a></p>
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<p><b>R &amp; S TRAILER LEASING LIMITED</b> (O/A Breadner Trailers) 5185 Fountain Street North Breslau ON, NOB 1M0</p> <p><b>Phil Turner</b> Chief Financial Officer Cell: (519) 654-7984 <a href="mailto:philt@breadnertrailers.com">philt@breadnertrailers.com</a></p>	<p><b>ROYAL BANK OF CANADA</b> 10 York Mills Road 3rd Floor Toronto ON, M2P 0A2</p>
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<p>Fax: 416.973.0942  <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a></p> <p><b>Kelly Smith Wayland</b>          Snr Counsel  <a href="mailto:Kelly.SmithWayland@justice.gc.ca">Kelly.SmithWayland@justice.gc.ca</a>          647.533.7183</p> <p><b>Lawyers for His Majesty the King in Right of Canada as represented by the Minister of National Revenue</b></p>	<p>Fax: 416.325.1460</p> <p><b>Ontario Ministry of Finance – Legal Services Branch</b></p>
<p><b>CANADA REVENUE AGENCY</b>          1 Front Street West          Toronto, ON M5J 2X6</p> <p>Fax: 416.964.6411</p> <p><b>Pat Confalone</b>          Tel: 416.954.6514  <a href="mailto:pat.confalone@cra-arc.gc.ca">pat.confalone@cra-arc.gc.ca</a></p>	

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[cfell@reconllp.com](mailto:cfell@reconllp.com); [bbissell@reconllp.com](mailto:bbissell@reconllp.com); [jwuthmann@reconllp.com](mailto:jwuthmann@reconllp.com); [jlandau@reconllp.com](mailto:jlandau@reconllp.com);  
[rahn.dodick@dodick.ca](mailto:rahn.dodick@dodick.ca); [gphoenix@LN.Law](mailto:gphoenix@LN.Law); [shamraz@LN.Law](mailto:shamraz@LN.Law); [randy.b@jbtgroup.com](mailto:randy.b@jbtgroup.com);  
[tmcgurrin@millertthomson.com](mailto:tmcgurrin@millertthomson.com); [ndawood@millertthomson.com](mailto:ndawood@millertthomson.com); [cmills@millertthomson.com](mailto:cmills@millertthomson.com);  
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[philt@breadnertrailers.com](mailto:philt@breadnertrailers.com); [evanh@queenstonautogroup.com](mailto:evanh@queenstonautogroup.com); [info@northpointcf.com](mailto:info@northpointcf.com); [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca); [Kelly.SmithWayland@justice.gc.ca](mailto:Kelly.SmithWayland@justice.gc.ca); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca);  
[pat.confalone@cra-arc.gc.ca](mailto:pat.confalone@cra-arc.gc.ca)

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<b>TUNG AIR TRANSPORT LTD</b> <a href="mailto:dispatch@tungair.com">dispatch@tungair.com</a>	<b>TURBO TRAILER TRANSPORT LTD.</b> <a href="mailto:dispatch@turbotrailtransport.com">dispatch@turbotrailtransport.com</a>
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[dispatch@401transport.com](mailto:dispatch@401transport.com); [info@alphatransltd.com](mailto:info@alphatransltd.com); [dispatcharrive@gmail.com](mailto:dispatcharrive@gmail.com);  
[arshgilltrucking@yahoo.ca](mailto:arshgilltrucking@yahoo.ca); [dispatch@aslgloballogistics.com](mailto:dispatch@aslgloballogistics.com); [sharanjeets@autobahnfreight.com](mailto:sharanjeets@autobahnfreight.com);  
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[dispatch@turbotrailtransport.com](mailto:dispatch@turbotrailtransport.com); [dispatch@velocitytrans.ca](mailto:dispatch@velocitytrans.ca); [dispatch@wolfpacklogistics.ca](mailto:dispatch@wolfpacklogistics.ca);  
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[account@simconnect.ca](mailto:account@simconnect.ca)

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**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 JBT  
TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,  
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN  
LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTING INC.**

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# TAB 1

Court File No. CV-25-00736572-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c  
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NORTHERN LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC.**

**FIRST REPORT TO COURT OF THE MONITOR**

**DATED FEBRUARY 26, 2025**

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## INTRODUCTION

- 1) On January 24, 2025 (the “**Filing Date**”), JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (“**JBT Group**” or the “**Applicants**”) filed with the Official Receiver Notices of Intention to Make a Proposal (“**NOI**”) to its creditors and named Dodick Landau Inc. (“**DLI**”) as Proposal Trustee.
- 2) The Applicants then made an application, returnable February 10, 2025, to continue the NOI proceedings under the Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36 (“**CCAA**”).
- 3) The Toronto-Dominion Bank (“**TD Bank**”), senior secured lender to the JBT Group, brought a concurrent application to appoint a receiver over the assets, properties and undertakings of the Applicants.
- 4) On February 8, 2025, the Dodick Landau Inc. (“**DLI**”) issued a pre-filing monitor’s report (“**Pre-Filing Report**”) in support of the conversion of the NOI proceedings to CCAA proceedings. A detailed overview of the JBT Group’s financial difficulties which led to its filing, among other things, is detailed in the Pre-Filing Report, which is attached hereto without appendices as **Appendix “A”**.
- 5) On February 10, 2025, the Court continued the NOI proceedings under the CCAA pursuant to an initial order (“**Initial Order**”), which, among other things, appointed DLI as the monitor of the Companies (the “**Monitor**”). Attached as **Appendix “B”** is a copy of the Initial Order and the Court’s endorsement.
- 6) Pursuant to the terms of the Initial Order, *inter alia*, the Court:
  - a) granted a stay of proceedings in favour of each of the Applicants up to and including February 28, 2025;
  - b) ordered that all receivables received by the Applicants on or after the Filing Date shall be treated in accordance with the provisions of the Highway Traffic Act, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein;
  - c) stayed all Carriers (as defined in the HTA) from contacting customers of the Applicants in respect to the business of the Applicants, including but not limited to,

requiring customers to make payments to the Carriers, soliciting business from such customers, from taking any enforcement action with respect to the amounts owed to them or from holding and refusing to deliver the Applicants' load freight product on account of any outstanding indebtedness owed by the Applicants to the Carriers prior to the Filing Date;

- d) authorized the Applicants, with the written approval of the Monitor to pay amounts owing to their suppliers for critical goods or services actually supplied to the Applicants prior to the Filing Date if, in the opinion of the Applicants and the Monitor, such payment is necessary to maintain the uninterrupted operations of the business;
- e) granted a charge:
  - i. a first-ranking priority charge that secures any Carrier's right to payment for the supply of services rendered to the Applicants in respect of shipments in connection with which such Carrier was engaged by the Applicants for the carriage of goods on or subsequent the Filing Date, which charge is granted on the applicable receivable associated with such shipment received by the Applicants or any of them, from and after the Filing Date, and the charge on the applicable receivable shall be in the amount owing to the respective Carrier (all such charges, collectively the "**Critical Suppliers Charge**"); and
  - ii. a second ranking charge in the amount of \$150,000 on all of the Applicants' current and future assets, property and undertaking (collectively, the "**Property**") to secure the fees and disbursements of the Applicants' legal counsel, as well as the fees and disbursements of the Monitor and its independent legal counsel (the "**Administration Charge**") (with the Critical Suppliers Charge, the "**Court Ordered Charges**").

7) The Court set February 27, 2025 as the date for the comeback motion in these proceedings.

8) All capitalized terms used in this report (the "**Report**"), but not otherwise defined, shall have the meaning ascribed to such terms in the affidavit of Denis Medeiros, sworn February 24, 2025 ("**Medeiros Affidavit**"), served and filed with the Ontario Superior Court of Justice (Commercial List) (the "**Court**") in support for the relief set out herein.



## PURPOSE

- 9) The purpose of this Report is to provide the Court with information pertaining to the following:
- a) an update on the Applicants' operations since the granting of the Initial Order;
  - b) an update on the Monitor's activities since its appointment;
  - c) an overview of the Applicants' cash flow variance for the three weeks ended February 15, 2025;
  - d) an overview of the Applicants' projected cash flow forecast for the period from February 16, 2025 to May 31, 2025;
  - e) JBT Group's request that it be authorized to obtain and borrow interim financing including the terms of the debtor in possession ("**DIP**") facility;
  - f) the proposed DIP lender's charge (the "**DIP Lender's Charge**") sought by JBT Group;
  - g) the Applicants' proposed Sale and Investor Solicitation Process ("**SISP**");
  - h) the terms of a share subscription agreement (the "**Stalking Horse Agreement**") between the Applicants' and Randy Bowman, Denis Medeiros, and Kyle Medeiros, in trust for a company to be incorporated (in such capacity, the "**Stalking Horse Bidder**"), which subject to the approval of this Court, would act as the "stalking horse bid" in the SISP; and
  - i) JBT Group's request for an amended and restated Initial Order ("**ARIO**") which would, among other things:
    - i) extend the stay of proceedings up to and including May 16, 2025 (the "**Proposed Stay Period**");
    - ii) continue the first ranking priority Critical Suppliers Charge that secures any Carrier's right to payment for the supply of services rendered to the Applicants subsequent to the Filing Date which charge is granted on the Applicants' applicable customer receivable associated with such shipment;
    - iii) increase the maximum amount of the second ranking Administrative Charge

from \$150,000 to \$250,000;

- iv) approve a debtor-in-possession financing in the maximum principal amount of \$250,000 (the “**DIP Facility**”) pursuant to the interim financing term sheet between the Applicants and Randy Bowman (the “**DIP Lender**”) dated February 5, 2025 (the “**DIP Term Sheet**”);
- v) grant a third ranking DIP Lender’s Charge in the maximum principal amount of \$250,000, over all of the Applicants’ Property, to secure the Applicants’ obligations under the DIP Term Sheet;
- vi) continue to authorize the Applicants, with the written approval of the Monitor, to pay critical vendors which are not Carriers, if any, if such payments are necessary to maintain the uninterrupted operations of the business;
- vii) continue to order that all receivables received by the Applicants on or after the Filing Date shall be treated in accordance with the provisions of the *Highway Traffic Act*, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein;
- viii) continue to stay all Carriers (as defined in the *HTA*) from contacting customers of the Applicants in respect to the business of the Applicants, including but not limited to, requiring customers to make payments to the Carriers, soliciting business from such customers, from taking any enforcement action with respect to the amounts owed to them or from holding and refusing to deliver the Applicants’ load freight product on account of any outstanding indebtedness owed by the Applicants to the Carriers prior to the Filing Date; and
- ix) make the SISP Approval Order which would, among other things:
  - (1) authorize the SISP;
  - (2) approve the Stalking Horse Agreement, solely for the purpose of being the “stalking horse bid” in the SISP, provided that if Stalking Horse Bidder is the successful bidder, completion of the transaction contemplated by the Stalking Horse Agreement which will be subject to the Court’s approval, upon a further motion by JBT in these proceedings;
  - (3) approve the break fee contained in the Stalking Horse Agreement (the

“**Break Fee**”) and authorize and direct the Applicants to pay the Break Fee to the Stalking Horse Bidder if the Stalking Horse Bid is not the Successful Bid (as defined herein) under the SISP; and

- (4) seal the Confidential Exhibit to the February 24, 2025 Medeiros Affidavit pending further order of the Court.

#### **TERMS OF REFERENCE AND DISCLAIMER**

- 10) In preparing this Report, the Monitor has relied upon certain unaudited, draft and/or internal financial information, JBT Group’s books and records, discussions with the management of JBT Group (“**Management**”) and information from other third-party sources (collectively, the “**Information**”).
- 11) Except as described in this Report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“**GAAS**”) pursuant to the Canadian Institute of Chartered Accountants Handbook (the “**CPA Handbook**”) and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
- 12) Some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the CPA Handbook, has not been carried out. Future-oriented financial information referred to in this Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations may be material.
- 13) The Monitor has prepared this Report in its capacity as a Court appointed officer and has made a copy of this Report available on the Monitor’s website at [www.dodick.ca](http://www.dodick.ca) for purposes of JBT Group’s motion returnable February 28, 2025. Parties using this Report, other than for the purpose of the motion, are cautioned that it may not be appropriate for their purposes.
- 14) All references to dollars are in Canadian currency unless otherwise noted.

## BACKGROUND

- 15) As detailed in the Monitor's Pre-Filing Report, JBT Group is in the business of end-to-end supply chain services, transportation logistics and warehousing services for customers across Canada and the United States (the "**Business**"). The Applicants have over 58 trucks, over 160 dry vans and refrigerated units, and over 165,000 square feet of SQF Gold-certified food storage and warehouse spaces. In addition to relying on its own fleet of vehicles to offer transportation services, the Business also works as a third-party logistics provider to coordinate the transportation of goods from a supplier to a purchaser in exchange for a commission.
- 16) The JBT Group is comprised of: (a) four operating and holding entities: JBT Transport Inc. ("**JBTTI**"), Heritage Truck Lines Inc. ("**HTL**"), Heritage Warehousing & Distribution Inc. ("**HWD**") and Melair Management Inc. ("**Melair**") and (b) three dormant entities: Drumbo Transport Limited ("**Drumbo**"), Heritage Northern Logistics Inc. ("**HNL**"), and Waydom Management Inc.
- 17) JBT Group's principal assets are:
  - a) the Applicants real property located at 425 Melair Drive, Ayr, Ontario ("**Melair Real Property**");
  - b) accounts receivable of JBTTI, HTL, HWD and Drumbo;
  - c) fixed assets, comprised primarily of trucks, trailers, office and warehouse equipment, owned by JBTTI, HTL and HWD; and
  - d) intellectual property, including the JBT Group brand and goodwill.
- 18) JBTTI currently employs 42 full-time employees and works with 21 independent contractors who are operators of its trucks. HTL and HWD currently have 23, and 18, full-time employees, respectively. The non-operating, and holding, entities have no employees. Therefore, the JBT Group has a total of 83 full-time employees and 21 independent contractors. The independent contractors operate JBT Group's tractor trailers. The JBT Group does not participate in any prescribed pension plan for its employees.

- 19) In addition, JBT Group brokers certain of its customer freight with contract carriers (“**Carriers**”) across North America in geographies where it does not operate its own fleet. This allows JBT Group to service all its customers’ freight lane needs.

#### **UPDATE ON THE APPLICANTS’ ACTIVITIES SINCE THE INITIAL ORDER**

- 20) Since the Initial Order was granted, the Applicants, with the Monitor’s assistance, have worked in good faith and with due diligence toward a restructuring plan that will maximize value for the Applicants’ stakeholders. To date, the Applicants’ have achieved the following restructuring steps:
- a) pared back their operational costs by, among other things, winding down operations at the Applicants’ former warehouse located at 325 Stirling Avenue South, Kitchener, Ontario;
  - b) held extensive communications with stakeholders, including employees, Carriers and customers;
  - c) continued to operate the Business in the normal course, with the Monitor’s oversight;
  - d) developed a SISP, with a view to canvassing the market for a transaction;
  - e) negotiated the Stalking Horse Agreement;
  - f) engaged with TD Bank in an attempt to obtain consensus on terms for a Stalking Horse offer in the proposed SISP;
  - g) set up trust accounts to segregate cash receipts from customers which are impressed with a trust associated with Carrier payables in accordance with the Initial Order; and
  - h) reported to the Monitor on its actual cash flow in comparison to its forecast for the three week period ended February 15, 2025, and updated and extended its cash flow forecast to May 31, 2025.

#### **UPDATE ON THE MONITOR’S ACTIVITIES SINCE THE INITIAL ORDER**

- 21) The Monitor’s activities since the granting of the Initial Order have included:
- a) corresponding regularly with the Applicants, including senior executives, regarding various matters in the CCAA Proceedings;

- b) corresponding directly with various carriers to provide information regarding the Critical Suppliers Charge;
- c) monitoring the Applicants' receipts and disbursements;
- d) corresponding with Loopstra Nixon LLP (the Monitor's counsel), Reconstruct LLP (restructuring counsel to the Applicants) regarding various matters in these CCAA Proceedings;
- e) reviewing the Stalking Horse Agreement and the Applicants' liquidation analysis;
- f) preparing its own version of a liquidation analysis;
- g) reviewing the Applicants' analysis of its accounts receivable for the purpose of identifying those balances collected by the Applicants on or after the Filing Date that are to be treated in accordance with the HTA as Carrier trust funds ("**Carrier Trust Fund**") and monitoring the transfer to the Carrier Trust Fund bank accounts; and
- h) preparing this Report.

## **OVERVIEW OF APPLICANTS' CASH FLOW VARIANCE AND FORECAST**

### *Cash Flow Variance*

- 22) The Applicants prepared a cash flow variance for the three weeks ending February 15, 2025 (the "**Period**"). A copy of the variance is included as **Appendix "C"**.
- 23) The closing cash as at February 15, 2025 is \$1,064,221 as compared to a forecast balance of \$119,499. The closing cash is approximately \$945,000 higher than forecast primarily due to timing as follows:
  - i) lower warehouse costs of approximately \$260,000 and lower G&A expenses of approximately \$169,000 in the Period which are each timing differences. These differences are primarily a result of the change of the Applicants' banking from TD to RBC, which disrupted many of these payments previously being paid by way of preauthorized debits. These payments are in the process of being brought current; and
  - b) no Carrier Trust Fund payments being disbursed in the period which resulted in approximately \$386,000 lower disbursements than forecast. The identification of

these payables was a very labour-intensive process requiring each individual customer receipt to be analyzed to determine whether the balance was payable to a Carrier pursuant to the Critical Vendor Charge.

- 24) Subsequent to the Period, the Applicants' identification of Carrier Trust Funds was completed and it was determined that approximately \$617,000 in post-filing receipts were Carrier Trust Funds and these funds were transferred to the newly opened Carrier Trust Funds bank accounts ("**Trust Fund Accounts**"). As of the date of this Report, the Applicants continue to issue payments to Carriers from the Carrier Trust Fund Accounts and continue to segregate all post-filing Carrier Trust Funds collected from customers.
- 25) In the Period, \$26,423 in non-Carrier pre-filing critical payments were paid in respect of fuel cards for drivers travelling in the United States. Such payments were deemed to be critical to maintain the ongoing operation of the Business as Management advised this is the simplest method for payment of fuel in the United States and there is no other cost effective easier alternative. The Monitor supported these payments.

#### *Cash Flow Forecast*

- 26) JBT Group, with the assistance of the Monitor, has prepared a weekly cash flow forecast ("**Cash Flow Forecast**") for the period from February 16, 2025 to May 31, 2025 ("**Cash Flow Period**"). A copy of the Cash Flow Forecast is attached hereto as **Appendix "D"** to this Report. The Cash Flow Forecast has been prepared by the Management of JBT Group for the purpose of this motion, using probable and hypothetical assumptions set out in notes 1 to 9 attached to the Cash Flow Forecast. The Cash Flow Forecast reflects receipts and disbursements to be received or paid over a fifteen-week forecast period in Canadian dollars.
- 27) The Monitor notes that the Cash Flow Forecast includes the payment of pre- and post-filing Carrier Trust Funds. Pre-filing Carrier Trust Funds have been segregated by Management on its own line in the cash flow forecast, and post-filing Carrier Trust Funds are included on the "Cost of Goods Sold – Transportation & Logistics" line in the cash flow forecast.
- 28) The Applicants separated in the Cash Flow Forecast closing weekly cash balance in the Carrier Trust Fund from the closing weekly cash balance available for operations. As such, Management was then able to forecast weekly operating cash flow shortfalls.

- 29) The Cash Flow Forecast projects that JBT Group will require the use of the DIP Facility to have sufficient liquidity to fund its expenses and the CCAA proceeding throughout the Cash Flow Period.
- 30) The Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to the Monitor by certain of the Management and employees of JBT Group. Since hypothetical assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Monitor has also reviewed the support provided by Management of JBT Group for the probable assumptions, and the preparation and presentation of the Cash Flow Forecast.
- 31) Based on the Monitor's review, nothing has come to its attention to cause it to believe that, in any material respects:
- i) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
  - ii) as at the date of this Report, the probable assumptions developed by management are not suitably supported and consistent with the plans of JBT Group or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions; or
  - iii) the Cash Flow Forecast does not reflect the probable and hypothetical Assumptions.
- 32) As described in the Terms of Reference, since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to the accuracy of financial information presented in the Cash Flow Forecast or relied upon by the Monitor in preparing this Report.
- 33) The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.



## DIP FINANCING

- 34) As described in the Pre-Filing Report, JBT Group's liquidity constraints have resulted in insufficient funds to continue operating the Business.
- 35) To allow the Applicants to continue operating and have time to develop its restructuring plan, the DIP Lender, a member of Management, agreed to extend DIP financing to the Applicants. The DIP Lender's Term Sheet was executed, subject to Court approval. A copy of the DIP Term Sheet is attached hereto as **Appendix "E"**.
- 36) The key terms of the DIP Term Sheet were detailed in the Pre-Filing Report.
- 37) The Cash Flow Forecast indicates that JBT Group requires the DIP Facility to fund operations and these proceedings and will have sufficient funds available under the DIP Facility to fund its expenditures through the Cash Flow Period. The Cash Flow Forecast indicates that the first draw from the DIP Facility will be required in the week-ending March 8, 2025.
- 38) The Monitor is of the view that approval of the DIP Term Sheet and the DIP Facility contemplated therein:
  - i) is required to fund the operations of JBT Group while it pursues its operational and financial restructuring efforts, including the Proposed SISP;
  - ii) will enhance the prospects of a viable CCAA plan being made by JBT Group; and
  - iii) will not, in the view of the Monitor, materially prejudice the Applicants' creditors, including by the granting of the DIP Lender's Charge, as it will provide the Company with the cash flow it requires to fund its going concern operations while it continues its restructuring and, absent such funding, operations would cease; and
  - iv) is in the best interests of JBT Group and its stakeholders.
- 39) Furthermore, the Monitor is of the view that the costs associated with the DIP Facility are commercially reasonable in the circumstances for a DIP Facility of a business in circumstances like JBT Group's.
- 40) Without access to financing under the DIP Facility, the JBT Group will: (i) not be able to maintain its operations and fund payroll, preserve asset value or complete a restructuring; and (ii) be forced to wind down its operations and commence a liquidation of its assets,

resulting in the loss of value and over 100 direct and indirect jobs to the material detriment of its creditors and stakeholders.

## **CHARGES**

### **DIP Lender's Charge**

- 41) JBT Group requires immediate funding to maintain its existing operations and to meet ordinary course of business expenses, as evidenced by the Cash Flow Forecast. Any amounts advanced are expected to be used for payroll, supplier payments and other ordinary course business expenses, as well as payment of restructuring professionals.
- 42) As noted above, a condition of the DIP Term Sheet is that the DIP Lender receives the benefit of a DIP Lender's Charge to the maximum principal amount of \$250,000, representing the aggregate of potential funds to be advanced pursuant to the DIP Term Sheet. The Monitor supports JBT Group's request for the DIP Lender's Charge.
- 43) TD Bank requested that the DIP Lender's Charge rank behind its mortgage over the Melair Real Property and the DIP Lender agreed. According to Management, the estimated market value of the Melair Real Property is greater than TD Bank's mortgage over the real property.
- 44) For the reasons set out above, in the view of the Monitor, the DIP Term Sheet is reasonable and appropriate and is typical in similar proceedings, as is the proposed priority of the DIP Lender's Charge as set out in the form of draft order filed with the Court and, therefore, should be granted by the Court.

### **Increased Administrative Charge**

- 45) JBT Group is seeking to increase the Administration Charge from \$150,000 to \$250,000, which increase corresponds to the anticipated fee exposure of the restructuring professionals during the extended stay period, as reflected in the cash flow forecast.
- 46) The Administration Charge will allow the Applicants to have continuous access to critical accounting and legal advice during the stay period, including to implement the SISF and assist in restructuring initiatives to protect asset value for the benefit of TD Bank and other stakeholders.

- 47) The Administration Charge will secure the fees of the Applicants' counsel, the Monitor and Monitor's counsel.
- 48) The proposed increase to the Administration Charge sought by JBT Group is reasonable and appropriate in the circumstances and should be granted by the Court.

### **Priority of Charges**

- 49) The Applicants propose that the DIP Lender's Charge rank subordinate to the existing Court-Ordered Charges as follows:
  - a) first, the Critical Supplier's Charge, but only against those accounts receivable generated by the contract carrier providing services in respect of the underlying shipment;
  - b) second, the Administration Charge, against all assets of the JBT Group; and
  - c) third, the DIP Lender's Charge, against all assets of the JBT Group but subordinate to TD Bank's interest in the Melair Real Property.
- 50) The Monitor believes the proposed priority of the charges is a balanced proposal, consistent with the stated objectives of the Applicants in commencing these proceedings. No party will be materially prejudiced by the same.

### **EXTENSION OF STAY OF PROCEEDINGS**

- 51) The Initial Order granted a stay of proceeding to and including February 28, 2025. The JBT Group seeks an extension of the stay of proceeding up to and including May 16, 2025.
- 52) The proposed extension is necessary and appropriate to allow the JBT Group to conduct the SISP in an orderly manner, to continue implementing operational restructuring steps, and to protect the going concern nature and value of the Business.
- 53) The Monitor is of the view that the JBT Group have acted and will continue to act with good faith and with due diligence.
- 54) Without the requested extension of the Stay Period being granted, JBT Group will not have the opportunity to formulate and implement a restructuring plan and will then become bankrupt to the detriment of its stakeholders.

- 55) The Cash Flow Forecast filed by the JBT Group demonstrates that no creditor will be materially prejudiced by the continuation of the stay of proceedings sought.

## **SALE AND INVESTOR SOLICITATION PROCESS**

### **Overview of the Proposed SISP**

- 56) To complement the Applicants' prior and ongoing operational restructuring efforts, the Applicants' have determined that a sale and investment solicitation process is critical to developing a long-term solution to the Applicants' liquidity challenges and maximizing stakeholder interests. Accordingly, JBT Group, in consultation with the Monitor, TD Bank, the proposed DIP Lender and the Stalking Horse Bidder, developed the SISP.
- 57) The SISP was developed considering the Applicants' financial circumstances and the amount of financing available under the DIP Term Sheet.
- 58) On February 26, 2025, following receipt TD Bank's supplemental application record, which outlined TD Bank's concerns with respect to the SISP and the Stalking Horse Agreement, the Monitor requested that the Applicants, and the Stalking Horse Bidder, make certain amendments to the SISP and the Stalking Horse Bid, respectively, to address some of TD Bank's concerns.
- 59) The Monitor has discussed the concerns with the Applicants and urged adopting changes to the SISP and commitments from the Stalking Horse Bidder to address the same. As a result, certain amendments and commitments have been agreed to by the Applicants and the Stalking Horse Bidder.
- 60) Enclosed as **Appendix "F"** is the revised SISP which includes a version in black line reflecting certain amendments made by the Applicants. The changes are described more fully in this report and include:
- a) regular consultations with TD Bank throughout the SISP; and
  - b) the removal of an administrative reserve amount as part of the cash required for a Qualifying Bid.
- 61) Additionally, the Monitor is advised that the Stalking Horse Bidder shall (a) submit, over and above the DIP loan commitment, an additional cash deposit equal to 10% of the Cash Consideration to evidence its commitment and bolster its offer; and, (b) provide evidence

of binding financing commitments to the Monitor by March 31, 2025, sufficient to fund the completion of transaction contemplated by the Stalking Horse Agreement.

- 62) The SISP is intended to widely expose the Business to the market and provide a structured and orderly process for interested parties to perform due diligence and submit offers for a potential investment or acquisition.
- 63) The SISP is a transparent and objective process that will be implemented and supervised by the Monitor as an officer of this Court. JBT Group will continue to operate in the normal course during the SISP to preserve and maximize the going concern value of the Business.
- 64) The SISP involves a stalking horse bid in the form of the Stalking Horse Agreement (the “**Stalking Horse Bid**”). The Stalking Horse Bid is intended to stimulate market interest by setting a “floor” price that bidders must bid against. It provides an objective indication to the market and to stakeholders that continuation of the Applicants’ business as a going concern is intended. It also provides comfort to stakeholders, that value will be realized through the SISP. The details of the Stalking Horse bid are discussed further herein.
- 65) The Monitor, with the assistance of the JBT Group’s management will, among other things:
  - a) prepare a list of interested parties;
  - b) prepare a teaser detailing the opportunity (“**Teaser**”);
  - c) prepare a non-disclosure agreement (the “**NDA**”) to be executed by potential purchasers in order to conduct due diligence;
  - d) compile information to be included in a data room (the “**VDR**”) to be provided to potential purchasers upon executing the NDA;
  - e) place notices of the SISP in Insolvency Insider, an independent publication dedicated to the Canadian insolvency market, and other publication or journal, if any, as determined by the Monitor in consultation with the Applicants;
  - f) cause the Teaser and NDA to be sent to each known interested party, as well as any other party who requests them or is identified as a potential bidder;
  - g) coordinate all reasonable requests for information and due diligence access for each potential bidder who executes the NDA;

- h) review and assess offers received and negotiation of same for the purpose of clarifying or amending the terms; and
- i) report to Court on the results of the SISP and the Monitor's recommendation in respect of Binding Offers (defined below) and the successful bid.

### **The SISP Timeline**

66) The SISP contemplates an approximately 45-day, single phase sale process that will be managed by the Monitor with a deadline for offers of no later than 5:00pm (Eastern time) on April 18, 2025 ("**Bid Deadline**").

67) A summary of the timelines is provided below:

<b>Activity</b>	<b>Timeline</b>
Commence SISP	by no later than March 12, 2025
Bid Deadline	April 18, 2025
Successful Bidder or Auction, if necessary	April 25, 2025
Seek Court approval	by no later than May 9, 2025
Outside date	May 16, 2025

68) The SISP provides that the Monitor may extend the above deadlines up to fourteen days without Court order, in consultation with the Applicants and TD Bank. The ability to extend deadlines provides the Monitor and JBT Group with the necessary flexibility to maximize JBT Group's success in the SISP.

69) The timeline of the SISP was designed to balance the limitations of JBT Group's financial position with the need for sufficient flexibility to allow interested parties a reasonable opportunity to formulate and submit bids to maximize JBT Group's success in the SISP.

70) The Monitor believes that the timeline of the SISP is sufficient to canvass the market. The Monitor is supportive of the timelines in the SISP based on its experience, and discussions with JBT Group and the Stalking Horse Bidder.

### **The Stalking Horse Agreement**

71) The Stalking Horse Agreement provides for a floor price and signals to the Applicants' customers, employees and other stakeholders that the Business will continue as a going concern after these CCAA proceedings for the benefit of its stakeholders including the

Applicants' employees, contractors, carriers, and customers. A copy of the Stalking Horse Agreement is attached as **Appendix "G"**. Any terms not defined below are defined in the Stalking Horse Agreement.

72) The key terms and conditions of the Stalking Horse Agreement are summarized below:

Term	Details
<b>Seller</b>	JBT Group
<b>Purchaser</b>	<p>Randy Bowman, Denis Medeiros and Kyle Medeiros, in trust for a company to be incorporated.</p> <p><i>*The Purchaser is comprised of members of the current ownership and Management of the JBT Group.</i></p>
<b>Transaction Structure</b>	<p>Reverse vesting structure share subscription agreement</p> <p>Prior to closing, JBT Group will incorporate a new company ("<b>Residual Co.</b>") to which all the Excluded Assets, Excluded Contracts, and Excluded Liabilities will be transferred as part of the Closing Sequence. Residual Co. shall have no issued or outstanding shares.</p>
<b>Purchased Assets</b>	<p>The Applicants shall issue to the Stalking Horse Bidder, and the Stalking Horse Bidder shall subscribe for that number and class of shares in the share capital of the Applicants from treasury, to be specified by the Stalking Horse Bidder at least two Business Days prior to the Closing Date, which shares shall be free and clear of all Encumbrances other than the Permitted Encumbrances ("<b>Purchased Shares</b>"). In addition to the Purchased Shares, the Retained Assets and Retained Liabilities will remain with the Purchased Entities.</p>
<b>Deposit</b>	<p>The Purchaser will pay a deposit in the principal amount of \$250,000 representing the principal amount to be advanced by the DIP Lender to the Applicants pursuant to and in accordance with the DIP Term Sheet which shall constitute payment of a deposit in the amount of 5% of the Cash Consideration.</p> <p>According to the cash flow forecast the DIP is forecast to begin being advanced commencing week-ended March 8, 2025.</p>

<p><b>Purchase Price</b></p>	<p>The total aggregate consideration payable by the Stalking Horse Bidder for the Purchased Shares is equal to approximately \$13,316,523.76 representing:</p> <ul style="list-style-type: none"> <li>(a) payment in cash of \$4,917,497.04, comprised of the Deposit plus further amounts payable at closing as follows: <ul style="list-style-type: none"> <li>i. an amount equal to \$2,969,500 for the Equipment;</li> <li>ii. an amount equal to \$30,000 for the Inventory,</li> <li>iii. an amount equal to \$439,500 for Other Assets,</li> <li>iv. an amount equal to 43% of the Accounts Receivables,</li> <li>v. an amount equal to the Cure Costs, and</li> <li>vi. an amount equal to the Priority Payment Amount, and Administrative Expense Amount (collectively the “<b>Cash Consideration<sup>1</sup></b>”);</li> </ul> </li> <li>(b) the outstanding obligations payable by the Applicants as of the Closing Date pursuant the DIP Term Sheet including the principal amount of such claims and interest accrued as of the Closing Date, plus all accrued and unpaid interest thereon through to and including the Closing Date, plus any unpaid fees and expenses associated therewith; and</li> <li>(c) the assumption of the Retained Liabilities, including: <ul style="list-style-type: none"> <li>i. the outstanding obligations under the DIP Term Sheet as of the Closing;</li> <li>ii. the outstanding obligations in respect of the Non-TD Equipment Leases of the Applicants owing as of the Closing;</li> <li>iii. the outstanding obligations in respect of the Retained Leases as of the Closing; and</li> <li>iv. Employee Liabilities.</li> </ul> </li> </ul>
<p><b>Excluded Assets and Excluded Liabilities</b></p>	<p>The Excluded Assets include,</p> <ul style="list-style-type: none"> <li>(a) the Cash Consideration;</li> <li>(b) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities or Excluded Assets, provided that the Purchased Entity may retain original copies of any such records if required by Applicable Law and provided further that the applicable Purchased Entity may take copies of all Tax records and books and records pertaining to such records to</li> </ul>

<sup>1</sup> The Cash Consideration payable will vary depending on the actual Accounts Receivable balance at Closing and accordingly the aggregate Cash Consideration may be higher or lower than the approximately \$4.9 million contemplated by the Purchase Price.



	<p>the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return;</p> <p>(c) the Excluded Contracts;</p> <p>(d) the Melair Real Property;</p> <p>(e) HNL or any assets owned by it;</p> <p>(f) all communications, information or records, written or oral, that are in any way related to (i) the Transactions contemplated by this Agreement, (ii) the sale of the Purchased Shares, (iii) any Excluded Asset or (iv) any Excluded Liability; and</p> <p>(g) any rights which accrue to Residual Co. under the transaction documents</p> <p>The Stalking Horse Bidder may also exclude any other assets or liabilities five (5) days prior to the hearing for the Approval Order.</p>
<b>Closing Date</b>	<p>No later than five (5) business days after the conditions to closing have been satisfied or waived (the “<b>Closing Date</b>”).</p> <p>The Closing Date shall be no later than the Outside Date of May 31, 2025 or such later date agreed to by each of JBT Group and the Stalking Horse Bidder in writing in consultation with the Monitor.</p>
<b>Retained Liabilities</b>	<p>The Retained Liabilities include:</p> <ul style="list-style-type: none"> <li>• Employee Liabilities;</li> <li>• the Cure Costs and liabilities of the Purchased Entities under the Retained Contracts from and after the Closing Time;</li> <li>• the Cure Costs and liabilities arising from or in connection with the performance of the Retained Leases, from and after the Closing Time;</li> <li>• the Post-Filing Claims that remain outstanding as at the Closing Time;</li> <li>• the Intercompany Liabilities payables (and all Claims, Encumbrances relating thereto);</li> <li>• Tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date;</li> <li>• HNL Loan;</li> <li>• Broker Payables;</li> <li>• Carrier Trust Fund;</li> <li>• the outstanding obligations under the DIP Term Sheet as of the</li> </ul>

	<p>Closing Time; and</p> <ul style="list-style-type: none"> <li>the outstanding obligations in respect of the Retained Contracts owing as of the Closing Time.</li> </ul>
<b>As is, Where is</b>	The Stalking Horse Bidder acquires the Purchased Shares on an “as is, where is basis”, subject to representations and warranties of the Companies contained in Article 4 of the Stalking Horse Agreement.
<b>Employees</b>	The Stalking Horse Bidder will determine which employees it will assume and continue to employ prior to Closing.
<b>Key Conditions to Closing</b>	<p>The key conditions for closing include:</p> <ul style="list-style-type: none"> <li>the SISP Approval Order and the Approval Order have been issued and entered and are Final Orders;</li> <li>the Stalking Horse Agreement was selected as the Successful Bid;</li> <li>the Parties shall have received the required Transaction Regulatory Approvals; and</li> <li>the Pre-Closing Reorganization Steps, if required by the Purchaser, shall have been affected prior to Closing in form and substance acceptable to the Parties.</li> </ul>

- 73) The Monitor has reviewed the Cash Consideration included in the Purchase Price and compared it to its own assessment of the value of the net realizable value of the JBT Group's assets. The Monitor's assessment is based, in part, on a critical review of the net realizable value calculated by the Applicants in support of the Stalking Horse Bid. The Applicants' analysis is based on forced liquidation value, to be completed in thirty days. The Monitor believes that a more appropriate assessment would be based on an orderly liquidation value, given the ability to use the leased facilities during the liquidation period. In such scenario, liquidation projections would be marginally higher. However, whether under a forced liquidation or orderly liquidation analysis, the Monitor is of the view that the Cash Consideration being offered by the Stalking Horse Bidder is still higher than the liquidation value of the JBT Group's assets and, accordingly, provides for a greater recovery to the Applicants' stakeholders in comparison to what would be realizable in a liquidation scenario. The Monitor also notes that the Applicants' primary equipment class for liquidation (i.e., trucks, trailers and other transportation assets) is currently a challenged market, considering industry trends and various industry insolvencies in Ontario and across the country, such as the Pride Group.
- 74) The Monitor understands that the Stacking Horse Bidder will require financing to close the Stalking Horse Agreement, and to date has engaged lenders to carry out due diligence, including equipment appraisals. The Monitor understands that commitments to lend have been received by the Stalking Horse Bidder. As such, the Monitor advised the Stalking Horse Bidder that it will require binding commitments from the lenders, and evidence of cash available to fund the balance of the Purchase Price, by no later than March 31, 2025, in order for the Stalking Horse Bid to maintain its status as a binding bid. The Monitor is advised that the Applicants and the Stalking Horse Bidder have agreed to this this requirement.

- 75) The Monitor also required that the Stalking Horse Bidder place a deposit with the Monitor prior to the start of the SISP equal to 10% of the estimated Cash Consideration of \$4,917,497.04 less the DIP of \$250,000, for a net cash deposit amount of \$241,749 by March 12, 2025, the start of the SISP process. The Stalking Horse Bidder agreed to providing this additional cash deposit. If the Stalking Horse Bidder is the successful bidder and fails to close the transaction it will not only lose the additional cash deposit but also any DIP financing that it had advanced.
- 76) The Melair Real Property does not form part of the purchased assets included in the Stalking Horse Agreement but will be available for purchase as part of the SISP – whether as part of an “en bloc” offer or independently. The Monitor will encourage any party interested in the property as a “stand alone” acquisition of the Melair Real Property to make an independent offer for the same. The Melair Real Property is estimated to represent more than 50% of the value of TD Bank’s security. Any offers received in respect of the Melair Real Property shall be considered by the Monitor, in consultation with the Applicants and TD Bank.

### **Bid Protection**

- 77) The Stalking Horse Agreement includes a break fee of \$65,000 (the “**Break Fee**”) that represents approximately 1.35% of the cash portion of the purchase price under the Stalking Horse Agreement if the Stalking Horse Bidder is not the successful bidder.
- 78) The Monitor is of the view that the Break Fee is not punitive in nature, nor will it discourage competitive bidding with respect to the SISP.

### **Binding Offer**

- 79) To be a “Binding Offer”, a bid must meet the following requirements:
- i) **if the bid is structured as a “reverse vesting transaction”**, it includes a duly authorized and executed binding transaction agreement, including all exhibits and schedules contemplated thereby, together with a blackline against the Stalking Horse Agreement, describing the terms and conditions of the proposed transaction, including any liabilities and obligations proposed to be assumed, the purchase price, the structure and financing of the proposed transaction, and any regulatory or other third-party approvals required;

- ii) **if the bid is structured in a form other than a “reverse vesting transaction”**, it includes a duly authorized and executed, definitive transaction agreement, containing the detailed terms and conditions of the proposed transaction, including the Business or the assets proposed to be acquired, the obligations and liabilities to be assumed/excluded, the detailed structure of the transaction, the final purchase price or investment amount, and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements), and the proposed form of order(s) for the Court to consider in the motion to approve the transaction;
- iii) **if the bid is structured as a liquidation offer**, it includes a duly authorized and executed definitive liquidation offer/proposal/agreement including identification of the subject assets, the obligations and liabilities to be assumed (if any), the detailed structure of the liquidation, a net minimum guarantee (which shall stand as the “purchase price” for all purposes hereunder) and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, and confirmation of any order(s) required of the Court in connection with the same;
- iv) **it contains cash consideration** sufficient to pay in full on closing of the transaction: (i) the amount equal to the Cash Consideration and DIP Credit Bid Consideration, each as defined in the Stalking Horse Agreement, plus an incremental overbid amount (in the minimum amount of \$125,000); and (ii) a break fee in the amount of \$65,000 as contemplated in the Stalking Horse Agreement;
- v) accompanied by a **deposit of at least 10%** of the Bid, to be retained by the Monitor in trust;
- vi) states it is **not conditional** upon any condition or contingency relating to due diligence, financing or another material condition precedent to the bidder’s obligation to complete the transaction;
- vii) it includes a description of any regulatory or other **third-party approvals** required to consummate the proposed transaction
- viii) submitted by the **Bid Deadline**;

- ix) provides evidence satisfactory to the Monitor of the **financial ability of the bidder** to consummate the transaction; and
- x) describes the intended **treatment of the Company's stakeholders** including unsecured creditors, guaranteed obligations, lien claimants, subtrades who have or are continuing to provide goods or services in relation to projects, as well as receivables and liabilities associated with Trade-Mark Industrial Inc., Trade-Crete Ltd. and Comtrade Ltd., including any cost of litigation associated therewith.

### **Selection of Successful Bid**

- 80) In the event that the Monitor, in consultation with JBT Group and TD Bank, determines that there are no Binding Offers, the Monitor shall promptly proceed to declare the Stalking Horse Bid as the "**Successful Bid**". If the Monitor receives one or more Binding Offers which are superior to the Stalking Horse Bid, it may proceed with an auction to select the highest or otherwise best bid in the SISP in accordance with the procedure delineated in the SISP.

### **Court Approval and Closing**

- 81) Upon selection of the Successful Bid, the JBT Group will bring a motion to the Court on notice to the service list for an order approving the Successful Bid. JBT Group, with the assistance of the Monitor, will then proceed to close the transaction as soon as possible after Court approval is granted.

### **Sealing of Confidential Exhibit**

- 82) The Applicants seek to seal Confidential Exhibit "1" to the Medeiros Affidavit, which is a confidential analysis of the value of the Stalking Horse Agreement compared to liquidation value of the Applicants. The Monitor is of the view that there is no benefit to publicly disclose the confidential information. In contrast, it would be prejudicial to the Applicants if the analysis was disclosed because it contains commercially sensitive information that, if made public, would negatively affect the Applicants' ability to maximize value and maintain the integrity of the SISP.
- 83) The Monitor agrees that the sealing order is the only available measure to prevent the risk associated with the disclosure of the information in the Confidential Exhibit.

**RECOMMENDATION**

- 84) Based on all the foregoing, the Monitor respectfully recommends that the Court make an order granting the relief requested by JBT Group in the Orders requested, as summarized in paragraph 9 of this Report.

All of which is respectfully submitted on this 26<sup>th</sup> day of February 2025.

**DODICK LANDAU INC.**

In its capacity as the Monitor of the Applicants under the *Companies' Creditors Arrangement Act* and not in its personal or corporate capacity.

Per:



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Rahn Dodick, CPA, CA, CIRP, LIT  
President

# TAB A



# APPENDIX “A”

Court File No. CV-25-00736572-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JBT  
TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,  
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN  
LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC.**

**PRE-FILING REPORT TO COURT OF THE PROPOSED MONITOR<sup>1</sup>**

**DATED FEBRUARY 8, 2025**

<sup>1</sup> On January 24, 2024, the Applicants herein each filed a Notice of Intention to Make a Proposal under the *Bankruptcy and Insolvency Act* naming Dodick Landau Inc. as proposal trustee. Accordingly, this report is also filed by the Proposed Monitor, in its capacity as Proposal Trustee.

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## INTRODUCTION

1. On January 24, 2025 (the “**Filing Date**”), JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (“**JBT Group**” or the “**Applicants**”) filed with the Official Receiver Notices of Intention to Make a Proposal (“**NOI**”) to its creditors and named Dodick Landau Inc. (“**DLI**”) as Proposal Trustee (the “**Proposal Trustee**”). Attached as **Appendix “A”** are the Certificates of Filing of each NOI.
2. JBT Group now makes an application under the *Companies’ Creditors Arrangement Act*, (the “**CCAA**”) to convert the NOI proceedings into proceedings, jointly administered, under the CCAA. JBT Group has proposed that DLI be appointed as CCAA monitor (the “**Proposed Monitor**”).
3. The Toronto-Dominion Bank (“**TD Bank**”), senior secured lender to the JBT Group, has brought a concurrent application to appoint a receiver over the assets, properties and undertakings of the Applicants.
4. A detailed overview of the JBT Group’s business operations and financial difficulties which led to the filing of the NOI’s is set out in the affidavit of Denis Medeiros, sworn February 5, 2025 (“**Medeiros Affidavit**”), served and filed with the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for the relief set out herein.
5. All capitalized terms used in this report (the “**Pre-Filing Report**”), but not otherwise defined, shall have the meaning ascribed to such terms in the Medeiros Affidavit.

## PURPOSE

6. The purpose of this Pre-Filing Report is to provide the Court with information pertaining to the following:
  - i) DLI qualifications to act as CCAA monitor;
  - ii) a limited summary of certain background information about JBT Group;
  - iii) an overview of the Applicants’ twelve-week cash flow forecast;
  - iv) JBT Group’s request for an order, *inter alia*:

- a) converting the NOI Proceedings to proceedings under the CCAA;
- b) establishing an initial CCAA stay of proceedings up to and including February 20, 2025 (the “**Proposed Stay Period**”);
- c) appointing DLI as Court-appointed monitor of the Applicants (the “**Monitor**”);
- d) approving a debtor-in-possession financing in the maximum principal amount of \$250,000 (the “**DIP Facility**”) pursuant to the interim financing term sheet between the Applicants and Randy Bowman (the “**DIP Lender**”) dated February 5, 2025 (the “**DIP Term Sheet**”);
- e) granting the following Court-ordered charges:
  - (1) a first ranking “**Critical Supplier Charge**” in favour of contract carriers only impressed upon receivables and collections in respect of the underlying shipping contracts;
  - (2) a second ranking “**Administration Charge**” in the maximum principal amount of \$250,000, over all of the Applicants present and after acquired assets, undertaking and properties, to secure payment of the restructuring professionals;
  - (3) a third ranking “**DIP Lender’s Charge**” in the maximum principal amount of \$250,000, over all of the Applicants present and after acquired assets, undertaking and properties, to secure the Applicants obligations under the DIP Term Sheet.
- f) authorizing the Applicants to pay certain pre-filing amounts, with the permission of the Monitor, as are necessary to maintain the uninterrupted operations of the business;
- g) requiring that all receivables received by the Applicants on or after the Filing Date shall be treated in accordance with the provisions of the *Highway Traffic Act*, RSO 1990, c. H. 8 (the “**HTA**”), including section 190.0.1(3) therein; and
- h) a stay of all contract carriers from contacting customers of the Applicants in respect to the business of the Applicants, including but not limited to, requiring customers to make payments to the carriers, soliciting business from such

customer, from taking any enforcement action with respect to the Carrier Trust Funds (as defined herein) or from holding the Applicants load freight product hostage on account of any outstanding indebtedness owing by the Applicants to carriers prior to the Filing Date.

## **TERMS OF REFERENCE & DISCLAIMER**

7. In preparing this Report, the Proposed Monitor has relied upon certain unaudited, draft and/or internal financial information, JBT Group's books and records, discussions with the management of JBT Group ("**Management**") and information from other third-party sources (collectively, the "**Information**").
8. Except as described in this Report, the Proposed Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Canadian Institute of Chartered Accountants Handbook (the "**CPA Handbook**") and, accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
9. Some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the CPA Handbook, has not been performed. Future oriented financial information referred to in this Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations may be material.
10. The Proposed Monitor has prepared this Report in its capacity as a Court appointed officer and has made a copy of this Report available on the Proposed Monitor's website at [www.dodick.ca](http://www.dodick.ca) for purposes of JBT Group's motion returnable February 10, 2025. Parties using this Report, other than for the purpose of the motion, are cautioned that it may not be appropriate for their purposes.
11. All references to dollars are in Canadian currency unless otherwise noted.

## DODICK LANDAU'S QUALIFICATIONS TO ACT AS MONITOR

12. DLI is a licensed insolvency trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada). DLI is not subject to any of the restrictions set out in section 11.7(2) of the CCAA on who may be appointed as Monitor.
13. As discussed in greater detail herein, DLI has obtained a detailed understanding of the Applicants' businesses. In preparation for the potential appointment as Monitor, DLI has spent time with Management to understand the Applicants' operations and debt structure as more fully described in this Pre-Filing Report.
14. DLI has consented to act as Monitor, should the Court grant the Applicants' request for the Proposed Initial Order. Attached as **Appendix "B"** is DLI's Consent to act as Monitor.

## BACKGROUND

15. As detailed in the Medeiros Affidavit, JBT Group is in the business of end-to-end supply chain services, transportation logistics and warehousing services for customers across Canada and the United States (the "**Business**"). The Applicants have over 58 trucks, over 160 dry vans and refrigerated units, and over 165,000 square feet of SQF Gold-certified food storage and warehouse spaces. In addition to relying on its own fleet of vehicles to offer transportation services, the Business also works as a third-party logistics provider to coordinate the transportation of goods from a supplier to a purchaser in exchange for a commission.
16. The JBT Group is comprised of the following four operating and holding entities:
  - i) JBT Transport Inc. ("**JBTTI**") - an Ontario corporation that operates primarily in cross-border transportation and logistics between the United States and Canada;
  - ii) Heritage Truck Lines Inc. ("**HTL**") - an Ontario corporation that operates primarily local transportation and logistics in Ontario;
  - iii) Heritage Warehousing & Distribution Inc. ("**HWD**") - an Ontario corporation that operates the warehousing and distribution business of the Applicants; and
  - iv) Melair Management Inc. ("**Melair**") - an Ontario corporation formed for the purposes of holding the Applicants' head office, which is located at 425 Melair Drive, Ayr,

Ontario (“**Melair Real Property**”), and carrying out property management services.

17. In addition, the JBT Group includes the following three dormant entities :
  - i) Drumbo Transport Limited (“**Drumbo**”) - an Ontario corporation that is largely dormant but has some residual receivables;
  - ii) Heritage Northern Logistics Inc. (“**HNL**”) - an Ontario corporation that is now dormant; and
  - iii) Waydom Management Inc. (“**Waydom**”) - an Ontario corporation that previously held and managed certain real estate for the JBT Group and is now dormant.
18. JBT Group’s principal assets are:
  - i) the Melair Real Property;
  - ii) accounts receivable of JBTTI, HTL, HWD and Drumbo;
  - iii) fixed assets, comprised primarily of trucks, trailers, office and warehouse equipment, owned by JBTTI, HTL and HWD; and
  - iv) intellectual property, including the JBT Group brand and goodwill.
19. Currently, the JBT Group operates out of its head office located at the Melair Real Property, as well as a leased warehouse space located at 60 Steckle Place, Kitchener, Ontario. The JBT Group leased two additional warehouses, however, immediately following the commencement of the NOI proceedings, on January 27 and 28, 2025, the JBT Group disclaimed these leases.
20. JBTTI currently employs 42 full-time employees and works with 21 independent contractors who are operators of trucks. HTL and HWD currently have 23, and 18, full-time employees, respectively. The non-operating, and holding, entities have no employees. Therefore, the JBT Group has a total of 83 full-time employees and 21 independent contractors. The independent contractors operate JBT Group’s tractor trailers. The JBT Group does not participate in any prescribed pension plan for its employees.
21. In addition, JBT Group brokers its customer freight with contract carriers across North America in geographies where it does not operate its own fleet. This allows JBT Group



to service all of its customers' freight lane needs.

## FINANCIAL CHALLENGES

22. In and around September 2022, JBT Group began experiencing cash flow pressures due to a reduction in freight rates by 31.6% from its cross-border transportation operations, and JBTTI shipping volumes which dropped by revenue of \$4.9 million. The decline continued and did not correct. By October 2023, the JBT Group was sustaining significant losses and using the line of credit with TD Bank to fund the losses from operations. On or about October 24, 2023, TD Bank advised the JBT Group that they were in breach of the covenants of their borrowing facility and the JBT Group account was transferred to TD's special loans group.
23. From December 2023 to April 2024, the JBT Group underwent an operational restructuring which included the sale of redundant assets, reduction operating costs, downsizing certain non-performing operations, increasing certain pricing and improving accounts receivable collections. Despite the success of these initiatives, JBT Group's market continued to suffer in 2024 largely due to higher interest rates and the long-term effect of Covid-19 on the industry which continued to lower shipping volumes and freight rates resulting in the continued breach of TD Bank's loan covenants.
24. To address this breach, the JBT Group agreed to enter into a forbearance agreement dated April 13, 2024, which was subsequently amended on June 26, 2024, and again on December 13, 2024 (the "**Forbearance Agreement**"). Pursuant to the Forbearance Agreement, TD Bank agreed to forbear from exercising its rights and remedies against the Applicants until the earlier of October 31, 2024 or the date that a default of the Forbearance Agreement occurred, in exchange for the Applicants selling two real properties, known as the Guthrie and Melair properties, and repaying in part the TD Bank debt. The Forbearance Agreement also made certain reductions to JBT Group's borrowing limits under its loan agreement with TD Bank.
25. In October 2024, the Guthrie real property was sold for \$5.5 million. Together with the other operational restructuring initiatives, the JBT Group was able to reduce the TD Bank debt from approximately \$25.0 million in January 2024 to approximately \$16.2 million in December 2024.
26. Up to December 2024, the JBT Group had spoken with other prospective lenders,

however, refinancing timelines in the Forbearance Agreement were not met, and a full repayment of the line of credit was not possible, which was unacceptable to TD Bank. Consequently, as a result of the breaches to the terms of the Forbearance Agreement, on January 15, 2025, TD bank delivered demands, and a Notice of Intention to Enforce Security under section 244(1) of the Bankruptcy and Insolvency Act (Canada), to the JBT Group.

27. According to Management, on January 20, 2025, JBTTI opened a new deposit account with the Royal Bank of Canada (“**RBC**”) and moved its available cash from its TD Bank accounts to RBC to preserve the JBT Group’s access to its cash receipts during the NOI proceedings.

## **CREDITORS**

### **TD Bank**

28. TD Bank is the Company’s principal secured creditor. On January 14, 2025, TD Bank was owed approximately \$16.2 million pursuant to four loan agreements dated August 24, 2020, April 6, 2021, January 20, 2023 and February 1, 2023, between TD Bank and HWD, HTL, HWD and JBTTI, respectively, (collectively, the “**TD Facilities**”).
29. The TD Facilities comprise an operating loan, a leasehold loan, term facilities and equipment loans. Each member of the JBT Group has provided guarantees for one another’s obligations under the TD Facilities. According to Management, the TD Facilities are secured by a general security agreement and a mortgage over the Melair Real Property.

### **Equipment Financing**

30. According to Management, in addition to equipment financed by TD Bank, the JBT Group has financed other equipment with six other secured lenders totaling approximately \$2.2 million of equipment loans secured against specific tractor trailers, forklifts and other equipment.

### **Employee and Government Obligations**

31. According to Management, all payroll and Canada Revenue Agency (“**CRA**”) obligations for HST and payroll source deduction remittances are current. On January 9, 2025, the

CRA issued to Waydon Management Inc. a requirement to pay \$59,295 with regards to unpaid corporate taxes which is an unsecured claim in a NOI proceeding.

32. There are no arrears of property taxes owing with respect to the Melair Real Property.

### Unsecured Creditors

33. In addition, the JBT Group has unsecured creditor debt at the date of the NOI's totaling approximately \$25.6 million, of which \$3.9 million is owed to approximately 460 unrelated creditors, and the balance of approximately \$21.6 million is owed to related creditors.

34. The following chart summarizes the total secured and unsecured debt at the date of the NOI proceedings for each of the Applicants:

JBT Group Secured and Unsecured Debt by Debtor	Total Debt	Secured Debt		Unsecured Debt	
		TD Bank	Other	Unrelated	Related
JBT Transport Inc.	15,801,021	6,287,178	1,683,826	2,501,556	5,328,460
Melair Management Inc.	13,204,586	8,168,687	-	2,370	5,033,529
Heritage Truck Lines Inc.	4,738,586	615,757	531,838	922,214	2,668,777
Waydon Management Inc.	4,649,270	585,091	-	59,545	4,004,634
Heritage Warehousing & Distribution Inc.	4,162,689	794,667	-	300,258	3,067,764
Drumbo Transport Inc.	1,308,664	-	-	65,840	1,242,824
Heritage Northern Logistics Inc.	232,112	-	-	2,300	229,812
<b>Total</b>	<b>44,096,928</b>	<b>16,451,380</b>	<b>2,215,664</b>	<b>3,854,083</b>	<b>21,575,800</b>

### OVERVIEW OF APPLICANTS' CASH FLOW FORECAST

35. JBT Group, with the assistance of the Proposed Monitor, has prepared a weekly cash flow forecast ("**Cash Flow Forecast**") for the period from January 26, 2025 to April 19, 2025 ("**Cash Flow Period**"). A copy of the Cash Flow Forecast is attached hereto as **Appendix "C"** to this Report. The Cash Flow Forecast has been prepared by Management of JBT Group for the purpose of this motion, using probable and hypothetical assumptions set out in notes 1 to 8 attached to the Cash Flow Forecast. The Cash Flow Forecast reflects receipts and disbursements to be received or paid over a twelve-week forecast period in Canadian dollars.
36. The Cash Flow Forecast projects that JBT Group will require the use of the DIP Facility to have sufficient liquidity, to fund its expenses and the CCAA proceeding throughout the Cash Flow Period.
37. In addition, the Proposed Monitor notes that the Cash Flow Forecast contemplates the

payment of "Critical Vendor Payments." The Applicants have advised that these payments are the amounts required to pay to contract carriers that will be secured by the carrier trust obligations and the proposed Critical Supplier Charge (all as discussed below). These cash flow payments do not comprise the payment of any further pre-filing amounts that the Applicants could request the Proposed Monitor to authorize for payment under the draft order.

38. The Cash Flow Forecast also contains the payment of limited pre-filing amounts, which the Applicants seek authorization to pay in the draft Initial Order. The Proposed Monitor has advised the Applicants that the ability to make any such payment will be informed by the then existing cash position of the Applicants.
39. The Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to the Proposed Monitor by certain of the Management and employees of JBT Group. Since hypothetical assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposed Monitor has also reviewed the support provided by Management of JBT Group for the probable assumptions, and the preparation and presentation of the Cash Flow Forecast.
40. Based on the Proposed Monitor's review, nothing has come to its attention to cause it to believe that, in all material respects:
  - i) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
  - ii) as at the date of this Report, the probable assumptions developed by management are not suitably supported and consistent with the plans of JBT Group or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions; or
  - iii) the Cash Flow Forecast does not reflect the probable and hypothetical Assumptions.
41. As described in the Terms of Reference, since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information

presented, even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Proposed Monitor expresses no opinion or other form of assurance with respect to the accuracy of financial information presented in the Cash Flow Forecast or relied upon by the Proposed Monitor in preparing this Report.

42. The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes

### **CONVERSION TO CCAA**

43. The Applicants seek to continue the NOI Proceedings under the CCAA pursuant to section 11.6 of the CCAA. A critical consideration in the decision to convert is real-time factual and legal issues currently facing the Applicants in respect of the logistics arm of the business. Specifically: certain of the Applicants' contract carriers are: (a) withholding shipments for payment; (b) requiring advance payment-in-full for future payments; and (c) approaching JBT Group's customers directly to request payment and/or solicit business. These issues pose an immediate, short-term threat to JBT Group's business as it creates cash flow issues and, longer-term threat that will impair potential realizations as a going concern.
44. In view of the foregoing, the Applicants concluded that CCAA proceedings were the preferred forum to address the carrier concerns, to safeguard and stabilize the business operations and to, ultimately, implement a sale and investment solicitation process that will maximize recovery for stakeholders, while also maintaining going concern operations to safeguard employment for the Applicants' 83 full-time employees.

### **DIP FINANCING**

45. As described in the Medeiros Affidavit, JBT Group's liquidity constraints have resulted in insufficient funds to continue operating the Business.
46. To allow the Applicants to continue operating and have time to develop its restructuring plan, the DIP Lender, a member of Management, agreed to extend debtor-in-possession ("**DIP**") financing to the Applicants. The DIP Lender's Term Sheet was executed, subject to Court approval. A copy of the DIP Term Sheet is attached hereto as **Appendix "D"**.

47. The DIP Term Sheet includes the following terms:
- i) the total available principal funds under the DIP Facility are \$250,000;
  - ii) interest shall be payable at the rate of 10% per annum;
  - iii) no other fee or penalty shall be charged on the DIP Facility, however, the DIP Lender may recover reasonable fees, expenses and costs associated with negotiating and, if necessary, enforcing, the DIP Term Sheet;
  - iv) the DIP Facility matures on the earliest of: a) the implementation of a plan of arrangement; b) the closing of a sale transaction; c) the refinancing of the DIP Facility upon the written consent of the DIP Lender and Applicants; d) the date on which the CCAA proceedings are terminated or are converted into a bankruptcy proceeding under the BIA; e) payment in full of the obligations under the DIP Facility; or f) the occurrence of an Event of Default (as defined in the DIP Term Sheet); and
  - v) advances under the DIP Facility are conditional upon Court approval of the DIP Term Sheet, and the granting of a super-priority DIP Lender's Charge in favour of the DIP Lender over all the Property of the Applicants, subordinate only to the Administration Charge and TD Bank's mortgage security over the Melair Real Property.
48. The Cash Flow Forecast indicates that JBT Group requires the DIP Facility to fund operations and these proceedings and will have sufficient funds available under the DIP Facility to fund its expenditures through the Cash Flow Period. The Cash Flow Forecast indicates that the first draw from the Interim Facility will be required in the week-ending March 1, 2025.
49. The Proposed Monitor is of the view that acceptance of the DIP Term Sheet and the DIP Facility contemplated therein:
- i) is required to fund the operations of JBT Group while it completes its operational and financial restructuring;
  - ii) will enhance the prospects of a viable CCAA plan being made by JBT Group; and
  - iii) in the view of the Proposed Monitor, the creditors will not be materially prejudiced

by the granting of the DIP Lender's Charge, as it will provide the Company with the cash flow it requires to fund its going concern operations while it continues its restructuring and, absent such funding, operations would cease; and

iv) is in the best interests of JBT Group and its stakeholders.

50. Furthermore, the Proposed Monitor is of the view that the costs associated with the Interim Facility are commercially reasonable in the circumstances for a DIP Facility of a business in circumstances similar to JBT Group's.
51. Without access to financing under the DIP Facility, the JBT Group will: (i) not be able to maintain its operations and fund payroll, preserve asset value or complete a restructuring; and (ii) be forced to wind down its operations and commence a liquidation of its assets, resulting in the loss of value and over a hundred direct and indirect jobs to the material detriment of its creditors and stakeholders.

## **PROPOSED COURT CHARGES**

### **DIP Lender's Charge**

52. JBT Group requires immediate funding to maintain its existing operations and to meet ordinary course of business expenses, as evidenced by the Cash Flow Forecast. Any amounts advanced are expected to be used for payroll, supplier payments and other ordinary course business expenses, as well as payment of restructuring professionals.
53. As noted above, the condition of the DIP Term Sheet is that the DIP Lender receives the benefit of a DIP Lender's Charge to the maximum amount of the aggregate of any and all advances by the DIP Lender to JBT Group pursuant to the DIP Term Sheet. The Proposed Monitor supports JBT Group's request for the DIP Lender's Charge.
54. TD Bank requested that the DIP Lender's Charge rank behind its mortgage over the Melair Real Property and the DIP Lender agreed. According to Management, the estimated market value of the Melair Real Property is greater than TD Bank's mortgage over the real property.
55. For the reasons set out above, in the view of the Proposed Monitor, the DIP Term Sheet is reasonable and appropriate and is typical in similar proceedings, as is the proposed priority of the DIP Lender's Charge as set out in the form of draft order filed with the

Court and, therefore, should be granted by the Court.

### **Administrative Charge**

56. JBT Group is seeking a charge (the “**Administration Charge**”), in a maximum amount of \$250,000, against the assets of JBT Group, to secure the fees and disbursements incurred in connection with services rendered to JBT Group both before and after the commencement of the NOI Proceedings and the proposed CCAA proceedings by the following entities: the Proposed Monitor, its counsel and counsel to JBT Group, and in the event of a bankruptcy, the trustee in bankruptcy and its counsel, which shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise in favour of any person.
57. The quantum of the Administration Charge sought by JBT Group was determined in consultation with the Proposed Monitor and in the view of the Proposed Monitor is reasonable and appropriate in the circumstances and should be granted by the Court. The creation of the Administration Charge is typical in similar proceedings, as is the proposed priority of the Administration Charge, as set out in the form of draft order filed with the Court.

### **Critical Supplier Charge**

58. JBT Group is seeking a charge (the “**Critical Supplier Charge**”), in a floating amount equal to the value of accounts payable due to contract carriers for the supply of pre-filing transportation services, which charge shall only attach to the corresponding account receivable payable to JBT Group directly arising from the respective shipment delivered by any such carrier.
59. The Critical Supplier Charge is discussed in more detail below but is designed to safeguard the continuation of the JBT Group’s logistics business, while at the same time balancing the interests of the various contract carriers. Such a charge is reasonable and appropriate as it simply operates to reinforce the JBT Group’s existing carrier trust obligations (discussed below), gives added comfort to the contract carriers, and is key to enabling the JBT to continue as a going concern.



## Priority of Charges

60. The Applicants propose the Court-Ordered Charges rank as follows:
- i) first, the Critical Supplier's Charge, but only against those accounts receivable generated by the contract carrier providing services in respect of the underlying shipment;
  - ii) second, the Administration Charge, against all assets of the JBT Group; and
  - iii) third, the DIP Lender's Charge, against all assets of the JBT Group but subordinate to TD Bank's interest in the Melair Real Property.
61. The Proposed Monitor believes the proposed priority of the charges is a balanced proposal, consistent with the stated objectives of the Applicants in commencing these proceedings. No party will be materially prejudiced by the same; and, the Critical Supplier's Charge is, in effect, the formalization of the Applicants' carrier trust obligations in the form of a CCAA charge.

## MANAGEMENT OF CARRIER TRUST OBLIGATIONS AND CRITICAL SUPPLIER CHARGE

62. The JBT Group coordinates customer shipments using a variety of independent carriers throughout Canada and the United States. These are carrier lanes which the JBT Group does not service with its own fleet, but to service its customers trucking needs it contracts out the customer lane to a third-party carrier that services that particular geography. At times these deliveries are to rural areas with very few or no alternative carriers servicing these geographies. The customer then pays JBT Group, JBT Group retains a commission (which averages 15%) and pays the balance (85% on average) to the carrier.
63. Under the *Highway Traffic Act*, in such capacity the JBT Group is obligated to hold customer payments in trust until the underlying carrier has been paid. Prior to the Filing Date, these customer payments were not held in a separate trust and were intermingled with operating funds. Consequently, after the Filing Date and resulting stay of proceedings, certain carrier brokers were not paid and became unsecured creditors in the NOI proceedings and have questioned how payment will be protected going forward.
64. After the Filing Date, the JBT Group created separate RBC trust accounts by legal entity

to deposit all customer payments in respect of receipts associated with the carrier broker business. The customer payments are then released only as payment to the carrier account relating to the shipment for which payment was received, and the associated JBT Group commission is transferred to the JBT Group operating account.

65. At the Filing Date, carrier broker payables totaled approximately \$2.7 million and accounts receivable associated with these broker payables totaled approximately \$1.4 million. As such, approximately \$1.2 million (\$1.4 million less average JBT Group commission of 15%) are accounts receivable impressed with a trust, and are the subject of the Applicant's request for a Critical Supplier Charge. As these accounts receivable are impressed with a trust, they do not form part of the collateral of TD Bank's security, unless and until the trust claim is satisfied. It is the Proposed Monitor's understanding that TD Bank is, or ought to have been, aware of this trust, since it had reserved for broker payables in the Applicants' borrowing base calculation.
66. The balance of the broker payables at the Filing Date totaling \$1.3 million (\$2.7 million less \$1.4 million), which are not associated with an uncollected account receivable, will be unsecured debt in the insolvency proceeding.
67. This trust mechanism will manage the JBT Group carrier trust obligations in respect of post-filing accounts received, thereby protecting all contract carriers and ensuring the continued viability of the JBT Group since, according to Management, the contract carriers will continue to provide carrier services, including providing credit terms, knowing that their receivables are protected, and will cease holding loads hostage.
68. As stated above, these trust mechanisms are mirrored in the Critical Supplier Charge and, if approved, should provide stability to the JBT Group and certainty to the contract carriers, without prejudice to any party.

## **CONCLUSION AND RECOMMENDATION**

69. Based on all the foregoing, the Proposed Monitor respectfully recommends that the Court make an order granting the relief requested by JBT Group in the Orders requested, as summarized in paragraph 6 of this Report.

All of which is respectfully submitted on this 8<sup>th</sup> day of February 2025.

**DODICK LANDAU INC.**

In its capacity as the Proposed Monitor of the Applicants  
under the *Companies' Creditors Arrangement Act* and not  
in its personal or corporate capacity.

Per:

A handwritten signature in black ink, appearing to read "R. Dodick". The signature is written in a cursive, somewhat stylized font.

---

Rahn Dodick, CPA, CA, CIRP, LIT  
President

# TAB B

# APPENDIX “B”

Court File No. CV-25-00736572-00CL

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

THE HONOURABLE	)	MONDAY, THE 10TH
	)	
JUSTICE KIMMEL	)	DAY OF FEBRUARY, 2025

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JBT  
TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE  
TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS  
INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC.**

**Applicants**

**ORDER  
(CONTINUATION UNDER THE CCAA)**

**THIS APPLICATION**, made by the Applicants to continue the proceedings commenced by the Applicants by the filing of notices of intention to make a proposal under Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") bearing estate file numbers 35-3178683, 35-3178693, 35-3178758, 35-3178767, 35-3178803, 35-3178893 and 35-3178904 (the "**NOI Proceedings**") under the *Companies Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**") was heard on this day at 330 University Avenue, Toronto, Ontario by video conference.

**ON READING** the affidavit of Denis Medeiros, sworn February 6, 2025 and the Exhibits thereto (the "**Medeiros Affidavit**"), the First Report of Dodick Landau Inc. (in its capacity as proposal

trustee of the Applicants in the NOI Proceedings (the "**Proposal Trustee**") and as proposed Monitor in these CCAA proceedings), and the application materials of The Toronto-Dominion Bank ("**TD Bank**") , and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, the Proposal Trustee and such other counsel as were present as listed on the counsel slip, no one else appearing although duly served as appears from the certificate of service of Jasmine Landau affirmed February 7, 2025, and on reading the consent of Dodick Landau Inc. to act as the Monitor,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

### **CONTINUANCE UNDER THE CCAA**

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies, and the Applicants shall enjoy the benefits of the protection and authorizations provided to the Applicants by this Order.

3. **THIS COURT ORDERS AND DECLARES** that effective February 10, 2025 (the "**Filing Date**"), the NOI Proceedings are hereby taken up and continued under the CCAA and that, as of such date, the provisions of the BIA shall have no further application to the Applicants, save that any and all steps, agreements and procedures validly taken, done or entered into by the Applicants shall remain valid and binding, notwithstanding the commencement of these CCAA proceedings; and, without limiting the foregoing, any notice of disclaimer or resiliation issued pursuant to s. 65.11 of the BIA shall be deemed to have been issued on the same date under s. 32 of the CCAA and shall continue in full force and effect under the provisions of the CCAA.

4. **THIS COURT ORDERS** that the Monitor shall have the benefit of all rights and protections granted to the Proposal Trustee under the BIA.

#### **POSSESSION OF PROPERTY AND OPERATIONS**

5. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Medeiros Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:



- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, in accordance with the terms of the applicable lease agreement.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. ~~The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors.~~ If the Applicants disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered or deemed to have been delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

## NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including February 28, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or

the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

17. **THIS COURT ORDERS** that, subject to paragraph 33 herein, during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all Carriers (as defined herein), computer software, communication and other data services, centralized banking services, payroll

services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

#### **PAYMENT OF PRE-FILING AMOUNTS**

18. **THIS COURT ORDERS** that the Applicants shall be entitled to pay, with the written approval of the Monitor, the amounts owing to the suppliers, for critical goods or services actually supplied to the Applicants prior to the Filing Date if, in the opinion of the Applicants, such payment is necessary to maintain the uninterrupted operations of the business.

#### **NON-DEROGATION OF RIGHTS**

19. **THIS COURT ORDERS** that, subject to paragraphs 31 to 33, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **NO PRE-FILING VS POST-FILING SET OFF**

20. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (i) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with

any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the Applicant and the Monitor or further Order of this Court.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

#### **APPOINTMENT OF MONITOR**

22. **THIS COURT ORDERS** that Dodick Landau Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

23. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (d) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (e) perform such other duties as are required by this Order or by this Court from time to time.

24. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or

other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants are confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a bi-weekly basis or at such other interval as deemed appropriate.



29. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, since January 24, 2025 in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 34 and 36 hereof.

#### **CRITICAL SUPPLIERS CHARGE AND DEALINGS WITH CUSTOMERS OF THE APPLICANTS**

31. **THIS COURT ORDERS** that all transportation carriers and owner operators that are engaged by the Applicants to provide carrier services during the Stay Period or are in the process of providing services, including those Carriers listed on **Schedule "A"** hereto (each, a "**Carrier**", and collectively, the "**Carriers**"), be and are hereby stayed from contacting customers of the Applicants in respect to the business of the Applicants, including but not limited to, requiring customers to make payments to the Carriers, soliciting business from such customer, from taking any enforcement action with respect to the Carrier Trust Funds (as defined herein) or from holding the Applicants load freight product hostage on account of any outstanding indebtedness owing by the Applicants to Carriers prior to the Filing Date.

32. **THIS COURT ORDERS** that all receivables received by the Applicants on or after the Filing Date shall be treated in accordance with the provisions of the *Highway Traffic Act*, RSO 1990, c. H. 8 (the "**HTA**"), including section 190.0.1(3) therein. Specifically, the Monitor shall confirm that funds impressed with a trust pursuant to section 191.0.1(3) of the *HTA* ("**Carrier Trust Funds**") shall be held in a segregated account and will be paid to the Carriers pursuant to and in accordance with the *HTA*.

33. **THIS COURT ORDERS** that, in order to secure any Carrier's right to payment for the supply of services rendered to the Applicants in respect of shipments in connection with which such Carrier was engaged by the Applicants for the carriage of goods on or subsequent to the Filing Date, each Carrier be and is hereby granted a charge on the applicable receivable associated with such shipment received by the Applicants or any of them, from and after the Filing Date (each a "Receivable"), and the charge on the applicable Receivable shall be in the amount owing to the Carrier (all such charges, collectively the "Critical Suppliers Charge").

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

34. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Critical Suppliers Charge (the "Charges"), as among them, shall be as follows:

First – Critical Suppliers Charge (solely in respect the applicable Receivable); and

Second – Administration Charge (to the maximum amount of \$150,000).

35. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

36. **THIS COURT ORDERS** that subject to the terms herein, each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, except that the Critical Suppliers Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise solely in respect of the applicable Receivable.

37. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that

rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, TD Bank and the beneficiaries of the Administration Charge, or further Order of this Court.

38. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

39. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

#### **SERVICE AND NOTICE**

40. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, and (B) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

41. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/sci/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [https://dodick.ca/public\\_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/](https://dodick.ca/public_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/).

42. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile

transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

43. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

44. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **COMEBACK MOTION**

45. **THIS COURT ORDERS** that the comeback motion shall be heard by a judge of the Ontario Superior Court of Justice (Commercial List) as a hearing *de novo* on February 27, 2025 at 11:00 a.m.

**GENERAL**

46. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

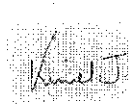
47. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

48. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

49. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

50. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

51. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



Digitally signed  
by Jessica Kimmel  
Date: 2025.02.11  
13:48:16 -05'00'

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**SCHEDULE 'A'**

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<b>Carrier List</b>
<b>401 Transport Connections</b>
<b>Alpha Trans LTD</b>
<b>Arrive Logistics</b>
<b>Arsh Gill Trucking</b>
<b>ASL Global Logistics</b>
<b>Autobahn Freight</b>
<b>B2B Freightway</b>
<b>Baba Maur Transport</b>
<b>Best Care Transport</b>
<b>Canadian Line Haul</b>
<b>Caneda Transport</b>
<b>Canex Freight</b>
<b>Can-Truck 2009 Inc.</b>
<b>Caramex Logistics</b>
<b>D4 Logistics Inc.</b>
<b>DC Courier</b>
<b>DMK Express</b>
<b>E.G. Gray</b>
<b>First Base Freight</b>
<b>Friends Enterprises</b>
<b>Haul Expedite Inc.</b>
<b>Hemo Logistics</b>
<b>Highlight Motor Freight</b>
<b>I.S. Trucking Limited</b>
<b>Kartz Transport Inc.</b>
<b>Khehra Trucklines</b>
<b>Kooner Transport Group</b>
<b>Nationwide Logistics</b>
<b>North Plus Inc.</b>
<b>Ollie Transport Inc.</b>
<b>ON Target Courier &amp; Cargo LTD</b>
<b>ONE Call Express</b>
<b>Pace Marathon</b>
<b>Paul's Freight Lines</b>
<b>Peace Trucking Inc.</b>
<b>Polaris Transport Carriers Inc</b>
<b>Prime Line Logistics Inc.</b>
<b>Rajpura Transport</b>
<b>Rana Logistics Inc.</b>
<b>Road Train Express Inc</b>

<b>Shaan Truckline</b>
<b>Simconnect Freight MGMT</b>
<b>Sky High Express</b>
<b>SSP Truckline Inc.</b>
<b>Sterling Freight Systems</b>
<b>T.E.A.M.S Transport</b>
<b>Team Logistics Inc.</b>
<b>Top Star Logistics Inc.</b>
<b>Transway Transport Inc.</b>
<b>Tricorp Transportation</b>
<b>Tung Air Transport LTD</b>
<b>Turbo Trailer Transport LTD.</b>
<b>Velocity Transport</b>
<b>Wolf Pack Logistics</b>
<b>Just on Time Freight Systems</b>
<b>BDR International</b>
<b>Patco Transportation Inc.</b>
<b>Crossroads Express</b>
<b>I-Net Express</b>
<b>Rydex Freight Systems</b>
<b>Drive Force LTD.</b>
<b>SMS Logistics Inc.</b>
<b>Keena Truck Leasing &amp; Trans LTD.</b>
<b>VTL Express Inc.</b>
<b>Longview Truckline LTD.</b>

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
RSC 1985, c C-36, AS AMENDED AND  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
JBT TRANSPORT INC. ET AL.

<p><b>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</b></p> <p><i>Proceedings commenced at TORONTO</i></p>	<p><b>ORDER</b> (Continuation Under the CCAA)</p> <p><b>RECONSTRUCT LLP</b> 80 Richmond Street West, Suite 1700 Toronto, ON M5H 2A4</p> <p><b>Caitlin Fell</b> LSO No. 60091H <a href="mailto:cfell@reconllp.com">cfell@reconllp.com</a> Tel: 416.613.8282</p> <p><b>Brendan Bissell</b> LSO No. 40354V <a href="mailto:bbissell@reconllp.com">bbissell@reconllp.com</a> Tel: 416.613.0066</p> <p><b>Jessica Wuthmann</b> LSO No. 72442W <a href="mailto:jwuthmann@reconllp.com">jwuthmann@reconllp.com</a> Tel: 416.613.8288</p> <p><b>Jasmine Landau</b> LSO No. 74316K <a href="mailto:jlandau@reconllp.com">jlandau@reconllp.com</a> Tel: 416.613.4880 Fax: 416.613.8290</p> <p><b>Lawyers for the Applicants</b></p>
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ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

**COURT FILE NO.:** CV-25-00736572-00CL

**DATE:** February, 2025

**NO. ON LIST:** 4

**TITLE OF PROCEEDING:**

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC.**

**BEFORE:** MADAM JUSTICE KIMMEL

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

<b>Name of Person Appearing</b>	<b>Name of Party</b>	<b>Contact Info</b>
R. Brendan Bissell Caitlin Fell	Counsel for Applicants	bbissell@reconllp.com cfell@reconllp.com

**For Defendant, Respondent, Responding Party:**

<b>Name of Person Appearing</b>	<b>Name of Party</b>	<b>Contact Info</b>
Craig A. Mills Matthew Cressatti	Counsel for Toronto-Dominion Bank	cmills@millerthomson.com mcressatti@millerthomson.com

**For Other, Self-Represented:**

<b>Name of Person Appearing</b>	<b>Name of Party</b>	<b>Contact Info</b>
Graham Phoenix	Counsel for Proposed Monitor - Dodick Landau Inc.	<a href="mailto:gphoenix@LN.law">gphoenix@LN.law</a>
Shahrazad Hamraz		<a href="mailto:shamraz@ln.law">shamraz@ln.law</a>
Nabiel Dawood	Counsel for Group of lien creditors with a separate ongoing action,	<a href="mailto:ndawood@millerthomson.com">ndawood@millerthomson.com</a>

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## **ENDORSEMENT OF JUSTICE KIMMEL:**

### **The Competing CCAA and Receivership Applications**

- [1] On January 24, 2025 (the "Filing Date"), JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc. ("HTL"), Drumbo Transport Limited ("Drumbo"), Heritage Northern Logistics Inc. ("HNL"), and Heritage Warehousing & Distribution Inc. ("HWD") (each individually, an "Applicant" and collectively, the "JBT Group" or "Applicants") each filed a Notice of Intention to Make a Proposal ("NOI") under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "BIA"). Dodick Landau Inc. ("DLI") was appointed as proposal trustee under each NOI proceeding (collectively, the "NOI Proceedings").
- [2] The NOIs were filed after the Applicants' senior secured lender, Toronto-Dominion Bank ("TD Bank"), served a demand for the entirety of the approximately \$16.2 million debt owed by the Applicants to TD Bank (the "Demands").
- [3] In the year prior to the Demands, the Applicants and TD Bank had worked cooperatively during various periods of forbearance by TD Bank. In particular, the Applicants engaged a financial advisor mandated by TD Bank, effected the sale of a real property and other assets, and implemented an operational restructuring to decrease operating costs and enhance the Applicants' market position. The Applicants' efforts resulted in a reduction of the indebtedness owed to TD Bank from approximately \$25 million in January of 2024 to \$16.2 million in December of 2024, while they stayed current on all monthly payments.
- [4] However, there were other defaults under the TD Bank's loan and security documents and the Applicants were unable, over the course of over a year of informal and formal forbearance agreements with TD Bank, to come up with a refinancing proposal or restructuring plan that was acceptable to TD Bank. TD Bank made the Demands after the last refinancing proposal came back with increased shortfalls on its secured debt.
- [5] The Applicants claim to now be facing an urgent liquidity and operational crisis and would like to avail themselves of the benefit of the flexibility of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "CCAA") in their application commenced on February 6, 2025 (the "CCAA Application").
- [6] The Applicants have over 58 trucks, 162 dry vans and refrigerated units, and over 100,000 square feet of state-of-the-art, GDP Gold-certified food storage and warehouse spaces. The Applicants also employ 83 full-time employees and 23 independent owner-operators.

- [7] Capitalized terms not otherwise defined in this endorsement shall have the meanings ascribed to them in the affidavit of Denis Medeiros sworn February 6, 2025 in support of the CCAA Application.
- [8] The JBT Group, with the assistance of the Proposed Monitor, has prepared a weekly cash flow forecast ("Cash Flow Forecast") for the period from January 26, 2025 to April 19, 2025 ("Cash Flow Period") that is attached to and described in the pre-filing report of DLI dated February 8, 2025 (the "Pre-filing Report"). The JBT Group is seeking approval of Debtor in Possession financing ("DIP Financing") from a related party (individual) and a corresponding priority DIP Charge that would give it sufficient cash flow and liquidity to continue operations until April 19, 2025. Counsel for the Applicants confirmed in court that the JBT Group will require external financing to fund its operations starting in March 2025 and expects to be in a positive cash flow position by the Applicants' proposed extended Stay Period to April 19, 2025.
- [9] The JBT Group is asking for an extended initial stay under the CCAA (building on the stay already in place from the NOI Proceedings) until April 19, 2025 to give it the necessary breathing room to implement a restructuring strategy and conduct a court-approved sale and investment solicitation process for the purposes of selling the Applicants as a going concern to a new owner ("SISP").
- [10] The Applicants also seek a Critical Suppliers Charge and direction that suppliers continue to provide service under s 11.4 of the CCAA to address the exercise of prejudicial self-help remedies by carriers. The Applicants also seek an order staying such carriers from contacting customers of the Applicants directly or otherwise interfering with the Applicants' arrangements with their customers during the restructuring.
- [11] In response to the CCAA Application, TD Bank served its own draft Notice of Application dated February 7, 2025 (the "Receivership Application") seeking to lift the NOI stay of proceedings and an order appointing BDO Canada Limited ("BDO") as receiver and (in such capacity, the "Receiver"), without security, of all of the current and future assets, undertakings, and properties (the "Property") pursuant to s. 243(1) of the *Bankruptcy and Insolvency Act* ("BIA"), R.S.C. 1985 c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended (the "CJA"). TD has the right under its security documents to appoint a receiver. The Applicants also consented to the appointment of a receiver under the terms of the Forbearance Agreement.
- [12] The Applicants maintain that a debtor-in-possession restructuring that permits the JBT Group, that is familiar with their own operations, suppliers, customers, employees and other stakeholders, to continue the Applicants' operations in the normal course will better preserve value for stakeholders through a going concern option, as opposed to a receivership that the Applicants believe will put their going concern business at risk.

- [13] TD Bank is not prepared to continue financing, through its outstanding Loan Facilities, the going concern business of the JBT Group while its indebtedness increases (the Applicants are not proposing to service its loans) and is primed and eroded in favour of other proposed Debtor in Possession (DIP) financing, administration charges for the professional fees of the Applicants and DLI (the Proposal Trustee and proposed Monitor) and possibly certain non-trust priority payments for pre-filing debt to Critical Suppliers. TD Bank has not had the opportunity to do a fulsome analysis of the greater prejudice that it faces from a CCAA as opposed to Receivership scenario, as it was only served with the CCAA Application late last week.
- [14] The Critical Suppliers were served with the CCAA Application late on Thursday February 7, 2025 (for the application returnable today). None of the Critical Suppliers raised any concerns at or before the hearing, but the court expressed some concern that they may not realize the nature of the relief that is being sought against them and they were short served with the CCAA Application over the weekend.
- [15] Neither the Applicants nor TD Bank are contesting the ability of the other to satisfy the basic requirements of the orders they seek (in the case of the Applicants, an initial first day CCAA order (the "Initial Order") and the appointment of DLI as Monitor, and in the case of TD Bank, an order appointing BDO as Receiver under the BIA). They both agree that it is appropriate for one of the orders to be made (perhaps with some tweaking of the specific terms). However, they disagree about which of the orders is the more appropriate order to be made at this time and in the specific circumstances of the JBT Group.

### **The Competing Considerations and Notice Concerns**

- [16] At the core of the Applicants' position is its desire to preserve a going concern option at least until they have had the chance to put forward, and if approved, to run a SISF. They say that the value of their business is derived from assets that require a going concern business. They are looking for a means to avoid what they believe will be devastating social and economic effects of bankruptcy or creditor initiated termination of their ongoing business operations through a court-supervised attempt to reorganize their financial affairs.
- [17] TD Bank's position is that the Applicants have already tried to sell off some of their property and that there is no SISF proposal before the court to consider and evaluate against what the JBT Group has been trying to do since its loan defaults started in October of 2023. At the heart of TD Bank's position is its concerns about the erosion of its security and its increased debt.
- [18] TD Bank was transparent that it does not know whether the Receiver will recommend any options that preserve the going concern operations of the Applicants' business. To grant the Receivership Application today could deprive the Applicants of a debtor-led going concern restructuring alternative; whereas, the converse is not true: To grant the CCAA Application does not foreclose a liquidation or even the appointment of a Receiver at or

after the comeback hearing when the Receivership Application will also come back on for a hearing with the CCAA Application hearing de novo.

- [19] While the court would like to encourage the parties to try to reach an agreement on the type of the restructuring proceedings for these Applicants, it recognizes that this may not be possible. These parties have been trying to come to a consensual resolution for over a year already. However, given the short service of the CCAA Application (and corresponding shorter service of the Receivership Application), the lack of any response at all from the Critical Carriers or any other creditor of the Applicants, the insufficient time for a complete record to be developed on the question whether TD Bank will suffer material prejudice if it is not permitted to pursue its Receivership Application and the need to more fully develop the SISP, I have concluded that a first instance "very skinny" order should be made now in the CCAA Application.
- [20] The parties should also consider whether there is a possibility of appointing DLI as Receiver if the Receivership Application were to be later granted (as indeed the model form of Initial Order allows for), to try to take advantage of DLI's familiarity with the Applicants' business and assets and liabilities, if all parties and DLI were to agree to this appointment.

### **Initial CCAA Order and Comeback Provisions**

- [21] I agree with the Applicants that a slightly longer than 10 day initial Stay Period is warranted in this case, given that there is already a Stay in the NOI Proceedings that would not expire in any event until February 24, 2025 and efforts were made to give notice to the creditors, which has led to further engagement with the most significant and senior secured creditor, TD Bank: see Endorsement of Cavanagh J dated October 7, 2021 in *Medifocus Inc (Re)*, Court File No CV20- 00669781-00CL and the initial order granted in *Cannmart Labs (Re)*.
- [22] The order that I am signing will grant an extended initial Stay Period until February 28, 2025, the day after the comeback hearing on February 27, 2025.
- [23] The Applicants' maintain that they need the Critical Suppliers Charge and corresponding direction for the continued supply of goods and services by the Critical Suppliers, with discretion to pay pre-filing obligations to these creditors to ensure their continued supply, even during the initial Stay Period. This is what the Applicants say distinguishes the CCAA Application from the Receivership Application. There is precedent for granting this type of order and I am satisfied that it is appropriate to do so in the circumstances of this case, at least for the Initial Stay Period and until February 28, 2025, the day after the comeback hearing, at which time the Critical Suppliers will have the opportunity to be heard if they decide to avail themselves of that.



- [24] The factors that favour granting the Critical Suppliers Charge derived from *Prizm Income Fund (Re)*, 2011 ONSC 2061, at para 31 and *Pride Group Holdings Inc et al (Re)*, 2024 ONSC 2026, at para 46 are succinctly set out in paragraphs 59 and 60 of the Applicants' factum. Precedent and authority for giving the Applicants, in consultation with the Monitor, the ability to pay pre-filing amounts to suppliers for critical goods and services actually supplied to the Applicants (and that are not otherwise covered by the Carrier Trust Funds) for their pre-filing claims can be found in *Springer Aerospace Holdings Limited*, 2022 ONSC 6581, at paras. 25-27; *McEwan Enterprises Inc. (Re)*, 2021 ONSC 6453, at paras. 32-33. That said, this discretion should be utilized sparingly and only when determined by the Applicants in consultation and with approval of the Monitor to be essential to the continued supply during the initial Stay Period until the comeback hearing. The court will expect to receive a complete report from the Monitor about who the Critical Suppliers are and what if any pre-filing and post-filing payments to them have been authorized and made to any of them.
- [25] The ability of transport carriers to enforce their right to payment of the Carrier Trust Funds directly from the customer who receives and pays for the goods, instead of that payment going to the broker is preserved under the Initial Order.
- [26] The Administrative Charge requested in the revised form of Initial Order is \$150,000, which is modest but shall, for purposes of this Initial Order, only apply to fees for services rendered by professionals in connection with the CCAA Proceeding from and after today and during the initial Stay Period, up to the specified maximum of \$150,000. The request for the Administrative Charge to cover pre-filing professional obligations can be revisited at the comeback hearing. There is going to be a cost associated with both a Monitor and a Receiver and, in the immediate short term during the initial Stay Period there will be far less of a learning curve for the proposed Monitor and counsel for the Applicants and the Monitor than for TD Bank and its proposed Receiver who do not have the same background regarding the business and operations of the Applicants.
- [27] This Initial Order shall be without prejudice to all issues raised or to be raised at the *de novo* comeback hearing. The balance of the CCAA Application and the entirety of the Receivership Application are adjourned to February 27, 2025 for a three-hour hearing commencing at 11:00 a.m., which will proceed by zoom.
- [28] I asked counsel for the Applicants to prepare a "very skinny" Initial Order that seeks only what is needed during this short period to February 28, 2025 during which it was confirmed during oral submissions that no DIP Financing would need to be drawn. Some edits were made to scale back the proposed form of Initial CCAA Order but it still contains provisions for the approval of the DIP Financing and DIP Charge and some other provisions that do not appear to me to be necessary during this Initial Stay Period. Those are not being approved at this time but may be revisited at the comeback hearing.

[29] The paragraphs of the revised draft of the Initial Order submitted by the Applicants that still need to be deleted or amended to reflect what the court has ordered under this endorsement for the limited purpose of the Initial Order are as follows:

- a. 12
- b. 24 (c) and (d)
- c. 31 (to remove reference to pre-filing fees)
- d. 32 to 37 inclusive
- e. 41 (remove DIP Charge and reduce Administration Charge to \$150,000)
- f. 43 and 45 remove references to the DIP Charge
- g. 52 – insert February 27, 2025 at 11:00 a.m.

[30] The court will sign a further revised form of Initial CCAA Order to be submitted by counsel for the Applicants to reflect these changes. The signed Initial Order shall be delivered to the service list together with a copy of this endorsement and all of the motion material for the motions now adjourned to February 27, 2025.

[31] All participating parties shall deliver a fresh factum for the comeback hearing (even if most of the points are repetitive of the factums from today's hearing) and all material for that hearing shall have been served, filed and uploaded into the appropriate bundle in Case Center by no later than 4:30 p.m. on February 25, 2025. If there are new positions taken by any interested party that challenge the relief sought on either the CCAA Application or the Receivership Application, the Applicants and TD Bank (as the case may be) may file a brief reply factum (of no more than 5 pages double spaced) by 4:30 p.m. on February 26, 2025.

[32] In addition to any other submissions the parties wish to make, the court asks that they address in their written submissions any comments they may have about the case of *Ashcroft Urban Developments Inc. (Re)*, 2024 ONSC 7192 (not cited by the parties but which addresses similar issues as were considered in the case of *Antibe Therapeutics Inc. (Re)*, Unreported Endorsement of Osborne J, 22 April 2024, at para. 59 cited by TD Bank).



KIMMEL J.

# TAB C

# APPENDIX “C”

**Consolidated Cash Flow for JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC. (collectively "JBT Group")**  
**Cash Flow Variance**  
**January 26, 2025 to February 15, 2025**

Week Ended (CDN \$)	Notes	Cumulative		
		Forecast	Actual	Variance
<b>Cash Receipts</b>				
Collections	<i>note 1</i>	1,605,400	1,136,079	(469,321)
<b>Total Cash Receipts</b>		1,605,400	1,136,079	(469,321)
<b>Cash Disbursements</b>				
Cost of Goods Sold - Transportation & Logistics	<i>note 1</i>	(1,040,240)	(559,388)	480,852
Cost of Goods Sold - Warehousing	<i>note 2</i>	(300,184)	(38,928)	261,256
G&A Expenses	<i>note 2</i>	(231,279)	(62,494)	168,785
<b>Total Cash disbursements - COGS</b>		(1,571,703)	(660,810)	910,893
<b>Total Net Cash - Operating</b>		33,697	475,269	441,572
Restructuring fees		(75,000)	(54,135)	20,865
Critical Vendor Payments	<i>note 3</i>	(413,173)	(26,423)	386,750
<b>Total Net Cash Disbursements - Non operational</b>		(488,173)	(80,557)	407,615
<b>Net Cash Flow</b>		(454,476)	394,711	849,187
Opening Cash		573,975	669,510	95,535
Add: Net Cash Flow		(454,476)	394,711	849,187
Add: Debtor in Possession (DIP) Financing drawing (repayment)		-	-	-
<b>Closing Cash</b>		<b>119,499</b>	<b>1,064,221</b>	<b>944,722</b>
<b>Less: Carrier Trust Funds</b>	<i>note 4</i>	-	(617,000)	(617,000)
<b>Closing Cash, excluding Carrier Trust Funds</b>		<b>119,499</b>	<b>447,221</b>	<b>327,722</b>

**Notes:**

1. Receipts are lower than forecast in part due to slower collections. Management has advised that in light of the concurrent receivership application customers have been slower to make their payments, as they are concerned that in a receivership the independent carriers will seek payment from them directly. Receipts are also lower than forecast as new business that had been forecast has not been generated which Management advises is due to the uncertainty created by the restructuring proceedings.

2. Lower sales have resulted in lower cost of goods on the transportation and logistics side of the business.

3. Warehouse cost of sales and general administrative expenses are lower than forecast due to the change in the Applicants banking from TD to RBC. Many of these vendors are paid by way of pre-authorized debits which the Applicants are in the process of setting up at RBC. As a result, this is a timing difference as these post-filing disbursements will be made in subsequent weeks.

4. The Applicants have completed a review of its post-filing receipts and calculated the funds to be transferred to the new trust accounts, which total approximately \$617,000. This analysis took significant time as that it was a labour intensive process involving numerous receivables that each needed to be individually reviewed. Subsequent to February 15th, the trust funds were transferred and the carrier payments pursuant to the critical vendor charge, as of the date of this Report, are in the process of being released. In the period \$26,423 in non-Carrier pre-filing critical payments were made in respect of fuel cards for drivers travelling in the US. Such payments were deemed to be critical to maintain the ongoing operation of the Business.

# TAB D

# APPENDIX “D”

**Consolidated Cash Flow for JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC. (collectively "JBT Group")**  
 Weekly Cash Flow Projection  
 February 16, 2025 to May 31, 2025

Week Ended (CDN \$)	Notes	22-Feb-25 Week 1	01-Mar-25 Week 2	08-Mar-25 Week 3	15-Mar-25 Week 4	22-Mar-25 Week 5	29-Mar-25 Week 6	05-Apr-25 Week 7	12-Apr-25 Week 8	19-Apr-25 Week 9	26-Apr-25 Week 10	03-May-25 Week 11	10-May-25 Week 12	17-May-25 Week 13	24-May-25 Week 14	31-May-25 Week 15	Total Forecast
<b>Cash Receipts</b>																	
Collections	Note 1	619,800	407,800	572,800	609,800	727,800	757,800	807,800	787,800	699,800	210,800	692,800	477,800	472,800	572,800	542,800	8,961,000
<b>Total Cash Receipts</b>		619,800	407,800	572,800	609,800	727,800	757,800	807,800	787,800	699,800	210,800	692,800	477,800	472,800	572,800	542,800	8,961,000
<b>Cash Disbursements</b>																	
Cost of Goods Sold - Transportation & Logistics	Note 2	(297,438)	(436,428)	(333,868)	(360,983)	(174,018)	(806,283)	(415,618)	(395,108)	(536,968)	(352,958)	(492,293)	(330,358)	(447,518)	(300,458)	(470,018)	(6,150,308)
Cost of Goods Sold - Warehousing	Note 3	(218,893)	(55,397)	(161,487)	(27,300)	(23,150)	(23,900)	(150,137)	(28,850)	(29,800)	(22,550)	(149,937)	(22,550)	(29,450)	(22,550)	(22,550)	(988,500)
G&A Expenses	Note 4	(58,250)	(125,105)	(92,790)	(70,980)	(91,700)	(49,610)	(93,060)	(82,910)	(59,021)	(49,610)	(93,060)	(92,910)	(55,310)	(49,610)	(64,610)	(1,128,537)
<b>Total Cash disbursements - COGS</b>		(574,580)	(616,929)	(588,145)	(459,263)	(288,868)	(879,793)	(658,815)	(506,868)	(625,788)	(425,118)	(735,290)	(445,818)	(532,278)	(372,618)	(557,178)	(8,267,345)
<b>Total Net Cash - Operating</b>		45,220	(209,129)	(15,345)	150,537	438,932	(121,993)	148,985	280,933	74,012	(214,318)	(42,490)	31,983	(59,478)	200,183	(14,378)	693,655
Restructuring fees	Note 5	-	(83,026)	(50,000)	(66,744)	(52,500)	(85,270)	(28,250)	-	(62,385)	-	-	(62,385)	-	-	(70,578)	(561,137)
Pre-filing Carrier Trust Funds	Note 6	(144,500)	(144,500)	(129,500)	(144,500)	(144,500)	(73,100)	(115,000)	(40,000)	(75,000)	(37,480)	(35,000)	(35,000)	(35,000)	(35,000)	(35,000)	(1,223,080)
<b>Total Net Cash Disbursements - Non operational</b>		(144,500)	(227,526)	(179,500)	(211,244)	(197,000)	(158,370)	(143,250)	(40,000)	(137,385)	(37,480)	(35,000)	(97,385)	(35,000)	(35,000)	(105,578)	(1,784,217)
<b>Net Cash Flow</b>		(99,280)	(436,655)	(194,845)	(60,706)	241,932	(280,363)	5,735	240,933	(63,373)	(251,798)	(77,490)	(65,403)	(94,478)	165,183	(119,955)	(1,090,562)
Opening Cash		1,064,221	964,941	528,285	363,441	382,734	624,666	394,304	400,039	640,972	577,599	325,801	248,312	182,909	138,432	303,614	1,064,221
add: Net Cash Flow		(99,280)	(436,655)	(194,845)	(60,706)	241,932	(280,363)	5,735	240,933	(63,373)	(251,798)	(77,490)	(65,403)	(94,478)	165,183	(119,955)	(1,090,562)
add: Debtor in Possession (DIP) Financing drawing (repayment)	Note 7	-	-	30,000	80,000	-	50,000	-	-	-	-	-	-	50,000	-	-	210,000
Closing Cash		964,941	528,285	363,441	382,734	624,666	394,304	400,039	640,972	577,599	325,801	248,312	182,909	138,432	303,614	183,659	183,659
Less: Carrier Trust Funds	Note 8	324,738	338,504	354,220	353,684	353,148	352,612	269,276	278,740	279,054	243,038	201,502	169,766	133,230	105,894	84,358	84,358
<b>Net Remaining Cash available for operations</b>		<b>640,202</b>	<b>189,781</b>	<b>9,220</b>	<b>29,050</b>	<b>271,518</b>	<b>41,692</b>	<b>130,763</b>	<b>362,232</b>	<b>298,545</b>	<b>82,763</b>	<b>46,809</b>	<b>13,143</b>	<b>5,201</b>	<b>197,720</b>	<b>99,301</b>	<b>99,301</b>



**JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR MANAGEMENT INC.,  
HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT LIMITED, HERITAGE NORTHERN  
LOGISTICS INC., AND HERITAGE WAREHOUSING & DISTRIBUTION INC.**

**MAJOR ASSUMPTIONS  
CASH FLOW STATEMENT  
FOR THE PERIOD FEBRUARY 16, 2025 TO MAY 31, 2025 (THE “PERIOD”)**

JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (collectively “**JBT Group**” or the “**Companies**”) are in the business of end-to-end supply chain services, transportation logistics and warehousing services for customers across Canada and the United States (the “**Business**”). A Notice of Intention to File a Proposal (“**NOI**”) was filed in respect of each of the Companies on January 24, 2025 (“**NOI Filing**”). On February 10, 2025, the Court continued the NOI proceedings under *the Companies’ Creditors Arrangement Act*, (the “**CCAA**”).

JBT Group’s cash flow projection was prepared by management of JBT Group.

The cash flow projection is based on the hypotheses that the JBT Group:

- a. will complete a successful restructuring; and
- b. will continue operations in the normal course.

The JBT Group has a total of 83 full-time employees and 21 independent contractors that support its lines of service. The JBT Group does not participate in any prescribed pension plan for its employees. Payroll costs are included in each respective line of service and in general and administrative costs for head office employees.

**1. Customer Collections**

Accounts receivable collections are based on the best estimate of the receipt of sales and contractual commitments from customers.

**2. Cost of Goods Sold - Transportation & Logistics**

JBT Group provides transportation and logistics between the United States and Canada as well as locally within Ontario. These expenses represent the cost of this line of service including: (i) carrier payments for post-filing services, independent contractor and company driver payroll expenses; (ii) fleet insurance, as well as bridge and toll costs (iii) truck and trailer specific costs such as licenses and decals; and (iv) fuel costs and truck and trailer repair and maintenance expenses.

The cash flow forecast assumes that third party carriers for post-filing services will be paid under normal credit terms.

### **3. Cost of Goods Sold – Warehouse**

JBT Group also operates a warehousing and distribution business. These expenses represent the cost of this line of services including payroll expenses and rent.

### **4. General & Administrative Expenses**

These expenses include payroll for head office personnel, automobile expenses, satellite tracking expenses, computer expenses, office and related supplies, corporate legal expenses and accounting costs, telephone costs, sales commissions and sales tax payments.

### **5. Restructuring Professional Fees**

Estimated professional fees for the Monitor, its legal counsel, JBT Group's financial advisor and JBT Group's restructuring legal counsel.

### **6. Carrier Trust Funds – Pre-Filing**

The Initial Order granted a first ranking priority charge that secured any Carrier's right to payment for supply of services rendered to JBT Group for the carriage of goods on or subsequent to the Filing Date.

At the NOI Filing, it is estimated that approximately \$1.2 million were accounts receivable impressed with a trust for Carriers who provided pre-filing services to the JBT Group. Payment of these pre-filing Carrier payables commenced in the week ending February 22, 2025 and approximately \$1.2 million will be paid in the Period.

### **7. DIP Financing**

To allow the Companies to continue operating and have time to develop its restructuring plan, a related party agreed to extend debtor-in-possession (“**DIP**”) financing to the Companies. The DIP Lender's Term Sheet was executed, subject to Court approval. The forecast assumes that the DIP will be required beginning the week ending March 8, 2025.

### **8. Carrier Trust Funds**

Prior to the NOI Filing JBT Group was not segregating Carrier Trust Funds. After the NOI Filing, the JBT Group created separate RBC trust accounts by legal entity to deposit all customer payments in respect of receipts associated with the carrier broker business. Customer collections are forecast to be disbursed when matched to the carrier account relating to the shipment for which payment was received, and the residual balance being the JBT Group commission will be transferred to the JBT Group operating account. This amount represents

the forecast balance in the Carrier trust accounts not available to fund the Companies' general operations.

#### **9. TD Line of Credit**

JBT Group's combined TD line of credit is approximately \$4.9 million. The forecast assumes that TD's position will remain unchanged over the Period. JBT Group's balance in its RBC accounts are fluctuating over the Period based on the forecast receipts and disbursements.

# TAB E

# APPENDIX “E”

## DEBTOR-IN-POSSESSION FINANCING

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## TERM SHEET

This term sheet (“**DIP Term Sheet**”) sets out the terms and conditions upon which Randy Bowman will provide debtor-in-possession financing to the Borrowers (as defined below) in consideration of the mutual covenants, terms and conditions set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

<b>BORROWERS</b>	JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., and Heritage Warehousing & Distribution Inc. (each a “ <b>Borrower</b> ” and collectively, the “ <b>Borrowers</b> ”)
<b>DIP LENDER</b>	Randy Bowman (the “ <b>DIP Lender</b> ”)
<b>MONITOR/ MONITOR</b>	Dodick Landau Inc. in its capacity as Monitor and Monitor (in such capacity, the “ <b>Monitor</b> ”) in connection with the Borrowers’ restructuring proceedings (the “ <b>Proceedings</b> ”) under the <i>Companies Creditors’ Arrangement Act</i> (Canada) (the “ <b>CCA</b> ”) commenced by a Notice of Intention to Make a Proposal filed on January 24th, 2025, which is intended to be continued as a proceeding under the CCA.
<b>TYPE OF DIP LOAN</b>	Loan of up to a maximum amount of <b>CDN \$250,000</b> (the “ <b>DIP Loan</b> ”), plus all DIP Expenses and Interest (as defined below), secured by way of the DIP Charge (defined herein) to be available to the Borrowers with the agreement of the Monitor subject to and in accordance with the terms herein.
<b>AVAILABILITY</b>	Subject to the fulfillment of the applicable condition’s precedent to the availability of the DIP Loan set out herein and the Borrowers’ adherence to the Cash Flow Projections (defined below) being satisfactory to each of the Monitor and the DIP Lender, and provided that no Event of Default (as defined below) has occurred and is then continuing, advances of the DIP Loan shall be made by the DIP Lender to the Borrowers.
<b>CASH FLOW PROJECTIONS</b>	<p>“<b>Cash Flow Projections</b>” means a statement indicating the Borrowers’ consolidated weekly cash flow projections setting forth a rolling 13-week cash flow forecast of the cash receipts and cash disbursements of the Borrowers from the date that is five (5) business days prior to the requested advance (the “<b>Effective Date</b>”) through and including the date that is three (3) calendar months from the Effective Date, acceptable to the DIP Lender, as such Cash Flow Projections may be amended or modified from time to time by the Borrowers, provided that the DIP Lender shall have provided prior written consent to any such amendment or modification, in their sole discretion.</p> <p>The Cash Flow Projections shall be prepared by the Borrowers, with the assistance of the Monitor, in form and substance satisfactory to the DIP Lender and the Monitor. The Cash Flow Projections reflect the projected cash flow requirements of the Borrowers for the 13-week period, calculated on a weekly basis, commencing on the date that is five (5) business days prior to the requested advance.</p> <p>The Cash Flow Projections shall be certified by the Borrowers’ Chief</p>

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	<p>Financial Officer or such other person agreed to by the DIP Lender, and the Monitor, to be true, complete, and accurate.</p>
<p><b>JOINT &amp; SEVERAL LIABILITY</b></p>	<p>Each Borrower agrees, acknowledges and confirms that at the Borrowers' request, the DIP Loan has been made available to all of them. All covenants, agreements and obligations of the Borrowers contained in this DIP Term Sheet relating to or in connection with the DIP Loan shall be on a joint and several basis, and each of the Borrowers shall be jointly and severally liable for and obligated to repay the DIP Loan. Such joint and several liability is independent of the duties and liabilities of each other Borrower. Each of the Borrowers acknowledge and confirm that the DIP Lender shall have no obligation to pursue any other Borrower, as the case may be, for all or any part of the DIP Loan before it can recover from it. Each of the Borrowers acknowledge and confirm that it is fully responsible for the DIP Loan even though it may not have requested an advance.</p> <p>Each of the Borrowers liability for payment of the DIP Loan shall be a primary obligation, shall be absolute and unconditional, and shall constitute full recourse obligations of each of the Borrowers, enforceable against each of them to the full extent of their respective assets and properties. Each of the Borrowers expressly waive any right to require the DIP Lender to marshal assets in favour of any Borrower or any other person or to proceed against any other Borrower or any Collateral provided by any person or entity and agrees that the DIP Lender may proceed against any Borrower or any Collateral in such order as they shall determine in their sole and absolute discretion. To the extent permitted by law, any release or discharge, by operation of law, of any Borrower from the performance or observance of any obligation, covenant or agreement contained in this DIP Term Sheet shall not diminish or impair the liability of any other Borrower in any respect. Each of the Borrowers unconditionally and irrevocably waive each and every defense, right to discharge, compensation and setoff of any nature which, by statute or under principles of suretyship, guaranty or otherwise, would operate to impair or diminish in any way the obligation of any Borrower under this DIP Term Sheet, and acknowledges that such waiver is by this reference incorporated into each security agreement, collateral assignment, pledge and/or other document from each Borrower now or later securing the DIP Loan, and acknowledges that as of the date of this Term Sheet no such defense or setoff exists.</p>
<p><b>PURPOSE, USE OF PROCEEDS</b></p>	<p>The proceeds of the DIP Loan will be used by the Borrowers to fund working capital requirements and restructuring costs including but not limited to the fees and disbursements of the Monitor, its counsel, and counsel to the Borrowers, on a going concern basis provided that the same is, unless approved in writing by the DIP Lender and the Monitor, (i) in accordance with the Cash Flow Projections, and (ii) not on account of a liability that existed as of January 24, 2025, unless otherwise provided for in the Cash Flow Projections.</p>
<p><b>CLOSING DATE</b></p>	<p>No later than 1 business day after Court approval of the DIP Term Sheet (the "<b>Closing Date</b>").</p>

**DEBTOR-IN-POSSESSION FINANCING**

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<b>MATURITY AND OR TERMINATION DATE</b>	<p>The maturity of the DIP Loan (the “<b>Termination Date</b>”) shall be the earliest of:</p> <ul style="list-style-type: none"> <li>(a) the effective date of any Proposal or Plan of Arrangement under the Proceedings;</li> <li>(b) the closing of a purchase and sale of substantially all of the assets or shares of the Borrowers;</li> <li>(c) the refinancing of the DIP Loan upon the written consent of the DIP Lender and the Borrowers;</li> <li>(d) the date on which the Proceedings are terminated or are converted into a bankruptcy proceeding under the <i>Bankruptcy and Insolvency Act</i> (Canada);</li> <li>(e) the occurrence of an Event of Default (as defined herein); or</li> <li>(f) payment in full of the obligations under the DIP Loan</li> </ul> <p>All outstanding amounts under the DIP Loan, together with all Interest accrued in respect thereof and all other amounts owing under this DIP Term Sheet shall be payable in full on the Termination Date without further notice, protest, demand or other act on the part of the DIP Lender.</p>
<b>INTEREST</b>	<p>Interest (“<b>Interest</b>”) on the principal outstanding amount of the DIP Loan both before and after maturity, demand, default, or judgment until payment in full at a rate of a 10% per annum, compounded and calculated monthly shall accrue and be added to the principal amount of the DIP Loan on the first day of each month.</p> <p>All Interest shall be calculated on the basis of a 365-day (or 366 day, as applicable) year, in each case for the actual number of days elapsed in the period during which it accrues.</p> <p>All payments under or in respect of the DIP Loan shall be made free and clear of any withholding, set-off or other deduction.</p> <p>If any provision hereof would obligate the Borrowers to make any payment of Interest or other amount payable to the DIP Lender in an amount or calculated at a rate which would be prohibited by law or would result in receipt by the DIP Lender of interest at a criminal rate (as construed under the <i>Criminal Code</i> (Canada)) then, notwithstanding that provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or result in a receipt by the DIP Lender of interest at a criminal rate.</p>
<b>REPRESENTATIONS AND WARRANTIES</b>	<p>The Borrowers represent and warrant to the DIP Lender as of the date hereof, and as of the date of each advance under the DIP Loan, that:</p>



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	<ul style="list-style-type: none"> <li>(a) the Borrowers are duly organized, validly existing and in good standing under the laws of the jurisdiction of their organization, have all requisite power to carry on business as now and formerly conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to constitute a material adverse effect, are qualified to do business in, and are in good standing in, every jurisdiction where such qualification is required;</li> <li>(b) the execution, delivery and performance, as applicable, of the DIP Term Sheet has been duly authorized by all actions, if any, required on the part and by the Borrowers' directors, and constitutes a legal, valid and binding obligation of the Borrowers enforceable against them in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application that limit the enforcement of creditors' rights generally and to general equitable principals subject to approval of the Court; and</li> <li>(c) the Cash Flow Projections represent the Borrowers' best estimate as at each applicable date of the likely results of the operations of the Borrowers during the period applicable thereto and, to the Borrowers knowledge, such results are achievable as provided therein.</li> </ul>
<p><b>COVENANTS</b></p>	<ul style="list-style-type: none"> <li>(a) the Borrowers shall pay all amounts and satisfy all obligations in respect of the DIP Loan;</li> <li>(b) the Borrowers shall not make or permit to be made any payment on account of obligations owing as at January 24, 2025 without the prior consent of the Monitor and the DIP Lender or pursuant to an order of the Court;</li> <li>(c) the Borrowers shall conduct their business and pay disbursements in accordance with the Cash Flow Projections;</li> <li>(d) the Borrowers shall not incur any indebtedness, including the giving of guarantees, other than indebtedness specifically contemplated herein or permitted in writing by the DIP Lender;</li> <li>(e) the Borrowers shall not incur, create, assume or suffer to exist any lien, charge, security interest or other encumbrance on any of the Collateral now owned or hereafter acquired other than: (i) those encumbrances existing as of January 24, 2025, (ii) permitted by the DIP Lender in its sole discretion, (iii) the DIP Charge, (iv) the Administration Charge, and (v) the Critical Suppliers Charge.</li> <li>(f) the Borrowers shall not enter into any other credit facility or loan arrangements that would be secured in priority to or pari passu with the DIP Loan;</li> </ul>

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	<ul style="list-style-type: none"> <li>(g) the Borrowers shall not sell any of their assets outside of the ordinary course of business without the prior written consent of the DIP Lender or the approval of the Court;</li> <li>(h) the Borrowers shall not make any payments that are not included or provided for in the Cash Flow Projections without the written consent of the DIP Lender and the Monitor, each in their sole discretion;</li> <li>(i) the Borrowers shall update the Cash Flow Projections and provide a copy thereof to the DIP Lender and to The Toronto-Dominion Bank (the “<b>Bank</b>”), it being understood that such updated Cash Flow Projections, if approved, become the Cash Flow Projections for purposes hereof, and provided that such updated Cash Flow Projections conform to the requirements for Cash Flow Projections set out above in the section of this DIP Term Sheet entitled “Cash Flow Projections”;</li> <li>(j) the Borrowers shall provide a draft order, in form and substance satisfactory to the DIP Lender, and in consultation with the Bank, seeking the approval of a sale and solicitation process (“<b>SISP</b>”) for the Borrowers’ assets, by no later than March 7, 2025;</li> <li>(k) subject to the terms of any Court order, the Borrowers shall maintain insurance with respect to their property and business with financially sound and reputable insurance companies, of such kinds and in such amounts and against such risks as is customary for the business of the Borrower. The Borrower shall furnish to the DIP Lender, the Bank and the Proposal Trustee, on written request, confirmation that such insurance is carried, paid and current. For greater certainty, the Borrowers shall maintain in place all policies of property and fire insurance currently in place on the real property known municipally as 425 Melair Drive, Ayr, Ontario (the “<b>Melair Property</b>”);</li> <li>(l) the Borrowers shall promptly notify the DIP Lender, the Bank, and the Proposal Trustee of the occurrence of any Event of Default; and</li> <li>(m) the Borrowers shall promptly notify the DIP Lender, the Bank and the Proposal Trustee of any development or event that has had or could reasonably be expected to have a material adverse effect upon the Borrowers or their business or affairs.</li> </ul>
<p><b>SECURITY</b></p>	<p>As continuing security (the “<b>DIP Security</b>”) for the prompt payment of all amounts payable by the Borrowers to the DIP Lender under the DIP Term Sheet and as continuing security for the due and punctual performance by the Borrowers of their existing and future obligations pursuant to the DIP Term Sheet, the Borrowers hereby grants, conveys, assigns, transfers, mortgages and charges as and by way of a fixed and specific security interest, mortgage and charge, to and in favour of the DIP Lender, all of their property, assets, rights and undertakings, real and personal, moveable or immovable, tangible and</p>

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	<p>intangible, intellectual property, legal or equitable, of whatsoever nature and kind, wherever located, both present and future, and now or hereinafter owned or acquired (collectively, the “<b>Collateral</b>”).</p> <p>The DIP Security shall be elevated by way of a Court-ordered super-priority charge (the “<b>DIP Charge</b>”) which the DIP Charge shall rank in priority on the Collateral in priority to any security interests, claims, or deemed trusts (statutory or otherwise) but subordinated to the Administration Charge and the security of the Toronto Dominion Bank with respect to the property municipally known as 425 Melair Drive, Ayr, Ontario, without any other formality or requirement, such as without limitation under the Personal Property Security Act (Ontario) or registrations in land registration office(s) or otherwise.</p>
<p><b>EVENTS OF DEFAULT</b></p>	<p>Each of the following shall constitute an Event of Default</p> <ul style="list-style-type: none"> <li>(a) the Borrowers defaults on the payment of any amount due and payable to the DIP Lender (whether of principal, Interest or otherwise) pursuant to this DIP Term Sheet;</li> <li>(b) the Borrowers fails or neglects to observe or perform any term, covenant, condition or obligation contained or referred to in the DIP Term Sheet or any other document between the Borrowers and the DIP Lender;</li> <li>(c) the stay of proceedings expires without being extended or the Proceedings being dismissed or terminated or the Borrowers becoming subject to a proceeding in bankruptcy or receivership or similar insolvency proceeding, other than conversion of the Proceeding to a proceeding under the <i>Companies’ Creditors Arrangement Act</i>;</li> <li>(d) the entry of an order staying, amending, reversing, vacating or otherwise modifying or having a material adverse effect with respect to the DIP Loan or the DIP Charge, in each case without the prior written consent of the DIP Lender;</li> <li>(e) the Borrowers undertake any actions with respect to their assets, business operations and/or capital structure which would, in the sole determination of the DIP Lender, have a material adverse effect on the Borrowers or the Collateral;</li> <li>(f) if the Borrowers makes any payments of any kind not permitted by this DIP Term Sheet, or reflected in the Cash Flow Projections;</li> <li>(g) the occurrence of any other event or circumstance that has, or could reasonably be expected to have, a material adverse effect on either of the Borrowers or on the Collateral, including a material adverse change from the Cash Flow Projections as determined by the DIP Lender in its sole discretion; and</li> <li>(h) if there is a change in the ownership, control, existing senior operating management arrangements or governance of the Borrowers that is not acceptable to the DIP Lender.</li> </ul> <p>Upon the occurrence of an Event of Default, without any notice, protest, demand or other act on the part of the DIP Lender, all indebtedness of the Borrowers to the DIP Lender shall become immediately due and payable and the DIP Lender shall be able to take</p>

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	<p>all steps necessary to enforce its security. The DIP Lender shall also have the right to exercise all other customary remedies, including, without limitation, the right to enforce and realize on any or all of the Collateral, in each case, upon providing two (2) days prior written notice to the Borrowers and the Monitor, without the necessity of obtaining further relief or an order from the Court.</p>
<p><b>FEES AND EXPENSES</b></p>	<p>In addition to any principal and Interest owing under the DIP Loan, the DIP Lender shall be entitled to recover all of its reasonable professional fees and out-of-pocket costs incurred, whether incurred prior to or after the date of the Closing Date, as well as all expenses of the DIP Lender in connection with the ongoing monitoring, interpretation, administration, protection and enforcement of the DIP Loan, and the enforcement of any and all of its remedies at law (collectively, the “<b>DIP Expenses</b>”)</p>
<p><b>CONDITIONS PRECEDENT, TO ADVANCE</b></p>	<p>The conditions precedent to an advance under the DIP Loan, include but are not limited to:</p> <ul style="list-style-type: none"> <li>(a) the Court issuing an order approving the DIP Term Sheet and granting the DIP Charge, which order is under appeal and subject to any stay or injunction and shall not have been varied in any way without the consent of the DIP Lender;</li> <li>(c) the DIP Lender shall have received and approved the Cash Flow Projections;</li> <li>(d) the DIP Lender shall be satisfied that the Borrowers have complied with and are continuing to comply in all material respects with all applicable laws, regulations and orders of the Court in the Proceedings;</li> <li>(e) no Event of Default shall have occurred or shall be reasonably expected to occur; and</li> <li>(f) the representations and warranties made by the Borrowers in this DIP Term Sheet being true and correct as of the Effective Date of the advance.</li> </ul>
<p><b>ENTIRE AGREEMENT</b></p>	<p>This DIP Term Sheet constitutes the entire agreement between the parties relating to the subject matter hereof.</p>
<p><b>AMENDMENTS, WAIVERS, ETC.</b></p>	<p>No waiver or delay on the part of the DIP Lender in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing and signed by an authorized officer of the DIP Lender. Any consent to be provided by the DIP Lender shall be granted or withheld solely in its capacity, and having regard to its interests, as DIP Lender.</p> <p>This DIP Term Sheet may be amended only if such amendment is in writing signed by the Borrowers and the DIP Lender.</p>
<p><b>ASSIGNMENT</b></p>	<p>This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Borrowers may not assign their rights and obligations under this Agreement without the written consent of the DIP Lender, acting reasonably. The DIP Lender’s rights and obligations under this Agreement are fully assignable to an affiliate of the DIP Lender without the consent of (but with prior notice to) the Borrowers. In addition, the DIP Lender’s rights and obligations under this Agreement are</p>

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	<p>assignable, with the consent of the Borrowers, acting reasonably, before an Event of Default to any other entity, and are freely assignable, without the consent of the Borrowers (but with prior Notice to), after an Event of Default has occurred and is continuing. Each of the Borrowers hereby consents to the disclosure of any confidential information in respect of the Borrowers to any potential assignee provided such potential assignee agrees in writing to keep such information confidential. A copy of all Notices delivered pursuant to this section shall be delivered promptly to the Monitor.</p>
<b>SEVERABILITY</b>	<p>Any provision in this DIP Term Sheet which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and thereof or affecting the validity or enforceability of such provision in any other jurisdiction.</p>
<b>COUNTERPARTS AND FACSIMILE SIGNATURES</b>	<p>This Agreement may be executed in any number of counterparts and by facsimile or e-mail transmission, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument. Any party may execute this Agreement by signing any counterpart of it.</p>
<b>NOTICES</b>	<p>Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:</p> <p><b>In the case of the DIP Lender:</b></p> <p>Randy Bowman Email: <a href="mailto:randy.b@jbtgroup.com">randy.b@jbtgroup.com</a></p> <p><b>In the case of the Borrowers:</b></p> <p>Attention: Denis Medeiros Email: <a href="mailto:denis.m@jbtgroup.com">denis.m@jbtgroup.com</a></p> <p>With a copy to:</p> <p>Reconstruct LLP 80 Richmond Street West, Suite 1700 Toronto, ON M5H 2A4</p> <p>Attention: Caitlin Fell and Jessica Wuthmann Email: <a href="mailto:cfell@reconllp.com">cfell@reconllp.com</a> / <a href="mailto:jwuthmann@reconllp.com">jwuthmann@reconllp.com</a></p> <p><b>In the case of the Bank:</b></p> <p>The Toronto-Dominion Bank 66 Wellington Street West, 12th Floor Toronto, Ontario M5K 1A2</p> <p>Attention: Daryl Coelho and Michael Vos Email: <a href="mailto:Daryl.Coelho@td.com">Daryl.Coelho@td.com</a> / <a href="mailto:michael.vos@td.com">michael.vos@td.com</a></p>

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	<p>With a copy to:</p> <p>Miller Thomson LLP 40 King Street West, Suite 5800 Toronto, Ontario   M5H 3S1</p> <p>Attention: Craig Mills and Matthew Cressatti Email: <a href="mailto:cmills@millerthomson.com">cmills@millerthomson.com</a> / <a href="mailto:mcressatti@millerthomson.com">mcressatti@millerthomson.com</a></p> <p><b>In either case, with a copy to the Monitor:</b></p> <p>Dodick Landau Inc. 951 Wilson Avenue Unit 15L Toronto, ON M3K 2A7</p> <p>Attention: Rahn Dodick Email: <a href="mailto:rahn.dodick@dodick.ca">rahn.dodick@dodick.ca</a></p> <p><b>In either case, with a copy to the Monitor's counsel:</b></p> <p>Loopstra Nixon LLP Richmond-Adelaide Centre 130 Adelaide Street West, Suite 2800 Toronto, Ontario M5H 3P5</p> <p>Attention: R. Graham Phoenix Email: <a href="mailto:gphoenix@LN.Law">gphoenix@LN.Law</a></p>
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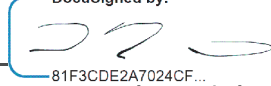
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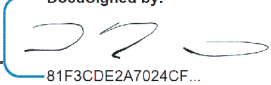
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**IN WITNESS HEREOF**, the parties hereby execute this DIP Term Sheet as of the date first written above.

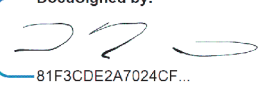
**JBT TRANSPORT INC.,**

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Name: Denis Medeiros  
Title: President

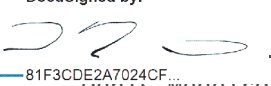
**WAYDOM MANAGEMENT INC.**

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Title: President

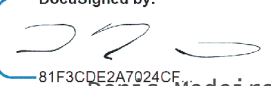
**MELAIR MANAGEMENT INC.**

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Name: Denis Medeiros  
Title: President

**HERITAGE TRUCK LINES INC.**

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Name: Denis Medeiros  
Title: President

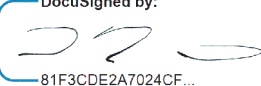
**DRUMBO TRANSPORT LIMITED**

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Name: Denis Medeiros  
Title: President

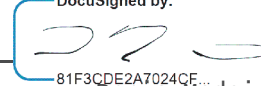
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**HERITAGE NORTHERN LOGISTICS INC.**


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Name: Denis Medeiros  
Title: President

**HERITAGE WAREHOUSING & DISTRIBUTION INC.**

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Name: Denis Medeiros  
Title: President

**RANDY BOWMAN**

**WITNESS**

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Name: Jessica Wuthmann

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# TAB F

# APPENDIX “F”

## SALE AND INVESTMENT SOLICITATION PROCESS ("Sale Process")

For the sale of the business and/or assets of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., Heritage Warehousing & Distribution Inc. (collectively, the "**Companies**").

### Introduction

1. On January 24, 2025, the Companies each filed a Notice of Intention to Make a Proposal ("**NOI**") under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3. Dodick Landau Inc. was appointed as proposal trustee under the NOI.
2. On February 10, 2025, the Court continued the NOI proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 ("**CCAA**") pursuant to an initial order, which, among other things, appointed Dodick Landau Inc. as the monitor of the Companies (the "**Monitor**").
3. On February 27, 2025, the Court granted two orders:
  - (a) an amended and restated initial order (the "**ARIO**"), which, among other things, approved an interim financing facility put forth by Randy Bowman (in such capacity, the "**DIP Lender**"); and
  - (b) an order (the "**SISP Approval Order**") that, among other things, authorized the Companies to implement a sale and investment solicitation process ("**SISP**") in accordance with the terms hereof.
4. Pursuant to the SISP Approval Order, the Court also approved a subscription agreement (the "**Stalking Horse Agreement**") between the Companies as issuers and a company to be incorporated by the DIP Lender, Kyle Medeiros, and Denis Medeiros (in such capacity, the "**Stalking Horse Bidder**"). For the avoidance of doubt, the implementation of the transactions contemplated by the Stalking Horse Agreement is conditional upon the Stalking Horse Agreement being selected as a Successful Bid (as defined below) in accordance with these Bidding Procedures and Court approval of the Stalking Horse Agreement and the transactions contemplated therein on a subsequent motion to be brought by the Companies following the completion of the SISP.
5. Copies of the ARIO, the SISP Approval Order and all other materials filed in these proceedings can be found at the following URL: [https://dodick.ca/public\\_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/](https://dodick.ca/public_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/) (the "**Monitor's Website**").
6. This document sets out the procedures for the conduct of the SISP (the "**Bidding Procedures**").

## Objectives and Background of the Sale Process

7. The SISP is intended to solicit interest in, and opportunities for, a sale of, investment in, recapitalization of, or liquidation of, all or part of the Companies, their Property, and business operations (the “**Opportunity**”). The Opportunity may include one or more of: (i) a recapitalization, arrangement or other form of investment in or reorganization of the business and affairs of the Companies as a going concern, (ii) a sale of all, substantially all, or one or more components of the Companies’ business operations (the “**Business**”) as a going concern, or (iii) a sale or liquidation of all, substantially all, or one or more components of the Companies’ assets (including without limitation the shares of the Companies) (the “**Property**”).
8. The Bidding Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Companies, the Property and the Business, the manner in which bidders may participate in the SISP, requirements for bids received, the ultimate selection of a Successful Bidder(s) (as defined herein), and the requisite approvals to be sought from the Court in connection therewith.
9. The SISP shall be conducted by the Monitor in consultation and with the assistance of the Companies.
10. Any transaction consummated pursuant to the SISP 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 Companies, or any of their respective directors, officers, agents, advisors, or other representatives unless otherwise agreed in a definitive agreement.
11. The Monitor may make any modification to the Sale Process it considers appropriate in the circumstances and, where it considers such modification to be material, it may seek Court approval of such modification on notice to parties in the CCAA proceeding. The extension of any date in the Sale Process by up to two weeks shall not be considered material.

## SISP Timelines

12. The following table sets out the key milestones and deadlines under the SISP, which milestones and deadlines may be extended or amended by the Monitor, in consultation with the Companies [and the Toronto Dominion Bank \(“TD Bank”\)](#), by up to two weeks without Court approval:

Milestone	Deadline
The Court issues the SISP Approval Order approving the SISP	February 27, 2025
Commencement of the solicitation process (the “ <b>Commencement Date</b> ”)	As soon as reasonably practicable but no later than March 12, 2025
Deadline to submit a Qualified Bid	April 18, 2025 not later than 5:00 PM

	(Toronto Time)
Notification of Auction (if applicable)	April 22, 2025
Auction	April 25, 2025
Selection of Successful Bid	April 25, 2025
Sale Approval Hearing (as defined herein)	By no later than May 9, 2025, subject to Court availability
Closing Date Deadline	As soon thereafter as possible, and, in any event, by no later than May 16, 2025 (“ <b>Closing Date Deadline</b> ”)

13. Any extensions or amendments (other than the Closing Date Deadline) shall be communicated to all bidders in writing and posted on the Monitor's Website.

#### **Solicitation of Interest: Notice of Sale Process**

14. The Monitor shall be entitled, but not obligated, to arrange for a notice to be published in any newspaper or industry journal as the Monitor considers appropriate if it believes that such advertisement would be useful in the circumstances.
15. As soon as reasonably practicable, but, in any event, by no later than the Commencement Date:
- (a) the Monitor, in consultation with the Companies, will prepare a list of potential bidders, including (i) parties that have approached the Companies or the Monitor indicating an interest in the Opportunity; (ii) local and international strategic and financial parties which the Monitor, in consultation with the Companies, believes may be interested in the Opportunity, and (iii) and parties that have otherwise showed an interest in the Companies, the Property and/or the Business prior to the date of the SISP Approval Order; in each case, whether or not such party has submitted a letter of intent or similar document (collectively, the “**Interested Parties**” and each, an “**Interested Party**”);
  - (b) the Monitor will publish a notice of the SISP and any other relevant information that the Companies, in consultation with the Monitor, consider appropriate, on the Monitor’s Website, and in publications as may be considered appropriate by the Monitor;
  - (c) the Monitor, in consultation with the Companies, will prepare (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; (ii) a confidential information memorandum describing the Opportunity (“**CIM**”); and (iii) a non-disclosure agreements (each an “**NDA**”) in form and substance satisfactory to the Monitor, the Companies,

and their respective counsel, which agreement shall enure to the benefit of the Successful Bidder(s); and

- (d) the Monitor, in consultation with the Companies, will prepare and maintain a virtual data room (the “VDR”) containing the Stalking Horse Agreement and due diligence information and documentation in relation to the Opportunity. The VDR may be updated from time to time throughout the SISP. Participants (as defined below), must direct all due diligence questions in connection with the VDR, on a without liability or representation basis, to the Monitor.
16. The Monitor will have responsibility for managing all communication with Interested Parties prior to and after receipt of binding offers (“Offers”). This shall include facilitating the delivery of all communications, contacting prospective bidders and providing them with the Teaser Letter and CIM, coordinating the execution of NDAs, facilitating any requests for tours of the facilities, managing the process of answering inquiries from prospective bidders, coordinating any presentations that may be requested by Potential Bidders (defined below), soliciting and tracking all Offers, and reviewing and negotiating transaction documentation.
  17. The Monitor will send the Teaser Letter and the form of NDA to all applicable Interested Parties as soon as reasonably practicable after the granting of the SISP Approval Order and to any other Interested Party who requests a copy of the Teaser Letter and NDA, or who is identified by the Companies or the Monitor as an Interested Party, as soon as reasonably practicable after such request or identification, as applicable.

### Sale Process

18. Any Interested Party who wishes to participate in the Sale Process must provide to the Monitor:
  - (a) an NDA executed by it, and a letter setting forth the identity of the Interested Party, the contact information for such Interested Party, and full disclosure of the direct and indirect principals of the Interested Party. The NDA shall include an acknowledgement of the Bidding Procedures; and
  - (b) if the Monitor considers it necessary, such form of financial disclosure that allows the Monitor to make a reasonable determination as to the Interested Party's financial and other capabilities to consummate a transaction.
19. If an Interested Party: (i) has delivered an executed NDA; and (ii) has provided the Monitor with satisfactory evidence of its capability based on the availability of financing, its experience, and other considerations, to be able to consummate a sale transaction pursuant to the Sale Process, then such Interested Party will be determined by the Monitor to be a “**Potential Bidder**” and if more than one, the “**Potential Bidders**”. The Stalking Horse Bidder shall be deemed to be a Potential Bidder.
20. The Monitor will provide each Potential Bidder with a copy of the CIM and access to the VDR. Potential Bidders must rely solely on their own independent review, investigation, and/or inspection of all information and of the Business and/or assets in connection with their participation in the Sale Process and any transaction they enter into with the Companies. The Companies, the Monitor, and their respective directors, officers, agents

and advisors make no representation or warranty whatsoever as to the information (including, without limitation, with respect to its accuracy or completeness): (i) contained in the CIM or the VDR; (ii) provided through the due diligence process or otherwise made available pursuant to the Sale Process; or (iii) otherwise made available to a Potential Bidder except to the extent contemplated in any definitive documentation duly executed and delivered by the Successful Bidder (as defined below) duly executed by the Companies and approved by the Court.

21. At any time during the Sale Process, the Monitor may, in its reasonable business judgment, eliminate a Potential Bidder from the Sale Process, in which case such party will no longer be a Potential Bidder for the purposes of the Sale Process.
22. The Monitor shall afford each Potential Bidder such access to applicable due diligence materials and information pertaining to the Business and Property of the Companies as the Monitor deems appropriate in its reasonable business judgment. Due diligence access may include management presentations, access to the VDR, on-site inspections, and other matters which a Potential Bidder may reasonably request and which the Monitor deems appropriate. The Monitor will designate one or more representatives to coordinate all reasonable requests for additional information and due diligence access from each Potential Bidder and the manner in which such requests must be communicated. The Monitor shall not be obligated to furnish any information relating to the Business or the Property to any person other than to Potential Bidders. For the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders during the Sale Process, if the Monitor determines such information to represent proprietary or sensitive competitive information related to the Business and/or the Property of the Companies that should not be provided to a Potential Bidder.

### **Bid Deadline**

23. A Potential Bidder that wishes to make an offer pursuant to the Sale Process must deliver a Qualified Bid (as defined herein) to the Monitor so as to be received by the Monitor not later than 5:00 PM (Toronto Time) on April 18, 2025 (the "**Bid Deadline**"), with a copy to each of the persons specified in **Schedule "A"** hereto.

### **Criteria for Qualified Bids**

24. Any person who wishes to submit a bid ("**Bid**") in the SISP must submit a bid that complies with the following criteria (any bid that so complies, a "**Qualified Bid**", and the offeror thereof, a "**Qualified Bidder**"):
  - (a) it is submitted on or before the Bid Deadline in accordance with paragraph 23 herein;
  - (b) it is accompanied by a letter setting forth:
    - (i) the identity of the bidder and full disclosure of any entities and/or individuals that control the bidder; and/or the beneficial owner (if any) with the power, directly or indirectly to cause the direction of the management and policies of the bidder;

- (ii) a statement that the bidder expects to be able to consummate a sale transaction pursuant to the Sale Process on or before the Closing Date Deadline (as defined herein); and
  - (iii) such other information as reasonably requested by the Monitor, in consultation with the Companies;
- (c) the Bid contains the following:
- (i) if the bid is structured as a “reverse vesting transaction”, it includes a duly authorized and executed binding transaction agreement, including all exhibits and schedules contemplated thereby, together with a blackline against the Stalking Horse Agreement (which shall be posted in Word format in the VDR), describing the terms and conditions of the proposed transaction, including any liabilities and obligations proposed to be assumed, the purchase price, the structure and financing of the proposed transaction, and any regulatory or other third-party approvals required;
  - (ii) if the bid is structured in a form other than a “reverse vesting transaction”, it includes a duly authorized and executed, definitive transaction agreement, containing the detailed terms and conditions of the proposed transaction, including the Business or the assets proposed to be acquired, the obligations and liabilities to be assumed/excluded, the detailed structure of the transaction, the final purchase price or investment amount, and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements), and the proposed form of order(s) for the Court to consider in the motion to approve the transaction;
  - (iii) if the bid is structured as a liquidation offer, it includes a duly authorized and executed definitive liquidation offer/proposal/agreement including identification of the subject assets, the obligations and liabilities to be assumed (if any), the detailed structure of the liquidation, a net minimum guarantee (which shall stand as the “purchase price” for all purposes hereunder) and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, and confirmation of any order(s) required of the Court in connection with the same;
  - (iv) cash consideration sufficient to pay in full on closing of the transaction: (i) the amount equal to the Cash Consideration and DIP Credit Bid Consideration, each as defined in the Stalking Horse Agreement, plus an incremental overbid amount (in the minimum amount of \$125,000); and (ii) ~~an administrative reserve in an amount satisfactory to the Monitor necessary to wind down the CCAA proceeding; and (iii)~~ a break fee in the amount of \$65,000 as contemplated in the Stalking Horse Agreement;
  - (v) a purchase price in Canadian dollars, including details of all assets to be purchased and liabilities to be assumed by the bidder;



- (vi) a provision that it is binding and irrevocable until the earlier of: (i) 30 days after the Bid Deadline and (ii) approval by the Court of the Successful Bid;
- (vii) a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor or such other form of deposit as is acceptable to the Monitor), payable to the Monitor, in trust, in an amount equal to 10% of the purchase price contemplated by the Bid (the “**Deposit**”). All Deposits submitted by Potential Bidders who did not submit the Successful Bid shall be returned, without interest, as soon as practicable following the date on which any such offers are rejected hereunder. The Deposit forming part of the Successful Bid shall be dealt with in accordance with the asset purchase agreement submitted by the Successful Bidder;
- (viii) written evidence of a firm, irrevocable commitment for financing or other evidence of an ability to consummate the proposed transaction or transactions comprising the Bid, that will allow the Monitor to make a determination as to the bidder’s financial and other capabilities to consummate the proposed transaction;
- (ix) acknowledgments and representations of the bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Business and/or Property, the Companies, or otherwise, prior to making its bid; (ii) it has relied solely upon its own independent review, investigation and/or inspection of the Business and/or assets (including, without limitation, any documents in connection therewith) in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory, or otherwise, regarding the Business and/or assets or the Companies or the completeness of any information provided in connection therewith, except as expressly contemplated in any definitive documentation duly executed by the Successful Bidder and the Companies and approved by the Court;
- (x) written evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the bidder’s board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid;
- (xi) specific statements concerning the intended treatment of unsecured creditors, guaranteed obligations, lien claimants, subtrades who have or are continuing to provide goods or services in relation to projects, as well as receivables and liabilities associated with Trade-Mark Industrial Inc., Trade-Crete Ltd. and Comtrade Ltd., including any cost of litigation associated therewith;
- (xii) a provision stating it is not subject to further due diligence;
- (xx) a provision stating it is not subject to financing;

- (xxx) a description of any regulatory or other third-party approvals required to consummate the proposed transaction, and the time period within which the bidder expects to receive such regulatory and/or third-party approvals, and those actions the bidder will take to ensure receipt of such approvals as promptly as possible;
  - (xl) a description of any desired arrangements with respect to transition services that may be required from the Companies in connection with the transaction, including funding for same; not be subject to any conditions precedent except those that are customary in a transaction of this nature; not be conditional upon approval by the Court of any bid protection, such as a break-up fee, termination fee, expense reimbursement or similar type of payment;
  - (xli) the conditions to closing of the proposed transaction;
  - (xlii) any other terms or conditions that the bidder believes are material to the transaction; and
  - (xliii) a closing date for the transaction that is on or before the Closing Date Deadline of May 16, 2025 (collectively, the “**Bid Criteria**”).
25. The Monitor may, if it deems appropriate or desirable in the circumstances, modify or amend the Bid Criteria, including but not limited to the ability of the Monitor to deem any liquidation offer to be a Qualified Bid when taking into account the realizable value of the of any assets *excluded* from such offer.

### **Assessment of Qualified Bids**

26. Following the Bid Deadline, the Monitor will determine if each Bid delivered to the Monitor meets the Bid Criteria, provided that each Qualified Bid may be negotiated among the Monitor and the applicable bidder and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations. The Monitor shall be under no obligation to negotiate identical terms with, or extend identical terms to, each bidder.
27. If a Bid meets the Bid Criteria, as determined by the Monitor in its sole discretion, in consultation with the Companies and TD Bank, such Bid will be deemed to be a Qualified Bid in respect to the Sale Process.
28. Notwithstanding anything herein to the contrary, the offer represented by the Stalking Horse Agreement shall be deemed to be a Qualified Bid for all purposes under, and at all times in connection with, this Sales Process.

### **Selection of Successful Bidders**

29. If the Monitor, after consultation with the Companies and TD Bank, determines that no Qualified Bid (other than the Stalking Horse Agreement) has been received by the Bid Deadline, the Stalking Horse Agreement shall be deemed the Successful Bid (as defined below).

30. If more than one Qualified Bid is received by the Bid Deadline, the Monitor shall extend invitations by email by 10:00 a.m. E.S.T. on the second (2nd) Business Day after the Bid Deadline to the Qualified Bidders and to the Stalking Horse Bidder to attend an auction (the "**Auction**"). The Auction shall be held at 10:00 a.m. on the fifth (5th) Business Day after the Bid Deadline at the offices of the Monitor or by teleconference, video conference, or other form of electronic telecommunications, as the Monitor may deem fit.
31. The Monitor shall conduct the Auction. At the Auction, the bidding shall begin initially with the highest Qualified Bid, and subsequently continue in multiples of \$250,000, or such other amount as the Monitor determines to facilitate the Auction. Additional consideration in excess of the amount set forth in the highest Bid must be comprised only of cash consideration. The format and other procedures for the Auction shall be determined by the Monitor in its sole discretion.
32. The successful bid (the "**Successful Bid**", and the bidder of making such bid, a "**Successful Bidder**") shall be, either:
  - (a) in the event that no Qualified Bid other than the Stalking Horse Agreement is received by the Bid Deadline, the Stalking Horse Agreement; or
  - (b) in the event that multiple Qualified Bids are received, following the conclusion of the Auction, the Qualified Bidder submitting the highest and/or best offer through the Auction.
33. The Monitor, in consultation with the Companies, may also identify the Qualified Bid constituting the second highest or otherwise best Bid (the "**Back-Up Bid**", and the Qualified Bidder making such Back-Up Bid, the "**Back-Up Bidder**") following the Auction. For clarity, the Stalking Horse Agreement may be deemed by the Monitor, in its sole discretion, to be a Back-Up Bid.
34. If a Successful Bidder fails to close the transaction contemplated by the Successful Bid, for any reason, then the Companies will be deemed to have accepted the Back-Up Bid and will proceed with the transaction pursuant to the terms thereof, in which case the Back-Up Bid shall be considered the Successful Bid for the purposes of this Sale Process.
35. The determination of any Successful Bid or Back-Up Bid by Monitor, in consultation with the Companies, shall be subject to approval by the Court.

### **Sale Approval Motion Hearing**

36. At the hearing of the motion to approve any transaction with a Successful Bidder or a Back-Up Bidder (the "**Sale Approval Hearing**"), the Companies shall seek, among other things, approval from the Court to consummate any Successful Bid or Back-Up Bid. All the Qualified Bids other than the Successful Bid or Back-Up Bid, if any, shall be deemed to be rejected on and as of the date of approval of the Successful Bid by the Court. The Back-Up Bid, if any, shall be deemed to be rejected on and as of the date of closing the Successful Bid.

### **Confidentiality and Access to Information**

37. Each Interested Party, and Qualified Bidder shall not be permitted to receive any confidential or competitive information that is not made generally available to all participants in the Sale Process including the number or identity of bidders, the details of any Bids submitted, or the details or existence of any confidential discussions or correspondence among the Companies, the Monitor, and any bidder in connection with the Sale Process.
38. The Stalking Horse Bidder shall not be entitled to review, or in any way be involved in, the consideration, negotiation, or selection of any Qualified Bid, or Successful Bid other than as a participant in the Auction if so advised.

### **Supervision of the Sale Process**

39. Subject to any consultation rights and other similar rights provided for herein, the Monitor will conduct the Sale Process in the manner set out herein and in the SISP Approval Order. All discussions or inquiries to the Companies regarding the Sale Process shall be directed to the Monitor. Under no circumstances should a representative of the Companies be contacted directly or indirectly in respect of the Sale Process, including diligence requests, without the prior written consent of the Monitor. Any such unauthorized contact or communication could result in exclusion from the Sale Process, in the Monitor's sole discretion.
40. The Companies and their principals, employees and professional advisors shall cooperate fully with the Monitor and provide documents and information requested as part of the Sale Process to the Monitor in a prompt fashion.
41. Other than as specifically set forth in a definitive agreement between the Companies and a Successful Bidder, the Sale Process does not, and will not be interpreted to, create any contractual or other legal relationship among the Companies, the Monitor, any Interested Party, Qualified Bidder, the Successful Bidder, or any other party.
42. Neither the Companies nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions consummated under the Sale Process. Any such claim shall be the sole liability of the bidder that consummates a transaction under the Sale Process pursuant to which the claim is being made.



**SCHEDULE "A" – EMAIL ADDRESSES FOR DELIVERY OF BIDS**

To the Monitor:

**DODICK LANDAU INC.**

951 Wilson Ave  
Suite 15L  
Toronto, ON M3K 2A7

Attention:

Rahn Dodick - rahn.dodick@dodick.ca

With a copy to counsel to the Monitor:

**LOOPSTRA NIXON LLP**

135 Queens Plate Dr.,  
Suite 600  
Etobicoke, ON M9W 6V7

Attention:

Graham Phoenix - gphoenix@LN.Law  
Shahrazad Hamraz - shamraz@LN.Law

<b>Summary report:</b>	
<b>Litera Compare for Word 11.5.0.74 Document comparison done on 2/26/2025 8:54:16 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> nd://1386-9915-4706/7/SISP for JBT Group - Draft.docx	
<b>Modified DMS:</b> nd://1386-9915-4706/8/SISP for JBT Group - Draft.docx	
<b>Changes:</b>	
<u>Add</u>	5
<del>Delete</del>	1
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>6</b>

## SALE AND INVESTMENT SOLICITATION PROCESS ("Sale Process")

For the sale of the business and/or assets of JBT Transport Inc., Waydom Management Inc., Melair Management Inc., Heritage Truck Lines Inc., Drumbo Transport Limited, Heritage Northern Logistics Inc., Heritage Warehousing & Distribution Inc. (collectively, the "**Companies**").

### Introduction

1. On January 24, 2025, the Companies each filed a Notice of Intention to Make a Proposal ("**NOI**") under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3. Dodick Landau Inc. was appointed as proposal trustee under the NOI.
2. On February 10, 2025, the Court continued the NOI proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 ("**CCAA**") pursuant to an initial order, which, among other things, appointed Dodick Landau Inc. as the monitor of the Companies (the "**Monitor**").
3. On February 27, 2025, the Court granted two orders:
  - (a) an amended and restated initial order (the "**ARIO**"), which, among other things, approved an interim financing facility put forth by Randy Bowman (in such capacity, the "**DIP Lender**"); and
  - (b) an order (the "**SISP Approval Order**") that, among other things, authorized the Companies to implement a sale and investment solicitation process ("**SISP**") in accordance with the terms hereof.
4. Pursuant to the SISP Approval Order, the Court also approved a subscription agreement (the "**Stalking Horse Agreement**") between the Companies as issuers and a company to be incorporated by the DIP Lender, Kyle Medeiros, and Denis Medeiros (in such capacity, the "**Stalking Horse Bidder**"). For the avoidance of doubt, the implementation of the transactions contemplated by the Stalking Horse Agreement is conditional upon the Stalking Horse Agreement being selected as a Successful Bid (as defined below) in accordance with these Bidding Procedures and Court approval of the Stalking Horse Agreement and the transactions contemplated therein on a subsequent motion to be brought by the Companies following the completion of the SISP.
5. Copies of the ARIO, the SISP Approval Order and all other materials filed in these proceedings can be found at the following URL: [https://dodick.ca/public\\_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/](https://dodick.ca/public_documents/jbt-transport-inc-drumbo-transport-ltd-heritage-warehousing-distribution-inc-heritage-truck-lines-inc-heritage-northern-logistics-inc-melair-management-inc-and-waydom-management-inc-col/) (the "**Monitor's Website**").
6. This document sets out the procedures for the conduct of the SISP (the "**Bidding Procedures**").



## Objectives and Background of the Sale Process

7. The SISP is intended to solicit interest in, and opportunities for, a sale of, investment in, recapitalization of, or liquidation of, all or part of the Companies, their Property, and business operations (the “**Opportunity**”). The Opportunity may include one or more of: (i) a recapitalization, arrangement or other form of investment in or reorganization of the business and affairs of the Companies as a going concern, (ii) a sale of all, substantially all, or one or more components of the Companies’ business operations (the “**Business**”) as a going concern, or (iii) a sale or liquidation of all, substantially all, or one or more components of the Companies’ assets (including without limitation the shares of the Companies) (the “**Property**”).
8. The Bidding Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Companies, the Property and the Business, the manner in which bidders may participate in the SISP, requirements for bids received, the ultimate selection of a Successful Bidder(s) (as defined herein), and the requisite approvals to be sought from the Court in connection therewith.
9. The SISP shall be conducted by the Monitor in consultation and with the assistance of the Companies.
10. Any transaction consummated pursuant to the SISP 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 Companies, or any of their respective directors, officers, agents, advisors, or other representatives unless otherwise agreed in a definitive agreement.
11. The Monitor may make any modification to the Sale Process it considers appropriate in the circumstances and, where it considers such modification to be material, it may seek Court approval of such modification on notice to parties in the CCAA proceeding. The extension of any date in the Sale Process by up to two weeks shall not be considered material.

## SISP Timelines

12. The following table sets out the key milestones and deadlines under the SISP, which milestones and deadlines may be extended or amended by the Monitor, in consultation with the Companies and the Toronto Dominion Bank (“**TD Bank**”), by up to two weeks without Court approval:

<b>Milestone</b>	<b>Deadline</b>
The Court issues the SISP Approval Order approving the SISP	February 27, 2025
Commencement of the solicitation process (the “ <b>Commencement Date</b> ”)	As soon as reasonably practicable but no later than March 12, 2025
Deadline to submit a Qualified Bid	April 18, 2025 not later than 5:00 PM (Toronto Time)

Notification of Auction (if applicable)	April 22, 2025
Auction	April 25, 2025
Selection of Successful Bid	April 25, 2025
Sale Approval Hearing (as defined herein)	By no later than May 9, 2025, subject to Court availability
Closing Date Deadline	As soon thereafter as possible, and, in any event, by no later than May 16, 2025 (“ <b>Closing Date Deadline</b> ”)

13. Any extensions or amendments (other than the Closing Date Deadline) shall be communicated to all bidders in writing and posted on the Monitor's Website.

#### **Solicitation of Interest: Notice of Sale Process**

14. The Monitor shall be entitled, but not obligated, to arrange for a notice to be published in any newspaper or industry journal as the Monitor considers appropriate if it believes that such advertisement would be useful in the circumstances.
15. As soon as reasonably practicable, but, in any event, by no later than the Commencement Date:
- (a) the Monitor, in consultation with the Companies, will prepare a list of potential bidders, including (i) parties that have approached the Companies or the Monitor indicating an interest in the Opportunity; (ii) local and international strategic and financial parties which the Monitor, in consultation with the Companies, believes may be interested in the Opportunity, and (iii) and parties that have otherwise showed an interest in the Companies, the Property and/or the Business prior to the date of the SISP Approval Order; in each case, whether or not such party has submitted a letter of intent or similar document (collectively, the “**Interested Parties**” and each, an “**Interested Party**”);
  - (b) the Monitor will publish a notice of the SISP and any other relevant information that the Companies, in consultation with the Monitor, consider appropriate, on the Monitor’s Website, and in publications as may be considered appropriate by the Monitor;
  - (c) the Monitor, in consultation with the Companies, will prepare (i) a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; (ii) a confidential information memorandum describing the Opportunity (“**CIM**”); and (iii) a non-disclosure agreements (each an “**NDA**”) in form and substance satisfactory to the Monitor, the Companies, and their respective counsel, which agreement shall enure to the benefit of the Successful Bidder(s); and

- (d) the Monitor, in consultation with the Companies, will prepare and maintain a virtual data room (the “VDR”) containing the Stalking Horse Agreement and due diligence information and documentation in relation to the Opportunity. The VDR may be updated from time to time throughout the SISP. Participants (as defined below), must direct all due diligence questions in connection with the VDR, on a without liability or representation basis, to the Monitor.
16. The Monitor will have responsibility for managing all communication with Interested Parties prior to and after receipt of binding offers (“Offers”). This shall include facilitating the delivery of all communications, contacting prospective bidders and providing them with the Teaser Letter and CIM, coordinating the execution of NDAs, facilitating any requests for tours of the facilities, managing the process of answering inquiries from prospective bidders, coordinating any presentations that may be requested by Potential Bidders (defined below), soliciting and tracking all Offers, and reviewing and negotiating transaction documentation.
  17. The Monitor will send the Teaser Letter and the form of NDA to all applicable Interested Parties as soon as reasonably practicable after the granting of the SISP Approval Order and to any other Interested Party who requests a copy of the Teaser Letter and NDA, or who is identified by the Companies or the Monitor as an Interested Party, as soon as reasonably practicable after such request or identification, as applicable.

### **Sale Process**

18. Any Interested Party who wishes to participate in the Sale Process must provide to the Monitor:
  - (a) an NDA executed by it, and a letter setting forth the identity of the Interested Party, the contact information for such Interested Party, and full disclosure of the direct and indirect principals of the Interested Party. The NDA shall include an acknowledgement of the Bidding Procedures; and
  - (b) if the Monitor considers it necessary, such form of financial disclosure that allows the Monitor to make a reasonable determination as to the Interested Party's financial and other capabilities to consummate a transaction.
19. If an Interested Party: (i) has delivered an executed NDA; and (ii) has provided the Monitor with satisfactory evidence of its capability based on the availability of financing, its experience, and other considerations, to be able to consummate a sale transaction pursuant to the Sale Process, then such Interested Party will be determined by the Monitor to be a “**Potential Bidder**” and if more than one, the “**Potential Bidders**”. The Stalking Horse Bidder shall be deemed to be a Potential Bidder.
20. The Monitor will provide each Potential Bidder with a copy of the CIM and access to the VDR. Potential Bidders must rely solely on their own independent review, investigation, and/or inspection of all information and of the Business and/or assets in connection with their participation in the Sale Process and any transaction they enter into with the Companies. The Companies, the Monitor, and their respective directors, officers, agents and advisors make no representation or warranty whatsoever as to the information (including, without limitation, with respect to its accuracy or completeness): (i) contained in the CIM or the VDR; (ii) provided through the due diligence process or otherwise

made available pursuant to the Sale Process; or (iii) otherwise made available to a Potential Bidder except to the extent contemplated in any definitive documentation duly executed and delivered by the Successful Bidder (as defined below) duly executed by the Companies and approved by the Court.

21. At any time during the Sale Process, the Monitor may, in its reasonable business judgment, eliminate a Potential Bidder from the Sale Process, in which case such party will no longer be a Potential Bidder for the purposes of the Sale Process.
22. The Monitor shall afford each Potential Bidder such access to applicable due diligence materials and information pertaining to the Business and Property of the Companies as the Monitor deems appropriate in its reasonable business judgment. Due diligence access may include management presentations, access to the VDR, on-site inspections, and other matters which a Potential Bidder may reasonably request and which the Monitor deems appropriate. The Monitor will designate one or more representatives to coordinate all reasonable requests for additional information and due diligence access from each Potential Bidder and the manner in which such requests must be communicated. The Monitor shall not be obligated to furnish any information relating to the Business or the Property to any person other than to Potential Bidders. For the avoidance of doubt, selected due diligence materials may be withheld from certain Potential Bidders during the Sale Process, if the Monitor determines such information to represent proprietary or sensitive competitive information related to the Business and/or the Property of the Companies that should not be provided to a Potential Bidder.

#### **Bid Deadline**

23. A Potential Bidder that wishes to make an offer pursuant to the Sale Process must deliver a Qualified Bid (as defined herein) to the Monitor so as to be received by the Monitor not later than 5:00 PM (Toronto Time) on April 18, 2025 (the “**Bid Deadline**”), with a copy to each of the persons specified in **Schedule "A"** hereto.

#### **Criteria for Qualified Bids**

24. Any person who wishes to submit a bid (“**Bid**”) in the SISP must submit a bid that complies with the following criteria (any bid that so complies, a “**Qualified Bid**”, and the offeror thereof, a “**Qualified Bidder**”):
  - (a) it is submitted on or before the Bid Deadline in accordance with paragraph 23 herein;
  - (b) it is accompanied by a letter setting forth:
    - (i) the identity of the bidder and full disclosure of any entities and/or individuals that control the bidder; and/or the beneficial owner (if any) with the power, directly or indirectly to cause the direction of the management and policies of the bidder;
    - (ii) a statement that the bidder expects to be able to consummate a sale transaction pursuant to the Sale Process on or before the Closing Date Deadline (as defined herein); and

- (iii) such other information as reasonably requested by the Monitor, in consultation with the Companies;
- (c) the Bid contains the following:
- (i) if the bid is structured as a “reverse vesting transaction”, it includes a duly authorized and executed binding transaction agreement, including all exhibits and schedules contemplated thereby, together with a blackline against the Stalking Horse Agreement (which shall be posted in Word format in the VDR), describing the terms and conditions of the proposed transaction, including any liabilities and obligations proposed to be assumed, the purchase price, the structure and financing of the proposed transaction, and any regulatory or other third-party approvals required;
  - (ii) if the bid is structured in a form other than a “reverse vesting transaction”, it includes a duly authorized and executed, definitive transaction agreement, containing the detailed terms and conditions of the proposed transaction, including the Business or the assets proposed to be acquired, the obligations and liabilities to be assumed/excluded, the detailed structure of the transaction, the final purchase price or investment amount, and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements), and the proposed form of order(s) for the Court to consider in the motion to approve the transaction;
  - (iii) if the bid is structured as a liquidation offer, it includes a duly authorized and executed definitive liquidation offer/proposal/agreement including identification of the subject assets, the obligations and liabilities to be assumed (if any), the detailed structure of the liquidation, a net minimum guarantee (which shall stand as the “purchase price” for all purposes hereunder) and any other key economic terms expressed in Canadian dollars, together with all exhibits and schedules thereto, and confirmation of any order(s) required of the Court in connection with the same;
  - (iv) cash consideration sufficient to pay in full on closing of the transaction: (i) the amount equal to the Cash Consideration and DIP Credit Bid Consideration, each as defined in the Stalking Horse Agreement, plus an incremental overbid amount (in the minimum amount of \$125,000); and (ii) a break fee in the amount of \$65,000 as contemplated in the Stalking Horse Agreement;
  - (v) a purchase price in Canadian dollars, including details of all assets to be purchased and liabilities to be assumed by the bidder;
  - (vi) a provision that it is binding and irrevocable until the earlier of: (i) 30 days after the Bid Deadline and (ii) approval by the Court of the Successful Bid;
  - (vii) a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor or such other form of deposit as is acceptable to

the Monitor), payable to the Monitor, in trust, in an amount equal to 10% of the purchase price contemplated by the Bid (the “**Deposit**”). All Deposits submitted by Potential Bidders who did not submit the Successful Bid shall be returned, without interest, as soon as practicable following the date on which any such offers are rejected hereunder. The Deposit forming part of the Successful Bid shall be dealt with in accordance with the asset purchase agreement submitted by the Successful Bidder;

- (viii) written evidence of a firm, irrevocable commitment for financing or other evidence of an ability to consummate the proposed transaction or transactions comprising the Bid, that will allow the Monitor to make a determination as to the bidder’s financial and other capabilities to consummate the proposed transaction;
- (ix) acknowledgments and representations of the bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Business and/or Property, the Companies, or otherwise, prior to making its bid; (ii) it has relied solely upon its own independent review, investigation and/or inspection of the Business and/or assets (including, without limitation, any documents in connection therewith) in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory, or otherwise, regarding the Business and/or assets or the Companies or the completeness of any information provided in connection therewith, except as expressly contemplated in any definitive documentation duly executed by the Successful Bidder and the Companies and approved by the Court;
- (x) written evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the bidder’s board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid;
- (xi) specific statements concerning the intended treatment of unsecured creditors, guaranteed obligations, lien claimants, subtrades who have or are continuing to provide goods or services in relation to projects, as well as receivables and liabilities associated with Trade-Mark Industrial Inc., Trade-Crete Ltd. and Comtrade Ltd., including any cost of litigation associated therewith;
- (xii) a provision stating it is not subject to further due diligence;
- (xx) a provision stating it is not subject to financing;
- (xxx) a description of any regulatory or other third-party approvals required to consummate the proposed transaction, and the time period within which the bidder expects to receive such regulatory and/or third-party approvals, and those actions the bidder will take to ensure receipt of such approvals as promptly as possible;

- (xl) a description of any desired arrangements with respect to transition services that may be required from the Companies in connection with the transaction, including funding for same; not be subject to any conditions precedent except those that are customary in a transaction of this nature; not be conditional upon approval by the Court of any bid protection, such as a break-up fee, termination fee, expense reimbursement or similar type of payment;
  - (xli) the conditions to closing of the proposed transaction;
  - (xlii) any other terms or conditions that the bidder believes are material to the transaction; and
  - (xlili) a closing date for the transaction that is on or before the Closing Date Deadline of May 16, 2025 (collectively, the "**Bid Criteria**").
25. The Monitor may, if it deems appropriate or desirable in the circumstances, modify or amend the Bid Criteria, including but not limited to the ability of the Monitor to deem any liquidation offer to be a Qualified Bid when taking into account the realizable value of the of any assets *excluded* from such offer.

#### **Assessment of Qualified Bids**

26. Following the Bid Deadline, the Monitor will determine if each Bid delivered to the Monitor meets the Bid Criteria, provided that each Qualified Bid may be negotiated among the Monitor and the applicable bidder and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations. The Monitor shall be under no obligation to negotiate identical terms with, or extend identical terms to, each bidder.
27. If a Bid meets the Bid Criteria, as determined by the Monitor in its sole discretion, in consultation with the Companies and TD Bank, such Bid will be deemed to be a Qualified Bid in respect to the Sale Process.
28. Notwithstanding anything herein to the contrary, the offer represented by the Stalking Horse Agreement shall be deemed to be a Qualified Bid for all purposes under, and at all times in connection with, this Sales Process.

#### **Selection of Successful Bidders**

29. If the Monitor, after consultation with the Companies and TD Bank, determines that no Qualified Bid (other than the Stalking Horse Agreement) has been received by the Bid Deadline, the Stalking Horse Agreement shall be deemed the Successful Bid (as defined below).
30. If more than one Qualified Bid is received by the Bid Deadline, the Monitor shall extend invitations by email by 10:00 a.m. E.S.T. on the second (2nd) Business Day after the Bid Deadline to the Qualified Bidders and to the Stalking Horse Bidder to attend an auction (the "**Auction**"). The Auction shall be held at 10:00 a.m. on the fifth (5th) Business Day after the Bid Deadline at the offices of the Monitor or by teleconference, video conference, or other form of electronic telecommunications, as the Monitor may deem fit.

31. The Monitor shall conduct the Auction. At the Auction, the bidding shall begin initially with the highest Qualified Bid, and subsequently continue in multiples of \$250,000, or such other amount as the Monitor determines to facilitate the Auction. Additional consideration in excess of the amount set forth in the highest Bid must be comprised only of cash consideration. The format and other procedures for the Auction shall be determined by the Monitor in its sole discretion.
32. The successful bid (the “**Successful Bid**”, and the bidder of making such bid, a “**Successful Bidder**”) shall be, either:
  - (a) in the event that no Qualified Bid other than the Stalking Horse Agreement is received by the Bid Deadline, the Stalking Horse Agreement; or
  - (b) in the event that multiple Qualified Bids are received, following the conclusion of the Auction, the Qualified Bidder submitting the highest and/or best offer through the Auction.
33. The Monitor, in consultation with the Companies, may also identify the Qualified Bid constituting the second highest or otherwise best Bid (the “**Back-Up Bid**”, and the Qualified Bidder making such Back-Up Bid, the “**Back-Up Bidder**”) following the Auction. For clarity, the Stalking Horse Agreement may be deemed by the Monitor, in its sole discretion, to be a Back-Up Bid.
34. If a Successful Bidder fails to close the transaction contemplated by the Successful Bid, for any reason, then the Companies will be deemed to have accepted the Back-Up Bid and will proceed with the transaction pursuant to the terms thereof, in which case the Back-Up Bid shall be considered the Successful Bid for the purposes of this Sale Process.
35. The determination of any Successful Bid or Back-Up Bid by Monitor, in consultation with the Companies, shall be subject to approval by the Court.

### **Sale Approval Motion Hearing**

36. At the hearing of the motion to approve any transaction with a Successful Bidder or a Back-Up Bidder (the “**Sale Approval Hearing**”), the Companies shall seek, among other things, approval from the Court to consummate any Successful Bid or Back-Up Bid. All the Qualified Bids other than the Successful Bid or Back-Up Bid, if any, shall be deemed to be rejected on and as of the date of approval of the Successful Bid by the Court. The Back-Up Bid, if any, shall be deemed to be rejected on and as of the date of closing of the Successful Bid.

### **Confidentiality and Access to Information**

37. Each Interested Party, and Qualified Bidder shall not be permitted to receive any confidential or competitive information that is not made generally available to all participants in the Sale Process including the number or identity of bidders, the details of any Bids submitted, or the details or existence of any confidential discussions or correspondence among the Companies, the Monitor, and any bidder in connection with the Sale Process.



38. The Stalking Horse Bidder shall not be entitled to review, or in any way be involved in, the consideration, negotiation, or selection of any Qualified Bid, or Successful Bid other than as a participant in the Auction if so advised.

### **Supervision of the Sale Process**

39. Subject to any consultation rights and other similar rights provided for herein, the Monitor will conduct the Sale Process in the manner set out herein and in the SISP Approval Order. All discussions or inquiries to the Companies regarding the Sale Process shall be directed to the Monitor. Under no circumstances should a representative of the Companies be contacted directly or indirectly in respect of the Sale Process, including diligence requests, without the prior written consent of the Monitor. Any such unauthorized contact or communication could result in exclusion from the Sale Process, in the Monitor's sole discretion.
40. The Companies and their principals, employees and professional advisors shall cooperate fully with the Monitor and provide documents and information requested as part of the Sale Process to the Monitor in a prompt fashion.
41. Other than as specifically set forth in a definitive agreement between the Companies and a Successful Bidder, the Sale Process does not, and will not be interpreted to, create any contractual or other legal relationship among the Companies, the Monitor, any Interested Party, Qualified Bidder, the Successful Bidder, or any other party.
42. Neither the Companies nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions consummated under the Sale Process. Any such claim shall be the sole liability of the bidder that consummates a transaction under the Sale Process pursuant to which the claim is being made.

**SCHEDULE "A" – EMAIL ADDRESSES FOR DELIVERY OF BIDS**

To the Monitor:

**DODICK LANDAU INC.**

951 Wilson Ave  
Suite 15L  
Toronto, ON M3K 2A7

Attention:

Rahn Dodick - rahn.dodick@dodick.ca

With a copy to counsel to the Monitor:

**LOOPSTRA NIXON LLP**

135 Queens Plate Dr.,  
Suite 600  
Etobicoke, ON M9W 6V7

Attention:

Graham Phoenix - gphoenix@LN.Law  
Shahrazad Hamraz - shamraz@LN.Law

# TAB G

# APPENDIX “G”

**STALKING HORSE SUBSCRIPTION AGREEMENT**

**JBT TRANSPORT INC., HERITAGE TRUCK LINES INC., HERITAGE WAREHOUSING &  
DISRIBUTION INC., MELAIR MANAGEMENT INC., WAYDOM MANAGEMENT INC., AND  
DRUMBO TRANSPORT LIMITED**

**COLLECTIVELY, AS THE COMPANY**

**-AND-**

**RANDY BOWMAN, DENIS MEDEIROS AND KYLE MEDEIROS, IN TRUST FOR A COMPANY  
TO BE INCORPORATED**

**AS PURCHASER**



**THIS STALKING HORSE SUBSCRIPTION AGREEMENT** is made as of February 24, 2025

**BETWEEN:**

JBT Transport Inc. ("**JBTTI**"), Heritage Truck Lines Inc. ("**HTL**"), Heritage Warehousing & Distribution Inc. ("**HWD**"), Melair Management Inc. ("**MM Inc.**"), Waydom Management Inc. ("**Waydom**"), and Drumbo Transport Limited ("**Drumbo**") each corporation incorporated and existing under the laws of the Province of Ontario (collectively, the "**Company**")

-and-

Randy Bowman, Denis Medeiros and Kyle Medeiros, in trust for a company to be incorporated under the laws of the Province of Ontario (the "**Purchaser**")

**RECITALS:**

- A. Each of JBTTI, HTL and HWD offers transportation services and operates as a third-party logistics provider to coordinate the transportation of goods from the supplier to purchaser in exchange for a broker commission and MM Inc. owns the real property municipally known as 425 Melair Drive, Ayr, Ontario which is the head office location of the Applicants (as hereinafter defined) and MM Inc. carries on property management services.
- B. On January 24, 2025, each of the Applicants filed a Notice of Intention to Make a Proposal ("**NOI**") under the *Bankruptcy and Insolvency Act (Canada)* (the "**NOI Proceedings**"). On February 10, 2025, the NOI Proceedings were converted to proceedings under the CCAA (as hereinafter defined) pursuant to an order by the Ontario Superior Court of Justice (Commercial List) (the "**CCAA Court**") which, among other things, seek creditor protection for, and certain relief in respect of the Applicants (as hereinafter defined).
- C. The Applicants plan to obtain a sales process approval order (the "**SISP Order**") from the CCAA Court to approve, among other things, the SISP (as hereinafter defined).
- D. Pursuant to the SISP, the Purchaser has been selected as the stalking horse bidder and as such, the Purchaser has agreed to subscribe for, and the Company has agreed to issue, the Purchased Shares on and pursuant to the terms set forth herein if Purchaser becomes the Successful Bidder (as hereinafter defined) pursuant to the SISP.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties (as hereinafter defined) agree as follows:

## INTERPRETATION

### 1.1 Definitions

In this Agreement,

- (a) **"Account Receivable"** means all accounts receivable (including unbilled revenue from work in progress), bills receivable, Broker Receivables, trade accounts, trade debts and book debts due or accruing due in connection with the Business, including any refunds and rebates receivable relating to the Business or the Retained Assets and the full benefit of all security (including cash deposits), guarantees and other collateral held by the Company relating to the Business, and amounts receivable (or which may become receivable) by the Company under agreements whereby the Company has disposed of a business, facility or other assets, or under royalty (or other) agreements or documents related thereto and all bank accounts.
- (b) **"Administration Charge"** has the meaning given to it in the Initial Order.
- (c) **"Administrative Expense Amount"** means cash in the amount to be agreed to between the Monitor and the Purchaser, acting reasonably, which shall be paid to the Monitor on the Closing Date and held by the Monitor, for the benefit of Persons entitled to be paid the Administrative Expense Costs, subject to the terms hereof.
- (d) **"Administrative Expense Costs"** means the reasonable and documented costs and expenses, and reasonable accruals, for services performed by the Monitor, Residual Co. and their respective legal counsel after the Closing Date in connection with the CCAA Proceedings, the administration of such proceedings to their conclusion and this Agreement, including any bankruptcy of the Residual Co. and services in respect of the administration of the Excluded Assets, Excluded Liabilities and Residual Co.
- (e) **"Affiliate"** means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person's investment funds and managed accounts and any funds managed or directed by the same investment advisor.
- (f) **"Agreement"** means this stalking horse subscription agreement and all attachments and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this stalking horse subscription agreement and all attached Schedules and Exhibits, and unless otherwise indicated, references to Articles, Sections, Schedules and Exhibits are to Articles, Sections, Schedules and Exhibits in this stalking horse subscription agreement.



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- (g) **"Applicable Law"** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Transaction Regulatory Approval, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the Transactions contemplated by this Agreement, the members of the Applicants, the Purchaser, the Business, or any of the Purchased Shares or the Retained Liabilities.
- (h) **"Applicants"** means JBTTI, Drumbo, HTL, HNL, HWD, MM Inc., and Waydom and shall include Residual Co. after Residual Co. becomes an applicant under the Initial Order.
- (i) **"Approval and Reverse Vesting Order"** means an order of the CCAA Court in a form to be mutually agreed upon by the Purchaser and the Company, each acting reasonably.
- (j) **"Articles of Reorganization"** means, to the extent required, articles of reorganization in respect of the Company's authorized and issued share capital immediately prior to completion of the Transactions to provide for a redemption right in favour of the Company or such other provision acceptable to the Company and the Purchaser, acting reasonably, that would result in holders of Existing Shares ceasing to hold their Existing Shares at the time such articles are filed and effective in accordance with the Closing Sequence and receiving "nil" consideration, such articles of reorganization to be in form and substance satisfactory to the Purchaser, acting reasonably.
- (k) **"Benefit Plan"** means the group insurance policy held by the Applicants with Royal Bank of Canada Life Insurance Company bearing policy number RBC00003085 and policy effective date January 1, 2023, as amended, restated, modified or supplemented from time to time.
- (l) **"Books and Records"** means all information in any form relating to the Retained Assets, including books of account, financial, operations, sale books, tax, business, marketing, personnel and research information and records, technical information, drill logs, equipment logs, technical reports, operating guides and manuals and all other documents, files, correspondence and other information, including all data, information and databases stored on computer-related or other electronic media.
- (m) **"Break-up Fee"** has the meaning given to such term in Section 8.1(a).
- (n) **"Broker Payable"** means the portion of the Broker Receivable that is paid to the Carriers the Applicants engage.
- (o) **"Broker Receivable"** means the Company's Intercompany Receivable, that is part of the Logistics Business, comprising the monies provided by a supplier to the Applicants.
- (p) **"Business"** means the Company's: (a) the Logistics Business; and (b) warehousing and distribution services for customers across Canada.
- (q) **"Business Day"** means any day, other than a Saturday or Sunday, on which commercial banks in Toronto, Ontario are open for commercial banking business during normal banking hours.

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- (r) **"Carriers"** means the Company's third-party carriers. **"Carrier"** means any one of them.
- (s) **"Carriers Trust Fund"** means a trust account holding the money payable to a Carrier, under Subsection 191.01.1(3) of the HTA.
- (t) **"Cash"** means all cash in bank accounts of the Applicants.
- (u) **"Cash Consideration"** has the meaning given to such term in Section 3.1.
- (v) **"CCAA"** means the *Companies' Creditors Arrangement Act (Canada)*, as amended.
- (w) **"CCAA Charge Amount"** means cash in an amount sufficient to satisfy the amounts owing in respect of obligations secured by the CCAA Charges (unless such amounts will be satisfied from the Administrative Expense Amount);
- (x) **"CCAA Charges"** means the Administration Charge, the DIP Lender's Charge and the Critical Suppliers Charge.
- (y) **"CCAA Court"** has the meaning given to such term in Recital B.
- (z) **"CCAA Proceedings"** means the proceedings commenced under the CCAA by the Applicants pursuant to the Initial Order.
- (aa) **"Claims"** means any and all demands, claims, liabilities, actions, causes of action, counterclaims, expenses, costs, damages, losses, suits, debts, sums of money, refunds, accounts, indebtedness, rights of recovery, rights of set-off, rights of recoupment and liens of whatever nature (whether direct or indirect, absolute or contingent, asserted or unasserted, secured or unsecured, matured or not yet matured due or to become due, accrued or unaccrued or liquidated or unliquidated) and including all costs, fees and expenses relating thereto.
- (bb) **"Closing"** means the completion of the Transactions in accordance with the provisions of this Agreement.
- (cc) **"Closing Date"** means a date no later than five (5) Business Days after the conditions set forth in Article 7 have been satisfied or waived, other than the conditions set forth in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that, if there is to be a Closing hereunder, then the Closing Date shall be no later than the Outside Date.
- (dd) **"Closing Documents"** means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.
- (ee) **"Closing Sequence"** means the sequence set out in Schedule 11.2, which may be updated from time to time in accordance with Section 11.2 until two (2) Business Days prior to the Closing Date.
- (ff) **"Closing Time"** means 12:00 p.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.
- (gg) **"Company"** has the meaning given to it in the recitals hereto.

- (hh) **"Credit Bid Release"** means a full and final release of all Applicants of their respective obligations under the DIP Facility, which shall be in a form and substance satisfactory to the Applicants and the Monitor, each acting reasonably.
- (ii) **"Critical Suppliers Charge"** has the meaning given to it in the Initial Order.
- (jj) **"Cure Costs"** means the amounts, if any, that are required to cure any monetary defaults of the Company under any Retained Contract or Retained Lease.
- (kk) **"Deposit"** has the meaning given to such term in Section 3.2(a).
- (ll) **"DIP Credit Bid Consideration"** has the meaning given to such term in Section 3.1(b).
- (mm) **"DIP Facility"** means amounts available under the DIP Term Sheet.
- (nn) **"DIP Lender"** means Randy Bowman, as lender under the DIP Term Sheet.
- (oo) **"DIP Lender's Charge"** has the meaning given to it in the Initial Order.
- (pp) **"DIP Term Sheet"** means interim financing term sheet dated February 5, 2025 between the Applicants, as borrowers, and the DIP Lender, pursuant to which the DIP Lender has agreed to advance to the Applicants the maximum principal amount under the DIP Facility, as may be amended from time to time.
- (qq) **"Employee Liabilities"** means wages, vacation pay, and Benefit Plans owing by any Purchased Entity to any Retained Employee accruing to and after the Closing Time.
- (rr) **"Employees"** means individuals employed or retained by the Purchased Entities, on a full-time, part-time or temporary basis, including those employees on disability leave, parental leave or other absence, and **"Employee"** means any one of them.
- (ss) **"Encumbrance"** means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.
- (tt) **"Encumbrances to Be Discharged"** means all Encumbrances on the Retained Assets, including without limitation the Encumbrances listed in Schedule (ss), as such Schedule may be amended, supplemented or restated by the Purchaser from time to time up to two (2) Business Days prior to the hearing of the motion for the Approval and Reverse Vesting Order (or such other date agreed to by the Purchaser and the Company), the CCAA Charges and any other charge granted by the Court in the CCAA Proceedings, excluding only the Permitted Encumbrances.
- (uu) **"Equipment"** means all machinery, equipment, furnishing, furniture, parts, dies, molds, tooling, tools, computer hardware, supplies, accessories and other tangible Person and moveable property owned by the Company in connection with the Business.
- (vv) **"Equity Interests"** means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation,

contingent interest or similar rights) of a Person.

- (ww) **"Excluded Assets"** has the meaning given to such term in Section 2.2 including any assets that are added as Excluded Assets pursuant to Section 2.7.
- (xx) **"Excluded Contracts"** means contracts of the Purchased Entities which are not Retained Contracts, including any contracts that are added as Excluded Contracts pursuant to Section 2.7.
- (yy) **"Excluded Leases"** means all Leases in respect of the Leased Real Property which are not Retained Contracts, including those which have been or will be disclaimed by the Purchased Entities in the CCAA Proceedings.
- (zz) **"Excluded Liabilities"** has the meaning given to such term in Section 2.5 including any liabilities that are added as Excluded Liabilities pursuant to Section 2.7.
- (aaa) **"Existing Shares"** means the existing common shares in the capital of the Company and other Purchased Entities which are owned, directly or indirectly, by the Company.
- (bbb) **"Filing Date"** means January 24, 2025.
- (ccc) **"Final Order"** means with respect to any order or judgment of the CCAA Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, re-argument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, re-argument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Company and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, re-argument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.
- (ddd) **"GAAP"** means generally accepted accounting principles as set out in the *CPA Canada Handbook – Accounting* for an entity that prepares its financial statements in accordance with International Financial Reporting Standards, at the relevant time, applied on a consistent basis
- (eee) **"Goodwill"** means the goodwill of the Business, including the exclusive right of the Purchaser to represent itself as carrying on the Business in continuation of and in succession to the Company.
- (fff) **"Governmental Authority"** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

- (ggg) **"GST/HST"** means all goods and services tax and harmonized sales tax imposed under the ETA.
- (hhh) **"HNL"** means Heritage Northern Logistics Inc., a corporation incorporated and existing under the laws of Ontario.
- (iii) **"HNL Loan"** means HNL's loan payable to JBTTI in the net amount of \$50,000.
- (jjj) **"HTA"** means the *Highway Traffic Act* (Ontario).
- (kkk) **"Initial Order"** means the Amended and Restated Initial Order dated February 27, 2025 granted by the CCAA Court pursuant to the CCAA, as may be further amended and restated from time to time.
- (lll) **"Insurance"** means the interest of the Company in all contracts of insurance, insurance policies and insurance plans which are assets of or maintained in connection with the Retained Assets, any insurance proceeds net of any deductibles recovered by the Company under all other contracts of insurance, insurance policies (excluding directors and officers policies) and insurance plans between the date of this Agreement and the Closing Date, and the full benefit of the Company's rights to insurance claims relating to the Business and amounts recoverable in respect thereof net of any deductible to the extent of any of the foregoing are transferable.
- (mmm) **"Insurance Refund"** means the benefit of any refundable Insurance payable or paid by the Company net of any amounts withheld by any insurance authority, and any claim or right of the Company to any refund, rebate, or credit of Insurance.
- (nnn) **"Intellectual Property"** means any or all of the following items of the Company, wherever located, domestic or foreign: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, process formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the Goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored or located.
- (ooo) **"Intercompany Liabilities"** means all Liabilities owing between or among the Purchased Entities.
- (ppp) **"Intercompany Receivables"** means all Account Receivables owing to the Purchased Entities.
- (qqq) **"Inventory"** means all inventories of goods, including raw materials, finished goods, work in process and supplies, goods in transit that are held by the Company for sale, license, or other distribution (and includes all supplies used by the Company in the operation of

the Business) on hand at Closing.

- (rrr) **"Leased Real Property"** means the real or immovable property used for the Business and owned by the Purchased Entities municipally known as, 60 Steckle Place, Kitchener, Ontario, pursuant to a lease agreement between DIR Properties (GP) Inc., as landlord, and HWD, as tenant, dated February 3, 2022 (as amended, restated, supplemented or otherwise modified from time to time), together with any and all interests of the Purchased Entities in all plants, buildings, structures, fixtures, erections, improvements, easements, rights-of-way and other appurtenances situated on or forming part of those premises.
- (sss) **"Leases"** means the leases or agreements in the nature of a lease or right of occupancy of real property to which any Purchased Entity is a party whether as lessor or lessee, in respect of or related to the Leased Real Property.
- (ttt) **"Liability"** means any debt, loss, damage, adverse claim, fines, penalties, liability or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in or under statute, contract, tort, strict liability or otherwise), and includes all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation), and, **"Liabilities"** means the plural thereof.
- (uuu) **"License"** means, collectively any and all permits, licences, authorizations, consents, concessions, exemptions, leases, grants, permits, rights, privileges, approvals or other evidence of authority from any Governmental Authority and related to the Business and that has been issued to, granted to, conferred upon, or otherwise created for any Purchased Entity.
- (vvv) **"Litigation Claim"** means any litigation between the Applicants and Trade-Mark Industrial Inc., Trade-Crete Ltd. and Comtrade Ltd.
- (www) **"Logistics Business"** means the services the Applicants provide as a third-party logistics provider, to coordinate the transportation of goods from the supplier to the purchaser in exchange for a commission.
- (xxx) **"Material Adverse Effect"** means any change, effect, event, occurrence, state of facts or development that has had a material adverse effect on: (i) the Business, assets, liabilities, financial conditions or results of operations of the Purchased Entities, taken as a whole; or (ii) prevents the ability of any of the Purchased Entities to perform their obligations under, or to consummate the Transactions contemplated by, this Agreement, but excluding any such change, effect, event, occurrence, state of facts or development attributable to or arising from: (A) general economic or business conditions; (B) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including: (I) any disruption in any of the foregoing markets or any imposition of sanction or tariff; (II) any change in the currency exchange rates; or (III) any decline or rise in the price of any security, commodity, contract or index); (C) acts of God, or other calamities, pandemics (including worsening thereof), national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of

- any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (D) the identity of the Purchaser or its Affiliates; (E) conditions affecting generally the industry in which any of the Purchased Entities participate; (F) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the Transactions contemplated by this Agreement, or the identity of the Parties; (G) changes in Applicable Laws or the interpretation thereof; (H) any change in GAAP or other accounting requirements or principles; (I) national or international political, labor or social conditions; (J) the failure of the Purchased Entities to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); or (K) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (A), (B), (C), (E), (G), (H) or (I) shall not apply to the extent that such event is disproportionately adverse to the Purchased Entities, taken as a whole, as compared to other companies in the industries in which the Purchased Entities operate.
- (yyy) **"Monitor"** means Dodick Landau Inc., as court-appointed monitor of the Applicants in the CCAA Proceedings, and not in its personal or corporate capacity.
- (zzz) **"Monitor's Certificate"** means the certificate delivered to the Purchaser, and filed with the CCAA Court, by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor, in its sole discretion, from each of the Company and the Purchaser that all conditions to Closing have been satisfied or waived by the applicable Parties and the Transactions contemplated by this Agreement have been completed.
- (aaaa) **"NOI Proceedings"** has the meaning given to such term in Recital B.
- (bbbb) **"Non-TD Equipment Lease"** means the Company's outstanding Liabilities under Equipment leases with lessors other than TD Bank.
- (cccc) **"Order"** means any order of the Court made in the CCAA Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- (dddd) **"Other Assets"** means the Company's Intellectual Property, Real Property, Litigation Claim, Insurance Refund, Vendor Take-Back Mortgage, and Prepaid Amounts.
- (eeee) **"Outside Date"** has the meaning given to such term in Section 10.1(c).
- (ffff) **"Parties"** means the Company and the Purchaser collectively, and **"Party"** means any one of them, as the context requires.
- (gggg) **"Permitted Encumbrances"** means the Encumbrances listed in Schedule (ffff).
- (hhhh) **"Person"** includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any

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agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

- (iii) **"Post-Filing Claims"** means any or all indebtedness, liability, or obligation of the members of the Applicants that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Applicants during such period.
- (jjj) **"Pre-Closing Reorganization"** has the meaning given to such term in Section 2.10.
- (kkkk) **"Prepaid Amounts"** means all prepayments of expenses, prepaid charges, deposits, security deposits, sums and fees related to the Business in respect of the Retained Assets.
- (lll) **"Prior Equity Interests"** means any and all of the following that exists immediately prior to Closing and relates to any of the Company: (i) Equity Interests; and (ii) any of the following that is convertible or exchangeable for any Equity Interest or which provide for or require the issuance, conversion, sale or transfer by the Company of any Equity Interests of the Company or otherwise relating thereto, namely, any agreement, contract, plan, indenture, deed, certificate, subscription right, conversation right, pre-emptive right, option, warrant, security, debenture, loan, note or other document, instrument, right or commitment of any character whatsoever; provided for avoidance of doubt that the Purchased Shares shall not constitute Prior Equity Interests.
- (mmmm) **"Priority Payment Amount"** means an amount equal to: (a) those priority payments prescribed under subsections 6(3), 6(5)(a) and 6(6) of the CCAA; (b) the CCAA Charge Amounts; and (c) any payments in respect of Leases that are required under the CCAA.
- (nnnn) **"Purchase Price"** has the meaning given to such term in Section 3.1.
- (oooo) **"Purchased Entities"** means JBTTI, HTL, HWD, MM Inc., Waydom and Drumbo and **"Purchased Entity"** means any one of them after the Closing Date.
- (pppp) **"Purchased Shares"** has the meaning given to such term in Section 2.1(a).
- (qqqq) **"Purchaser"** has the meaning given to such term in the preamble to this Agreement.
- (rrrr) **"Real Property"** means the real or immovable property and owned by MM Inc. municipally known as 425 Melair Drive, Ayr, Ontario and all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon or forming part thereof.
- (ssss) **"Residual Co."** means a corporation to be incorporated by the Company in advance of Closing, to which the Excluded Assets, Excluded Contracts, Excluded Leases and Excluded Liabilities will be transferred to as part of the Closing Sequence, which shall have no issued and outstanding shares.
- (tttt) **"Retained Assets"** has the meaning given to such term in Section 2.3.



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- (uuuu) **"Retained Contracts"** means, other than the Retained Leases, all contracts of the Purchased Entities, including the Non-TD Equipment Leases, those contracts in Schedule (tttt) including any contracts that are added as Retained Contracts pursuant to Section 2.8.
- (vvvv) **"Retained Employees"** means all Employees of the Purchased Entities as of the Closing Date other than the Terminated Employees.
- 
- (wwww) **"Retained Leases"** means all Leases in respect of Leased Real Property as of the Closing Date.
- (xxxx) **"Retained Liabilities"** has the meaning given to such term in Section 2.4 including any liabilities that are added as Retained Liabilities pursuant to Section 2.8.
- (yyyy) **"SISP"** means the sale and investment solicitation process approved by the SISP Order, as may be amended by the CCAA Court from time to time, which must be acceptable to the Purchaser, acting reasonably.
- (zzzz) **"SISP Order"** has the meaning ascribed to it in Recital C.
- (aaaa) **"Successful Bid"** has the meaning ascribed to it in the SISP, and the bidder of making such bid is the **"Successful Bidder"**.
- (bbbb) **"Tax"** and **"Taxes"** means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, GST/HST, value added, consumption, sales, use, excise, stamp, withholding, business, franchising, escheat, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario, and other government pension plan premiums or contributions.
- (cccc) **"Tax Act"** means the *Income Tax Act* (Canada) and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.
- (dddd) **"Tax Return"** means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.
- (eeee) **"Taxing Authorities"** means His Majesty the King in right of Canada, His Majesty the King in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, and any Canadian or other Governmental Authority exercising taxing authority or power, and **"Taxing Authority"** means any one of the Taxing Authorities.

(ffff) **"TD Bank"** means the Toronto-Dominion Bank.

(ggggg) **"Terminated Employees"** means those Employees terminated by the applicable Purchased Entity on or prior to the Closing Date at the sole discretion of the Purchaser, provided that in respect of terminations of any Employees that are unionized, the applicable Purchased Entity's prior consent is required and such terminations of any unionized Employees must comply with the applicable collective bargaining agreement.

(hhhhh) **"Transaction"** means, collectively, the Pre-Closing Reorganization, the purchase and issuance of the Purchased Shares pursuant to this Agreement and all other transactions contemplated by this Agreement that are to occur contemporaneously with the purchase and issuance of the Purchased Shares.

(iiii) **"Transaction Regulatory Approvals"** means any material license, permits approvals and/or grants required from any Governmental Authority or under any Applicable Laws relating to the business and operations of the Purchased Entities or the Purchaser that would be required to be obtained in order to permit the Company and the Purchaser to complete the transactions contemplated by this Agreement and for the Purchased Entities to carry on the Business following the Closing Date.

(jjjj) **"Vendor Take-Back Mortgage"** means Waydom's first mortgage over 50% of an expired gravel pit, known as the Edworthy property located at 1580 Edworthy Side Road, Cambridge, Ontario.

## 1.2 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended, re-enacted or replaced.

## 1.3 Headings, Table of Contents, etc.

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

## 1.4 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, and words importing gender include all genders.

## 1.5 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars. References to "\$" are to Canadian dollars.

## 1.6 Certain Phrases

In this Agreement (i) the words "including", "includes" and "include" and any derivatives of such words mean "including (or includes or include) without limitation" and (ii) the words "the aggregate

of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expression "Article", "Section" and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

### **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the Transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

### **1.8 Entire Agreement**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

### **1.9 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto, and provided that such amendment is consented to by the Monitor. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.10 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any Claim or controversy directly or indirectly based upon or arising out of this Agreement or the Transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of

process on such Party as provided in Section 12.7 shall be deemed effective service of process on such Party.

### **1.11 Incorporation of Schedules and Exhibits**

Any schedule or exhibit attached thereto, and any schedule or exhibit attached to this Agreement, is an integral part of this Agreement.

### **1.12 Accounting Terms**

All accounting terms used in this Agreement are to be interpreted in accordance with GAAP unless otherwise specified.

### **1.13 Non-Business Days**

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### **1.14 Computation of Time Periods**

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## **ARTICLE 2 SUBSCRIPTION AND ASSET PURCHASE**

### **2.1 Agreement to Subscribe for and Issue Purchased Shares**

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, in accordance with the Closing Sequence, the Company shall issue to the Purchaser, and the Purchaser shall subscribe for that number and class of shares in the share capital of the Company from treasury, to be specified by the Purchaser at least two Business Days prior to the Closing Date, which shares shall be free and clear of all Encumbrances other than Permitted Encumbrances (the "**Purchased Shares**").
- (b) Pursuant to the Approval and Reverse Vesting Order and, if required, the Articles of Reorganization, in accordance with the Closing Sequence, all Equity Interests of the Company outstanding prior to the issuance of the Purchased Shares, other than the Purchased Shares, shall be cancelled, without consideration, and the Purchased Shares shall represent 100% of the outstanding Equity Interests in the Company after such cancellation and issuance.

## 2.2 Excluded Assets

As of the Closing and pursuant to the Approval and Reverse Vesting Order, the assets of the Purchased Entities shall not include any of the following assets, together with any other assets as set forth on Schedule 2.2 (collectively, the "**Excluded Assets**"):

- (a) the Cash Consideration;
- (b) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities or Excluded Assets, provided that the Purchased Entity may retain original copies of any such records if required by Applicable Law and provided further that the applicable Purchased Entity may take copies of all Tax records and books and records pertaining to such records to the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return;
- (c) the Excluded Contracts;
- (d) the Real Property;
- (e) HNL or any assets owned by it;
- (f) all communications, information or records, written or oral, that are in any way related to (i) the Transactions contemplated by this Agreement, (ii) the sale of the Purchased Shares, (iii) any Excluded Asset or (iv) any Excluded Liability;
- (g) any rights which accrue to Residual Co. under the transaction documents; and
- (h) any assets which are added as Excluded Assets pursuant to Section 2.7.

## 2.3 Retained Assets

On the Closing Date, the Purchased Entities shall retain, free and clear of any and all Encumbrances other than Permitted Encumbrances, all of the assets owned by them on the date of this Agreement and any assets acquired by them up to and including Closing, including the Retained Contracts and Licenses (collectively, the "**Retained Assets**"), except, however, any assets sold in the ordinary course of business between the date hereof and the Closing Date in accordance with the terms of this Agreement and the Initial Order. For greater certainty, the Retained Assets shall not include the Excluded Liabilities, Excluded Assets or the Excluded Liabilities which the Company shall transfer to Residual Co. in accordance with this Agreement.

## 2.4 Retained Liabilities

Pursuant to this Agreement and the Approval and Reverse Vesting Order, as of the Closing Time, the only obligations and liabilities of the Purchased Entities shall consist of only the items specifically set forth below (collectively, the "**Retained Liabilities**"):

- (a) Employee Liabilities;
- (b) the Cure Costs and liabilities of the Purchased Entities under the Retained Contracts from and after the Closing Time;
- (c) the Cure Costs and liabilities arising from or in connection with the performance of the Retained Leases, from and after the Closing Time;
- (d) the Post-Filing Claims that remain outstanding as at the Closing Time;
- (e) the Intercompany Liabilities payables (and all Claims, Encumbrances relating thereto);
- (f) Tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date;
- (g) HNL Loan;
- (h) Broker Payables;
- (i) Carrier Trust Fund;
- (j) the outstanding obligations under the DIP Term Sheet as of the Closing Time;
- (k) the outstanding obligations in respect of the Retained Contracts owing as of the Closing Time;
- (l) those specific Retained Liabilities set forth in Schedule 2.4; and
- (m) those liabilities that are added as Retained Liabilities pursuant to Section 2.8.

## 2.5 Excluded Liabilities

Except for Retained Liabilities, all Claims and all debts, obligations and liabilities of the Purchased Entities or any predecessors thereof, of any kind or nature, shall be assigned to, and become the sole obligation of, Residual Co. pursuant to the terms of the Approval and Reverse Vesting Order and this Agreement, and, as of the Closing, the Purchased Entities shall not have any obligation, duty, or liability of any kind whatsoever, except for Retained Liabilities, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and such liabilities or obligations shall be the sole responsibility of Residual Co., including *inter alia*, and any and all liability relating to any change of control provision that may

arise in connection with the change of control contemplated by the Transactions hereunder and to which the Purchased Entities may be bound as at Closing, all liabilities relating to or under the Excluded Contracts, Excluded Leases, and Excluded Assets, liabilities for all Terminated Employees and those liabilities that are added as Excluded Liabilities pursuant to Section 2.7 (collectively, the "Excluded Liabilities").

## **2.6 Transfer of Excluded Liabilities to Residual Co.**

On the Closing Date, pursuant to the terms of the Approval and Reverse Vesting Order, the Purchased Entities shall assign and transfer the Excluded Liabilities to Residual Co., and Residual Co. shall assume the Excluded Liabilities in consideration of the Excluded Assets acquired by Residual Co. All of the Excluded Liabilities shall be discharged from the Purchased Entities as of the Closing, pursuant to the Approval and Reverse Vesting Order.

## **2.7 Right to Exclude Assets and Liabilities**

At any time on or prior to the day that is five (5) days prior to the hearing date for the Approval and Reverse Vesting Order (or such later date as agreed to by the Purchaser and the Company with the consent of the Monitor), the Purchaser may, by giving notice to the Company and the Monitor, elect to: (a) exclude any assets or properties of any Purchased Entity from the Retained Assets, and add such assets or properties to the Excluded Assets; (b) exclude any contract from the Retained Contracts, including any Leases that are not amended to the satisfaction of the Purchaser, and add such contracts to the Excluded Contracts; and (c) exclude any liability other than the liability set out in Section 2.4(c) from the Retained Liabilities and add such liability to the Excluded Liabilities. No changes to the Purchase Price shall result from the exclusion of any assets, properties, Contracts, Liabilities, Leases, Retained Contracts, Retained Liabilities or Retained Employees pursuant to this Section 2.7.

## **2.8 Right to Add Assets and Liabilities**

At any time on or prior to the day that is one (1) day prior to the Closing Date, the Purchaser may, by giving notice to the Company and the Monitor, elect to: (a) exclude any assets or properties of any Purchased Entity from the Excluded Assets, and add such assets or properties to the Retained Assets; (b) exclude any contract from the Excluded Contracts, including any Leases that are amended to the satisfaction of the Purchaser, and add such contracts to the Retained Contracts; (c) exclude any liability from the Excluded Liabilities and add such liability to the Retained Liabilities. No changes to the Purchase Price shall result from the addition of any assets, properties, liabilities to the Retained Assets, Leases, Retained Contracts, Retained Liabilities or Retained Employees pursuant to this Section 2.8.

## **2.9 Transfer of Excluded Assets to Residual Co.**

On the Closing Date, pursuant to the terms of the Approval and Reverse Vesting Order and in consideration for Residual Co. assuming the Excluded Liabilities pursuant to Section 2.6 of this Agreement, the Purchased Entities shall assign and transfer the Excluded Assets to Residual Co., and the Excluded Assets shall vest in Residual Co. pursuant to the Approval and Reverse Vesting Order.

## 2.10 Pre-Closing Reorganization

- (a) Subject to Section 2.10(b), the Company agrees that, no earlier than one (1) Business Day immediately prior to the Closing Date and upon request of the Purchaser, the Company shall, and shall cause any of the Applicants to perform such other reorganizations of its corporate structure, capital structure, business, operations and assets, settlements of Intercompany Liabilities, or such other transactions as Purchaser may request, acting reasonably (each such action, a "**Pre-Closing Reorganization**"). At least ten (10) Business Days prior to the Closing Date, the Company agrees to use commercially reasonable efforts to cooperate with the Purchaser and its advisors to determine the nature of any Pre-Closing Reorganizations that might be undertaken and the manner in which they would most effectively be undertaken, including filing or causing the Company to file available elections or designations reasonably required to effect the Pre-Closing Reorganizations if such filing is reasonably proposed to be made at or prior to Closing, and to cooperate with the Purchaser and its advisors to seek to obtain consents or waivers which might be required under any Retained Contracts or authorizations from Governmental Authorities in respect of any Pre-Closing Reorganization.
- (b) Notwithstanding the foregoing, the Company will not be obligated to participate in any Pre-Closing Reorganization if the Company determines acting reasonably that such Pre-Closing Reorganization would (i) materially impair, impede, delay or prevent the satisfaction of any conditions set forth in Article 7, or the ability of the Purchaser or Company to consummate, or materially delay the consummation of, the Transaction, or (ii) (A) materially alter or impact the consideration which the Applicants and/or their applicable stakeholders will benefit from as part of the Transactions, or (B) have adverse Tax consequences, or impose any Liability on, the remaining Applicants or any director of the Company in each case that is greater than the amount of such tax consequences or Liability in the absence of such action.
- (c) This Agreement (including the Closing Sequence) will be amended and restated as required to give effect to a Pre-Closing Reorganization.

## ARTICLE 3

### PURCHASE PRICE AND RELATED MATTERS

#### 3.1 Purchase Price

The total aggregate consideration in respect of the Purchased Shares shall be an amount equal to approximately \$13,316,523.76 comprised of the following (the "**Purchase Price**"):

- (a) payment in cash of approximately \$4,917,497.04, comprised of:
- i. an amount equal to \$2,969,500 for the Equipment;
  - ii. an amount equal to \$30,000 for the Inventory,
  - iii. an amount equal to \$439,500 for Other Assets,
  - iv. an amount equal to 43% of the Accounts Receivables which as of the Business Day prior to the Closing Date constitutes \$●;
  - v. an amount equal to the Cure Costs,



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- vi. an amount equal to the Priority Payment Amount, and Administrative Expense Amount (collectively, the "**Cash Consideration**");
- (b) the outstanding obligations payable by the Applicants as of the Closing Date pursuant the DIP Term Sheet including the principal amount of such claims and interest accrued as of the Closing Date, plus all accrued and unpaid interest thereon through to and including the Closing Date, plus any unpaid fees and expenses associated therewith (the "**DIP Credit Bid Consideration**");
- (c) the assumption of the Retained Liabilities, including:
  - i. the outstanding obligations under the DIP Term Sheet as of the Closing Time;
  - ii. the outstanding obligations in respect of the Non-TD Equipment Leases of the Company owing as of the Closing Time;
  - iii. the outstanding obligations in respect of the Retained Leases as of the Closing Time; and
  - iv. Employee Liabilities.

### 3.2 Deposit

- (a) The Purchaser has paid a deposit in the principal amount of \$250,000 representing the principal amount advanced by the DIP Lender to the Applicants pursuant to and in accordance with the DIP Term Sheet and shall constitute payment of a deposit in the approximate amount of 5% of the Cash Consideration (the "**Deposit**"). The Parties agree that the Monitor shall cause the Deposit to be placed in a non-interest-bearing account on completion of the Transaction, the Deposit shall be credited to the Purchaser on the Closing Date. The Parties acknowledge that the paid Deposit constitutes the DIP Credit Bid Consideration.
- (b) On Closing, the Parties acknowledge that the paid Deposit constitutes the DIP Credit Bid Consideration, and the Deposit shall be applied in accordance with Section 3.3 below.
- (c) If Closing does not occur on or before the Outside Date or this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Purchaser under this agreement, then:
  - i. the Deposit shall be forfeited by the Purchaser to the Monitor as a liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Monitor would suffer in such circumstances (and, for greater certainty, and notwithstanding, any other provision in this Agreement, this shall be the Monitor's sole right and remedy as a result of the Purchaser's breach). The Monitor may, in its sole discretion, distribute the full amount of the Deposit to creditors of the Applicants pursuant to their respective priorities;
  - ii. any debt, obligations and liabilities of the Applicants under the DIP Facility and the DIP Term Sheet is hereby terminated and cancelled;

- iii. any repayment rights of the DIP Lender are hereby forfeited by the DIP Lender; and
- iv. the DIP Lender's Charge shall automatically be fully released and discharged at such time.

### **3.3 Satisfaction of Purchase Price**

The Purchaser shall satisfy the Purchase Price by payment as follows:

- (a) The DIP Credit Bid Consideration shall be paid and satisfied on the Closing Date by the Purchaser releasing the Applicants from repayment of all amounts owing in connection with the DIP Credit Bid Consideration pursuant to the Credit Bid Release.
- (b) At the Closing Time, the Purchaser shall pay an amount equal to the Cash Consideration to the Monitor by wire transfer, to be held in escrow and paid in accordance with the Closing Sequence.
- (c) The value of the Retained Liabilities shall be retained by the applicable Purchased Entities on the Closing Date.

## **ARTICLE 4**

### **REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

Each of the Companies represents and warrants to the Purchaser, as follows, and acknowledges that the Purchaser is relying upon the following representations and warranties in connection with its sale of the Purchased Shares:

#### **4.1 Due Authorization and Enforceability of Obligations**

Subject to the granting of the Approval and Reverse Vesting Order, this Agreement has been duly authorized, executed and delivered by it, and constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

#### **4.2 Existence and Good Standing**

Each of the Companies is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and (i) has all requisite power and authority to execute and deliver this Agreement and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and to perform its obligations hereunder and consummate the Transaction contemplated hereunder.

#### **4.3 Absence of Conflicts**

The execution and delivery of this Agreement by the Company and the completion of its obligations hereunder and the consummation of the Transactions contemplated herein do not and will not violate or conflict with any Applicable Law, (subject to the receipt of any Transaction Regulatory Approvals and the granting of the Approval and Reverse Vesting Order) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under the certificate of incorporation, articles, by-laws or other constituent documents of any Applicant. Subject to the granting of the Approval and Reverse Vesting Order, the execution, delivery and performance by the Company does not and will not violate any Order.

#### **4.4 Approvals and Consents**

The execution and delivery of this Agreement by the Company, the completion by the Company of its respective obligations hereunder and the consummation by each of the Company of the Transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by the applicable Transaction Regulatory Approvals and the entry of the Approval and Reverse Vesting Order by the CCAA Court.

#### **4.5 No Actions**

There is not, as of the date hereof, pending or, to the Company's knowledge, threatened against any Applicant or any of its properties, nor has any Applicant received any written notice in respect of, any Claim, potential Claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body, other than the CCAA Court, that, would prevent the Company from executing and delivering this Agreement, performing its obligations hereunder and consummating the Transactions and agreements contemplated by this Agreement.

#### **4.6 Residence**

None of the Purchased Entities are a non-resident of Canada within the meaning of the Tax Act.

### **ARTICLE 5**

#### **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to the Company as follows, and acknowledges that the Company is relying upon the following representations and warranties in connection with its purchase of the Purchased Shares:

##### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by the Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other

similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

## **5.2 Existence and Good Standing**

Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and consummate the Transactions contemplated by this Agreement.

## **5.3 Absence of Conflicts**

The execution and delivery of this Agreement by the Purchaser and the completion by the Purchaser of its obligations hereunder and the consummation of the Transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, (subject to the receipt of any applicable Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

## **5.4 Approvals and Consents**

The execution and delivery of this Agreement by the Purchaser, the completion by the Purchaser of its obligations hereunder and the consummation by the Purchaser of the Transactions contemplated herein, do not and will not require any consent, approval or other action, with or by, any Governmental Authority, other than as contemplated by the applicable Transaction Regulatory Approvals and the granting of the Approval and Reverse Vesting Order by the CCAA Court.

## **5.5 No Actions**

There is not, as of the date hereof, pending or, to the Purchaser's knowledge, threatened against it or any of its properties, nor has the Purchaser received notice in respect of, any Claim, potential Claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body, other than the CCAA Court, that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

## **5.6 Cash Consideration; Availability of Funds**

The Purchaser will have on Closing, sufficient unrestricted funds and financial capacity to consummate the Transactions contemplated by this Agreement, including payment of the Cash Consideration.

## **5.7 Residence**

The Purchaser is not a non-resident of Canada within the meaning of the Tax Act.

## **ARTICLE 6 AS IS, WHERE IS**

The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Shares, the Retained Assets, the Retained Employees, the Retained Liabilities and all related operations of the Purchased Entities, and, based solely thereon and the advice of its financial, legal and other advisors, has determined to proceed with the Transactions contemplated by this Agreement. The Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of the Company expressly set forth in Article 4, the Purchaser understands, acknowledges and agrees that all other representations, warranties, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Purchased Entities or the Business, or the quality, quantity or condition of the Purchased Shares) are specifically disclaimed by each of the Company, the other Applicants, the Monitor and their respective financial and legal advisors. THE PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE COMPANY EXPRESSLY AND SPECIFICALLY SET FORTH IN ARTICLE 4: (A) THE PURCHASER IS ACQUIRING THE PURCHASED SHARES ON AN "AS IS, WHERE IS" BASIS; AND (B) NONE OF THE COMPANY, THE OTHER APPLICANTS, THE MONITOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF EITHER OF THE COMPANY, THE OTHER APPLICANTS OR THE MONITOR WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND THE PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING ANY OF THE PURCHASED ENTITIES, THE BUSINESS, THE PURCHASED SHARES, THE RETAINED ASSETS, THE RETAINED EMPLOYEES, THE RETAINED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES; THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE PURCHASER OR ANY OF ITS RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH THE PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY THE PURCHASER.

## **ARTICLE 7 CONDITIONS**

### **7.1 Conditions for the Benefit of the Purchaser and Company**

The respective obligations of the Purchaser and the Company to consummate the Transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

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- (a) *No Law* – no provision of any Applicable Law and no Order preventing or otherwise frustrating the consummation of the purchase of the Purchased Shares or any of the other transactions pursuant to this Agreement shall be in effect;
- (b) *Final Orders* – each of the SISP Order and the Approval and Reverse Vesting Order shall have been issued and entered and shall be Final Orders;
- (c) *Successful Bid* – this Agreement will be the Successful Bid and the Purchaser shall be the Successful Bidder (as determined pursuant to the SISP);
- (d) *Transaction Regulatory Approvals* – the Parties shall have received the required Transaction Regulatory Approvals, and all such Transaction Regulatory Approvals shall be in full force and effect, except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing; and
- (e) *Pre-Closing Reorganization Steps* – subject to the delivery of the Monitor's Certificate, the Pre-Closing Reorganization Steps, if required by the Purchaser, shall have been effected prior to Closing in form and substance acceptable to the Parties.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of each of the Company and the Purchaser. Any condition in this Section 7.1 may be jointly waived by the Company and by the Purchaser, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the Company and the Purchaser, as applicable, only if made in writing.

## **7.2 Conditions for the Benefit of the Purchaser**

The obligation of the Purchaser to consummate the Transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by the Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Purchaser):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed or complied with by the Company at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the representations and warranties of the Company contained in Article 4 shall be true and correct in all respects as of the Closing Date, as if made at, and as of, such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect (and, for this purpose, any reference to "material", "Material Adverse Effect" or other concepts of materiality in such representation and warranties shall be ignored);
- (c) *Officer's Certificates* – The Purchaser shall have received a certificate confirming the satisfaction of the conditions contained in Subsection 7.2(a) (Performance of

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Covenants) the covenants contained in this Agreement to be performed or complied with by the Company at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time and 7.2(b) (Truth of Representations and Warranties), signed for and on behalf of the Company by an executive officer of the Company or other Persons acceptable to the Purchaser, without personal liability, in each case in form and substance reasonably satisfactory to the Purchaser; and

- (d) *Company's Deliverables* – the Company shall have delivered to the Purchaser all of the deliverables contained in Section 11.3 in form and substance reasonably satisfactory to the Purchaser.

### 7.3 Conditions for the Benefit of the Company

The obligation of the Company to consummate the Transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Company of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Company):

- (a) *Truth of Representations and Warranties* – the representations and warranties of the Purchaser contained in Article 5 will be true and correct in all respects on and as of the date of this Agreement and on and as of the Closing Date as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not reasonably be expected to have a material and adverse effect on Purchaser's ability to consummate the Transactions contemplated by this Agreement;
- (b) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Purchaser at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (c) *Officer's Certificate* – The Company shall have received a certificate confirming the satisfaction of the conditions contained in Section 7.3 signed for and on behalf of the Purchaser without personal liability by an executive officer of the Purchaser or other Persons acceptable to the Company, acting in a commercially reasonable manner, in each case, in form and substance satisfactory to the Company, acting in a commercially reasonable manner;
- (d) *Purchaser Deliverables* – Purchaser shall have delivered to the Company all of the deliverables contained in Section 11.4 in form and substance satisfactory to the Company, acting in a commercially reasonable manner; and
- (e) *Payment* – The Purchaser shall have paid in full, to the satisfaction of the Company and the Monitor, the Purchase Price.

**ARTICLE 8**  
**ADDITIONAL AGREEMENTS OF THE PARTIES**

**8.1 Break-Up Fee**

- (a) Upon completion of a Successful Bid (as defined in the SISP) other than the Transaction, a fee in cash equal to, in the amount of \$65,000 (the "**Break-Up Fee**") shall be payable concurrently with the consummation of such Successful Bid to the Purchaser by the Company.
- (b) For the avoidance of doubt, and notwithstanding anything to the contrary set forth in this Section 8.1, (x) under no circumstances shall the Company be obligated to pay the Break-Up Fee more than once, and (y) in no event shall the Company (or any other Person) be required to pay all or any portion of the Break-Up Fee to the Purchaser if the Company has terminated this Agreement other than in connection with CCAA Court approval of a Successful Bid (which is not the Transaction) in accordance with the terms of the SISP.
- (c) The Company acknowledges (i) that the Purchaser has made a substantial investment of management time and incurred substantial out-of-pocket expenses in connection with the negotiation and execution of this Agreement and its effort to consummate the Transactions contemplated hereby, and (ii) that the Parties' efforts have substantially benefited the Company and the bankruptcy estates of the Purchased Entities through the submission of the offer that is reflected in this Agreement, that will serve as a minimum bid on which other potential interested bidders can rely, thus increasing the likelihood that the price at which the Purchased Entities are sold will be validated. The Parties hereby acknowledge that the amounts payable pursuant to this Section 8.1 are commercially reasonable and necessary to induce the Purchaser to enter into this Agreement and consummate the Transactions contemplated hereby. For the avoidance of doubt, the covenants set forth in this Section 8.1 are continuing obligations and survive termination of this Agreement.

**8.2 Access to Information and Properties**

- (a) Until the Closing Time, the Company, with oversight of the Monitor, shall give to the Purchaser's personnel engaged in the Transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to its premises and to all of the books, records, and other information relating to the Business, and shall furnish them with all such information relating to the Business, the Applicants, the Retained Liabilities and the list of Employees as Purchaser may reasonably request in connection with the Transactions contemplated by this Agreement, such requests to be made to the Monitor; provided that such access shall be conducted at Purchaser's expense, in accordance with Applicable Law and under supervision of the Monitor or the Company's senior management and in such a manner as to maintain confidentiality, and the Company will not be required to provide access to or copies of any such Books and Records if: (i) the provision thereof would cause applicable Company to be in contravention of any Applicable Law; (ii) breach the terms of the SISP Order; or (iii) making such information available would: (1) result in the loss of any lawyer-client or other legal privilege; or (2) cause applicable Company to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which the Company or any of its Affiliates are a party).



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Notwithstanding anything in this Section 8.2 to the contrary, any such investigation shall be conducted upon reasonable advance notice and in such manner as does not materially disrupt the conduct of the Business or the possible sale thereof to any other Person.

- (b) Following the Closing, the Purchaser shall make all Books and Records of the Applicants as of the Closing reasonably available to the Monitor and any trustee in bankruptcy of any of the Applicants upon at least five (5) Business Days prior notice, for a period of seven (7) years after Closing, and shall, at such Party's expense, permit the Monitor and any trustee in bankruptcy of the Applicants to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that Purchaser shall not be obligated to make such books and records available to the extent that doing so would: (i) violate Applicable Law; (ii) jeopardize the protection of a solicitor-client privilege; or (iii) unreasonably interfere with the ongoing business and operations of the Purchased Entities and their Affiliates, as determined by the Applicants, acting reasonably.
- (c) Following the Closing, the Applicants shall make all Books and Records comprising Excluded Assets reasonably available to the Monitor and any trustee in bankruptcy of any of the Applicants upon at least five (5) Business Days prior notice, for a period of seven (7) years after Closing, and shall, at such Party's expense, permit the Monitor and any trustee in bankruptcy of the Applicants to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that such Applicant shall not be obligated to make such Books and Records available to the extent that doing so would: (i) violate Applicable Law; (ii) jeopardize the protection of a solicitor-client privilege; or (iii) unreasonably interfere with the ongoing business and operations of the Applicants and their Affiliates, as determined by the Applicants, acting reasonably.

### **8.3 Regulatory Approvals and Consents**

- (a) The Parties shall use commercially reasonable efforts to apply for and obtain any Transaction Regulatory Approvals as soon as reasonably practicable and no later than the time limits imposed by Applicable Laws, in accordance with Section 8.3(a), in each case at the sole cost and expense of the Company.
- (b) Without limiting the generality of the foregoing, the Parties shall: (i) give each other reasonable advance notice of all meetings or other oral communications with any Governmental Authority relating to the Transaction Regulatory Approvals, as applicable, and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Authority necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first giving the other Party (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Authority; (iii) if any Governmental Authority initiates an oral communication regarding the Transaction Regulatory Approvals, promptly notify the other Party of the substance of such communication; (iv) subject to Applicable Laws relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the

views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals) made or submitted by or on behalf of a Party with a Governmental Authority regarding the Transaction Regulatory Approvals as applicable; and (v) promptly provide each other with copies of all written communications to or from any Governmental Authority relating to the Transaction Regulatory Approvals as applicable.

- (c) Each of the Parties may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 8.3 as "Outside Counsel Only Material", provided that the disclosing Party also provides a redacted version to the receiving Party. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Parties, will not be disclosed by such outside legal counsel to Employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.
- (d) The obligations of either Party to use its commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require either Party (or any Affiliate thereof) to undertake any divestiture of any business or business segment of such Party, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Parties. In connection with obtaining the Transaction Regulatory Approvals, no Purchased Entity shall agree to any of the foregoing items without the prior written consent of the Purchaser.

#### **8.4 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the Transactions contemplated by this Agreement and, without limiting the generality of the foregoing, from the date hereof until the Closing Date, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - i. negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the Transactions contemplated hereby; and
  - ii. not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the

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consummation of the Transactions contemplated by this Agreement.

- (b) From the date hereof until the Closing Date, Purchaser hereby agrees, and hereby agrees to cause its representatives to, keep the Company informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by each of the Company or the Monitor, as to the Purchaser's progress in terms of the satisfaction of the conditions precedent contained herein.
- (c) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause its representatives to, keep Purchaser informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Purchaser or the Monitor, as to the applicable Company's progress in terms of the satisfaction of the conditions precedent contained herein.
- (d) Each of the Company and the Purchaser agree to execute and deliver such other documents, certificates, agreements and other writings, reasonably necessary for the consummation of the Transactions contemplated by this Agreement, and to take such other actions to consummate or implement as soon as reasonably practicable, the Transactions contemplated by this Agreement.
- (e) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause their representatives to, promptly notify the Purchaser of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement, or (ii) any event or matter involving a License which may be expected to result in the condition in Section 7.2 **Error! Reference source not found.** not being satisfied.
- (f) Each of the Company and the Purchaser agree to use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals, including without limitation the Transaction Regulatory Approvals, as may be required in connection with the Transaction contemplated by this Agreement.
- (g) The Company agrees to use commercially reasonable efforts to promptly provide all documentation, copies of agreements and information reasonably required by the Purchaser to complete and finalize the Schedules to this Agreement. Such information and documentation shall be provided to the Purchaser on an ongoing basis following execution of this Agreement and in any event shall be provided to the Purchaser no later than ten (10) days prior to the hearing of the Applicants' motion to the CCAA Court seeking the Approval and Reverse Vesting Order.
- (h) If Purchaser is the Successful Bidder, at the request of the Purchaser, the Company shall proceed with the liquidation, winding-up, dissolution and/or amalgamation of any of the Purchased Entities designated by the Purchaser on or prior to the Closing Date.

## 8.5 Administrative Expense Amount

- (a) On the Closing Date, the Administrative Expense Amount shall be paid to the Monitor, which the Monitor shall hold for the benefit of Persons entitled to be paid the Administrative Expense Costs.
- (b) From time to time after the Closing Date, the Monitor may pay, on behalf of the Purchased Entities, the Administrative Expense Costs, from the Administrative Expense Amount, in each case to the Persons entitled to receive payment of these amounts, in its sole discretion and without further authorization from the Purchased Entities or Purchaser. Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Amount, as determined by the Monitor, in its sole discretion, shall be transferred by the Monitor to the Company, or as directed by it.
- (c) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Company and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations under this Agreement are and shall remain limited to those specifically set out in this Section 8.5; and (ii) Monitor is acting solely in its capacity as the Court-appointed Monitor of the Applicants pursuant to the Initial Order and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor's gross negligence or wilful misconduct.
- (d) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 8.5 notwithstanding that the Monitor is not a party to this Agreement.

The provisions of Sections 8.5(c) and (d) above shall survive the termination or non-completion of the Transactions contemplated by this Agreement.

## ARTICLE 9 INSOLVENCY PROVISIONS

### 9.1 Court Orders and Related Matters

- (a) From and after the date of this Agreement and until the Closing Date, the Company shall deliver to the Purchaser drafts of any and all pleadings, motions, notices, statements, applications, schedules, and other papers to be filed or submitted by any of the Applicants in connection with or related to this Agreement, including with respect to the Approval and Reverse Vesting Order, for Purchaser's prior review at least two (2) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for two (2) days' review, with as much opportunity for review and comment as is practically possible in the circumstances). The Company acknowledge and agrees (i) that any such pleadings, motions, notices, statements, applications, schedules, or other papers shall be in form and substance satisfactory to the Purchaser, acting reasonably, and (ii) to consult and cooperate with Purchaser regarding any discovery, examinations and hearing in respect of any of the foregoing, including the

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- submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motions seeking the issuance of the Approval and Reverse Vesting Order shall be served or be caused to be served by the Applicants on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, and any other Person determined necessary by the Applicants or Purchaser, acting reasonably.
  - (c) As soon as practicable if Purchaser is selected or deemed to be the Successful Bidder in accordance with the SISP, the Applicants shall file a motion seeking the issuance of the Approval and Reverse Vesting Order.
  - (d) If the Approval and Reverse Vesting Order relating to this Agreement is appealed or a motion for leave to appeal, rehearing, re-argument or reconsideration is filed with respect thereto, each of the Applicants agree (subject to the available liquidity of each of the Applicants) to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.
  - (e) The Company acknowledges and agrees, that the Approval and Reverse Vesting Order shall provide that, on the Closing Date and concurrently with the Closing, the Purchased Shares shall be transferred to the Purchaser free and clear of all Encumbrances, other than Permitted Encumbrances.

## ARTICLE 10 TERMINATION

### 10.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of each of the Company and the Purchaser;
- (b) by the Purchaser or the Company, if (i) this Agreement is not the Successful Bid (as determined pursuant to the SISP) and the transaction contemplated by the Successful Bid is closed;
- (c) by the Purchaser or the Company, if Closing has not occurred on or before May 31, 2025 or such later date agreed to by each of the Company and the Purchaser in writing in consultation with the Monitor (the "**Outside Date**"), provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 7 by the Outside Date;
- (d) by the Purchaser or the Company, if at any time after the date hereof any of the conditions in Article 7 is not capable of being satisfied by the applicable dates of this Agreement or if not otherwise required, by the Outside Date, provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 7 by the Outside Date;

- (e) by the Purchaser, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of any Applicant or any of the property of any Applicant, other than with the prior written consent of the Purchaser;
- (f) by the Purchaser or the Company, upon the termination, dismissal or conversion of the CCAA Proceedings;
- (g) by the Purchaser or the Company, upon dismissal of the motion for the Approval and Reverse Vesting Order (or if any such order is stayed, vacated or varied without the consent of the Purchaser);
- (h) by the Purchaser or the Company, if a court of competent jurisdiction, including the CCAA Court or other Governmental Authority has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order;
- (i) by the Company, if there has been a material violation or breach by the Purchaser of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.3, as applicable, by the Outside Date, and such violation or breach has not been waived by the Company, or cured by the Purchaser within ten (10) Business Days after written notice thereof from the Company, unless the Company is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.2, as applicable, by the Outside Date; and
- (j) by the Purchaser, if there has been a material violation or breach by the Company of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.2, as applicable, by the Outside Date, and such violation or breach has not been waived by the Purchaser, or cured by the Company within ten (10) Business Days after written notice thereof from the Purchaser, unless the Purchaser is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.3, as applicable, by the Outside Date.

The Party desiring to terminate this Agreement pursuant to this Section 10.1 (other than pursuant to Section 10.1) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## **10.2 Effect of Termination**

In the event of termination of this Agreement pursuant to Section 10.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that: (i) Section 8.1, (b) and (c), this Section 10.2, Section 12.1, 12.2, 12.5, 12.6 and 12.7 shall survive; and (ii) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement, or impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement in accordance with Section 12.3.

## ARTICLE 11 CLOSING

### 11.1 Location and Time of the Closing

The Closing shall take place virtually by exchange of documents in PDF format on the Closing Date, in accordance with the Closing Sequence (as defined below), and shall be subject to such escrow document release arrangements as the Parties may agree.

### 11.2 Closing Sequence

On the Closing Date, subject to the terms of the Approval and Reverse Vesting Order, Closing shall take place in the sequence set out in the Closing Sequence. The Purchaser may, as a result of any Pre-Closing Reorganization or otherwise with the prior consent of the Company and the Monitor, acting reasonably, amend the Closing Sequence provided that such amendment to the Closing Sequence does not materially alter or impact the Transactions or the consideration which the Company and/or its applicable stakeholders will benefit from as part of the Transactions.

### 11.3 Company's Deliveries at Closing

At Closing, the Company, as applicable, shall deliver to the Purchaser the following:

- (a) a true copy of each of the Approval and Reverse Vesting Order and the SISP Order, each of which shall be final;
- (b) a direction of payment to the Monitor for the Cash Consideration;
- (c) the certificates contemplated by Section 7.2(c);
- (d) confirmation of the due incorporation and organization of Residual Co. on the terms set forth herein;
- (e) evidence of completion of any Pre-Closing Reorganization and evidence of the filing of the Articles of Reorganization, if required by the Purchaser; and
- (f) all other documents as reasonably requested by the Purchaser in good faith.

### 11.4 Purchaser's Deliveries at Closing

At Closing, the Purchaser shall deliver to the Company:

- (a) the Cash Consideration;
- (b) the Credit Bid Release;
- (c) the certificate contemplated by Section 7.3(c); and
- (d) all other documents required to effect to the Transaction contemplated by this Agreement, as reasonably requested by the Company in good faith.

### **11.5 Monitor**

When all conditions to Closing set out in Article 7 have been satisfied and/or waived by the Company or the Purchaser, as applicable, the Company and the Purchaser, or their respective counsel, shall each deliver to the Monitor written confirmation, in form and substance satisfactory to the Monitor, that all conditions to Closing have been satisfied or waived, subject to the Monitor's delivery of the Monitor's Certificate to the Purchaser in accordance with the Approval and Reverse Vesting Order. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Approval and Reverse Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to each of the Company and the Purchaser). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Company and the Purchaser that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability whatsoever to any of the Company or Purchaser or any other Person as a result of filing the Monitor's Certificate.

### **11.6 Simultaneous Transactions**

All actions taken and Transactions consummated at the Closing shall be deemed to have occurred in the manner and sequence set forth in the Closing Sequence and the Approval and Reverse Vesting Order (subject to the terms of any escrow agreement or arrangement among the Parties relating to the Closing), and no such transaction shall be considered consummated unless all are consummated.

### **11.7 Further Assurances**

As reasonably required by a Party in order to effectuate the Transactions contemplated by this Agreement, Purchaser and each of the Applicants shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and make effective the Transactions contemplated by this Agreement.

## **ARTICLE 12 GENERAL MATTERS**

### **12.1 Confidentiality**

After the Closing Time, the remaining Applicants shall maintain the confidentiality of all confidential information relating to the Business and the Purchased Entities, except any disclosure of such information and records as may be required by Applicable Law. If any remaining Applicant, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall, or shall cause its representative to, provide the Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with Purchaser, at Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, the applicable Applicant shall, or shall cause its representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such representative to, exercise its commercially reasonable efforts to obtain assurance that



confidential treatment will be accorded to such disclosed information. The remaining Applicants shall instruct their representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 12.1 by any of their representatives.

## 12.2 Public Notices

No press release or other announcement concerning the Transactions contemplated by this Agreement shall be made by any of the Applicants or Purchaser without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 12.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings), and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by either Party, as applicable with the CCAA Court; and (ii) the Transactions contemplated in this Agreement may be disclosed by the Company to the CCAA Court. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court containing references to the Transactions contemplated by this Agreement and the terms of such Transactions; and
- (b) the Applicants, the Purchaser and their respective professional advisors may prepare and file such motions, affidavits, materials, reports and other documents with the CCAA Court containing references to the Transactions contemplated by this Agreement and the terms of such transactions as may reasonably be necessary to complete the Transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

Purchaser shall be afforded an opportunity to review and comment on such materials prior to their filing; provided in the case of reports or other documents prepared or to be filed by the Monitor with the CCAA Court the Purchaser shall be entitled to review only factual information contained therein relating to the terms of the Transactions contemplated in this Agreement. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to them.

## 12.3 Injunctive Relief

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.

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- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 12.3, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything herein to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and election to pursue one shall be deemed to be an irrevocable waiver of the other.

#### **12.4 Survival**

None of the representations, warranties, covenants (except the covenants in 2.1, 3.1, Article 12 and Sections 8.2(a) and 8.4, to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the Transactions contemplated hereby shall survive the Closing.

#### **12.5 Non-Recourse**

No past, present or future director, officer, Employee, incorporator, member, partner, security holder, Affiliate (provided that for purposes of this Section 12.5 Purchaser and Company shall not be considered Affiliates of each other), agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Purchaser or the Company, as applicable, under this Agreement, or for any causes of action based on, in respect of or by reason of the Transactions contemplated hereby.

#### **12.6 Assignment; Binding Effect**

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent Purchaser may, upon prior notice to the Company, assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its Affiliates; provided that no such assignment or direction shall relieve Purchaser of its obligations hereunder. This Agreement shall be binding upon and enure to the benefit of the Parties and their respective permitted successors and permitted assigns. Although not Parties to this Agreement, the Monitor and its respective Affiliates and advisors shall have the benefits expressed to be conferred upon them in this Agreement, including in Section 12.4 (in respect of the Monitor) hereof. Subject to the preceding sentence, nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

#### **12.7 Notices**

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (i) the date of personal delivery; (ii) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (iii) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (iv) five (5) days

after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

If to the Purchaser at:

JBT Transport Inc.  
235 Waydom Drive  
Ayr, ON N0B 1E0

Attention: Randy Bowman / Kyle Medeiros  
Email: [randy.b@jbtgroup.com](mailto:randy.b@jbtgroup.com); [kyle.m@jbtgroup.com](mailto:kyle.m@jbtgroup.com)

If to the Company at:

JBT Transport Inc.  
235 Waydom Drive  
Ayr, ON N0B 1E0

Attention: Denis Medeiros  
Email: [denis.m@jbtgroup.com](mailto:denis.m@jbtgroup.com)

and to:

Reconstruct LLP  
80 Richmond Street West, Suite 1700  
Toronto, ON M5H 2A4

Attention: Caitlin Fell / Brendan Bissell / Jessica Wuthmann  
Email: [cfell@reconllp.com](mailto:cfell@reconllp.com) / [bbisell@reconllp.com](mailto:bbisell@reconllp.com) / [jwuthmann@reconllp.com](mailto:jwuthmann@reconllp.com)

If to the Monitor at:

Dodick & Associates  
951 Wilson Ave, Suite 15L  
Toronto ON M3K 2A7  
Canada

Attention: Rahn Dodick  
Email: [rahn.dodick@dodick.ca](mailto:rahn.dodick@dodick.ca)

and to:

Loopstra Nixon LLP  
130 Adelaide Street West  
Suite 2800  
Toronto, ON M5H 2K4

Attention: Graham Phoenix

Email: [gphoenix@LN.Law](mailto:gphoenix@LN.Law)

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

#### **12.8 Counterparts; Electronic Signatures**

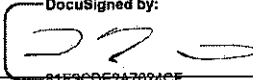
This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution and delivery of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

***[Signature pages to follow]***

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

**COMPANY:**

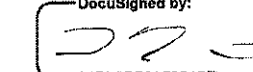
**JBT TRANSPORT INC.**

DocuSigned by:  
  
 Per: \_\_\_\_\_  
81F3CDE2A7024CF...  
 Name: Denis Medeiros  
 Title: President


**HERITAGE TRUCK LINES INC.**

DocuSigned by:  
  
 Per: \_\_\_\_\_  
81F3CDE2A7024CF...  
 Name: Denis Medeiros  
 Title: President

**HERITAGE WAREHOUSING & DISTRIBUTION INC.**

DocuSigned by:  
  
 Per: \_\_\_\_\_  
81F3CDE2A7024CF...  
 Name: Denis Medeiros  
 Title: Director

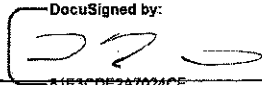
**MELAIR MANAGEMENT INC.**

DocuSigned by:  
  
 Per: \_\_\_\_\_  
81F3CDE2A7024CF...  
 Name: Denis Medeiros  
 Title: President

**DRUMBO TRANSPORT LIMITED**

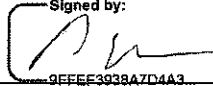
DocuSigned by:  
  
 Per: \_\_\_\_\_  
81F3CDE2A7024CF...  
 Name: Denis Medeiros  
 Title: President

**WAYDOM MANAGEMENT INC.**

DocuSigned by:  
  
Per: \_\_\_\_\_  
Name: Denis Medeiros  
Title: Director

**PURCHASER:**

**RANDY BOWMAN, DENIS MEDEIROS AND KYLE  
MEDEIROS, IN TRUST FOR A COMPANY TO BE  
INCORPORATED**

Signed by:  
  
Per: \_\_\_\_\_  
Name: Randy Bowman

**SCHEDULE (ss)**

**ENCUMBRANCES TO BE DISCHARGED**

1. The CCAA Charges.
-

**SCHEDULE (fff)**  
**PERMITTED ENCUMBRANCES**

1. To be updated.
-



**SCHEDULE (ttt)**  
**RETAINED CONTRACTS**

1. To be updated.
-

**SCHEDULE 2.2****EXCLUDED ASSETS**

1. The Cash Consideration.
2. The Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities or Excluded Assets, provided that the Purchased Entity may retain original copies of any such records if required by Applicable Law and provided further that the applicable Purchased Entity may take copies of all Tax records and books and records pertaining to such records to the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return.
3. The Excluded Contracts.
4. The Real Property.
5. HNL or any assets owned by it.
6. All communications, information or records, written or oral, that are in any way related to (i) the Transactions contemplated by this Agreement, (ii) the sale of the Purchased Shares, (iii) any Excluded Asset or (iv) any Excluded Liability.
7. Any rights which accrue to Residual Co. under the transaction documents.
8. Any assets which are added as Excluded Assets pursuant to Section 2.7.

**SCHEDULE 2.4**  
**RETAINED LIABILITIES**

1. **Employee Liabilities.**

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2. **The Cure Costs and liabilities of the Purchased Entities under the Retained Contracts from and after the Closing Time.**
3. **The Cure Costs and liabilities arising from or in connection with the performance of the Retained Leases, from and after the Closing Time.**
4. **The Post-Filing Claims that remain outstanding as at the Closing Time;**
5. **The Intercompany Liabilities payables (and all Claims, Encumbrances relating thereto).**
6. **Tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date.**
7. **Broker Payable.**
8. **Carrier Trust Fund.**
9. **HNL Loan.**
10. **The outstanding obligations under the DIP Term Sheet as of the Closing Time.**
11. **The outstanding obligations in respect of the Retained Contracts owing as of the Closing Time.**
12. **Those specific Retained Liabilities set forth in Schedule 2.4.**
13. **Those liabilities that are added as Retained Liabilities pursuant to Section 2.8.**

**SCHEDULE 11.2**  
**CLOSING SEQUENCE**

- (a) First, the Purchaser shall pay the Purchase Price to the Monitor, to be held in escrow by the Monitor on behalf of the Purchaser;
- (b) Second, the Company shall be deemed to transfer to Residual Co. the Excluded Assets, the Excluded Contracts, the Excluded Liabilities and the Excluded Leases, pursuant to the Approval and Reverse Vesting Order;
- (c) Third, the Retained Assets will be retained by the applicable Purchased Entities, in each case free and clear of and from any and all Claims and, for greater certainty, all of the Encumbrances, other than Permitted Encumbrances, affecting or relating to the Retained Assets are hereby expunged and discharged as against the Retained Assets, and the Retained Liabilities will be retained by the applicable Purchased Entities;
- (d) Fourth, Equity Interests of the Applicants (other than the Existing Shares which will be cancelled in accordance with the Articles of Reorganization or otherwise retained as a Retained Asset) as well as any agreement, Contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Applicants shall be deemed terminated and cancelled for no consideration;
- (e) Fifth, the following shall occur concurrently:
- i. all Prior Equity Interests shall be deemed terminated and cancelled without consideration;
  - ii. the Company shall issue the Purchased Shares to the Purchaser;
  - iii. the Cash Consideration will be released from escrow and made payable to TD Bank;
  - iv. the Credit Bid Release will be released from escrow;
  - v. the Monitor shall retain the Administrative Expense Amount in a separate interest-bearing account from the Purchase Price; and
  - vi. the Monitor shall release the remaining amount of the Purchase Price to the Company and the Company shall pay the Cure Costs and the Priority Payment Amounts to the applicable payees thereof; and
- (f) Sixth, the Articles of Reorganization will be filed and be effective.

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF JBT TRANSPORT INC. ET AL.**

**Court File No. CV-25-00736572-00CL**

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

*Proceedings commenced at TORONTO*

**SUPPLEMENTARY AFFIDAVIT OF DENIS  
MEDEIROS**  
(sworn February 24, 2025)

**RECONSTRUCT LLP**  
80 Richmond Street West, Suite 1700  
Toronto, ON M5H 2A4

**Caitlin Feil** LSO No. 60091H  
[cfeil@reconllp.com](mailto:cfeil@reconllp.com)  
Tel: 416.613.8282

**Brendan Bissell** LSO No. 40354V  
[bbissell@reconllp.com](mailto:bbissell@reconllp.com)  
Tel: 416.613.0066

**Jessica Wuthmann** LSO No. 72442W  
[jwuthmann@reconllp.com](mailto:jwuthmann@reconllp.com)  
Tel: 416.613.8288

**Lawyers for the Applicants**

**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 JBT TRANSPORT INC., WAYDOM MANAGEMENT INC., MELAIR  
MANAGEMENT INC., HERITAGE TRUCK LINES INC., DRUMBO TRANSPORT  
LIMITED, HERITAGE NORTHERN LOGISTICS INC., AND HERITAGE  
WAREHOUSING & DISTRIBUTING INC.**

**Court File No. CV-25-00736572-00CL**

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

Proceeding commenced at **TORONTO**

**FIRST REPORT OF  
THE MONITOR**

(Filed in connection with a Comeback  
Hearing returnable February 27, 2025)

**LOOPSTRA NIXON LLP**

130 Adelaide Street W., Suite 2800  
Toronto, ON M5H 3P5

**R. Graham Phoenix (LSO No.: 52650N)**

Tel: (416) 748-4776  
Email: gphoenix@LN.law

**Shahrzad Hamraz (LSO No.: 85218H)**

Tel: (416) 748-5116  
Email: shamraz@LN.law

*Lawyers for the Monitor, Dodick Landau  
Inc.*