

Estate No.: 35-2638322
Court No.: 35-2638322

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.
OF THE CITY OF LONDON,
IN THE PROVINCE OF ONTARIO

SECOND REPORT TO THE COURT
SUBMITTED BY MNP LTD.,
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.

June 18, 2020

Table of Contents

I. INTRODUCTION	3
II. RESTRICTIONS.....	4
III. PURPOSE OF THIS REPORT	5
IV. BACKGROUND INFORMATION.....	6
V. CREDITORS	7
VI. CASH FLOW PROJECTIONS	7
VII. ACTIVITIES OF THE PROPOSAL TRUSTEE	10
VIII. SALE PROCESS	11
IX. SALE APPROVAL	12
XII. APPROVAL OF THE FEES AND DISBURSEMENTS OF THE PROPOSAL TRUSTEE AND ITS COUNSEL	16
XIII. CONCLUSION AND RECOMMENDATION	16

I. INTRODUCTION

1. On April 11, 2020 (the “**Filing Date**”), KMW Energy Inc. (“**KMW**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). MNP Ltd. was named proposal trustee in the NOI proceeding (the “**Proposal Trustee**”).
2. Notice of the NOI as prescribed by the BIA was sent via email on April 17, 2020 to all KMW’s known creditors.
3. On April 24, 2020, KMW filed Notice of Motion and a Motion Record returnable May 1, 2020, seeking, among other things, a Court Order (the “**May 1st Court Order**”) extending the time within which KMW had to file a proposal to June 25 2020, approving the interim financing of up to \$500M and authorizing the Proposal Trustee to conduct a stalking horse sale process (the “**Sale Process**”). The Proposal Trustee served its first report, dated April 29, 2020 (the “**First Report**”). A copy of the First Report, without exhibits, is attached hereto and marked as **Exhibit “A”**.
4. On May 1, 2020, the Court approved the following:
 - a. an extension of the time for the Company to make a proposal to June 25, 2020;
 - b. approved interim financing up to a maximum of \$500M (the “**DIP Loan**”) from 2751602 Ontario Inc. (the “**DIP Lender**” or “**Stalking Horse Bidder**”, as usage dictates) for the purpose of funding KMW’s activities and granting the second ranking security charge on the properties, assets and undertakings (collectively the “**Property**”) of the Company in favour of the DIP Lender over all other security interests and encumbrances (the “**DIP Charge**”), other than the Administration Charge;
 - c. a first ranking charge (the “**Administrative Charge**”) on the Property in an amount not to exceed \$150M in favor of the Company’s legal counsel, the Proposal Trustee, and Weisz Fell Kour LLP (“**WFK**”), the Proposal Trustee’s legal counsel to secure payment of their reasonable fees and disbursements;

- d. the Sale Process in respect of the Property and authorized the Proposal Trustee to conduct the Sale Process using the Asset Purchase Agreement dated April 24, 2020 (the “**Stalking Horse APA**”) between the Company and the Stalking Horse Bidder in respect of the Property to be used as the stalking horse bid; and
 - e. a third ranking charge over the Property in an amount not to exceed \$50M in favour of the Company’s directors and officers to indemnify them against obligations and liabilities that they may incur after the Filing Date (the “**D&O Charge**”).
5. Information regarding the proceedings has been posted to the Proposal Trustee’s Case website at www.mnpdebt.ca/KMWEnergy (the “**Website**”).

II. RESTRICTIONS

6. In preparing this Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the affidavits of Eric B. Rosen, dated April 24, 2020 and June 17, 2020 (the “**Rosen Affidavits**”), KMW’s books and records, discussions with KMW’s management (“**Management**”) and information from other third-party sources (collectively, the “**Information**”). Except as specifically noted in this Report, the Proposal Trustee 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 of the Chartered Professional Accountants of Canada.
7. The Proposal Trustee also bases its report on the Company’s cash flow projections and underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals’ Standards of Professional Practice No. 9 (Cash Flow Statement). Certain of the Information referred to in this Report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial Information referred to in this Report was prepared based on estimates and assumptions provided by

Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on the Company's business and the economy in general has yet to be determined. In developing the Cash Flow Projections (as defined below), Management has reflected its current view of the potential impact of the COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.

III. PURPOSE OF THIS REPORT

8. The purpose of this Report is, *inter alia*, to:
 - a. Update the Court with respect to:
 - i. the activities of the Company and the Proposal Trustee since the First Report;
 - ii. the results of the Sale Process; and
 - iii. report on the Company's actual cash flows for the period April 27, 2020 to June 7, 2020;
 - b. provide the Court with the Proposal Trustee's recommendation for an order, *inter alia*,
 - i. approving the Stalking Horse APA and the transaction (the "**Transaction**") contemplated therein pursuant to which the Stalking Horse Bidder agreed to purchase substantially all of the Company's right, title and interest in and to the Purchased Assets (as such term is defined in the Stalking Horse APA);

- ii. vesting title in and to the Purchased Assets (as such term is defined in the Stalking Horse APA) in the Stalking Horse Bidder or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the Stalking Horse APA;
- iii. approving the fees and disbursements of the Proposal Trustee and WFK as described herein; and
- iv. approving the activities of the Proposal Trustee as set out in this Report.

IV. BACKGROUND INFORMATION

- 9. KMW is an Ontario corporation that carries on business out of its leased premises in London, Ontario. KMW designs, develops and supplies components of biomass combustion system boilers and heaters.
- 10. As detailed in the First Report, the Company attributes its financial difficulties primarily to a contract the Company entered into with Georges River Energy, LLC (“**GRE**”) dated December 6, 2016 (the “**GRE Contract**”) for the design and supply of a complete biomass energy system to generate 8.5MW of electric power, including turbine, generation and cooling tower (the “**GRE Project**”). At GRE’s request and in order to reduce the cost of the GRE Project, the Company sourced the turbines from a new supplier to the Company. The turbine, delivered in May 2018, did not function properly. Thereafter, the Company spent an additional US\$1.558MM trying to repair the turbine. To date, the turbine has not functioned to GRE’s satisfaction. In spite of diligent efforts, the parties have been unable to come to terms on an agreeable settlement, which has resulted in the Company’s liquidity constraints.
- 11. Additional information in respect of the Company, including its assets and liabilities, is set out in the First Report and the Rosen Affidavits. The Proposal Trustee has not repeated such details in this Report.

V. CREDITORS

Secured Creditors

12. As noted in the First Report:

- a. 462673 Ontario Inc. operating as Nor-Arc Steel Fabricators (“**Nor-Arc**”) was, until April 17, 2020, KMW’s only secured creditor registered under the Ontario *Personal Property Security Act* (“**PPSA**”) ¹.
- b. As of the Filing Date, KMW’s indebtedness to Nor-Arc was approximately \$2.778MM, which indebtedness was secured via KMW executing a general security agreement in favour of Nor-Arc dated April 12, 2011 (the “**Secured Indebtedness**”) ². Pursuant to an assignment agreement dated April 20, 2020, the DIP Lender, who is a party related to Nor-Arc, took an assignment of the debt and security owed by KMW to Nor-Arc; and
- c. WFK has provided the Proposal Trustee with an opinion confirming that, subject to certain standard assumptions and qualifications, Nor-Arc has valid and enforceable security over the Property, with such security agreement having now been assigned to the Stalking Horse Bidder.

VI. CASH FLOW PROJECTIONS

13. To date, KMW has provided the Proposal Trustee with its full cooperation and unrestricted access to its premises, and books and records.

14. In accordance with the provisions of the BIA, the Company filed with the Official Receiver a projected cash flow statement dated April 20, 2020, which was reviewed and signed by

¹ Based on a search conducted under the PPSA registry with a file currency as of April 10, 2020. On April 17, 2020, Liberty Mutual registered a security interest under the PPSA.

² This amount does not include the contingent liability under the Performance Bond, plus any interest, costs and fees as may be applicable as an indemnitor of KMW under the Performance Bond

the Proposal Trustee and the Company (the “**Cash Flow Projections**”). The Cash Flow Projections cover the period starting on April 6, 2020 and ending on July 5, 2020.

15. The Proposal Trustee has implemented procedures for monitoring the Company’s receipts and disbursements and has kept in close contact with Management to ensure that operations are continuing in the normal course of business and in accordance with the Cash Flow Projections.

16. A summary of the Company’s actual receipts and disbursements as compared to the those presented in the Cash Flow Projections for the period April 27, 2020 to June 7, 2020 (the “**Monitored Period**”) are as follows (subject to rounding errors):

KMW Energy Inc.			
Actual Receipts and Disbursements			
For 6 week period ending June 7, 2020			
(Unaudited, in \$ CAD)			
	<i>Cumulative Six-Week Period Ended June 7, 2020</i>		
	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>
Receipts	77,005	195,577	(118,572)
Disbursements			
Payment to suppliers	(54,451)	(87,303)	32,852
Payments for operating expenses	(64,757)	(52,292)	(12,465)
Payroll (inc. contractors)	(151,707)	(140,716)	(10,991)
Tax	(23,435)	(17,627)	(5,809)
Total Disbursements	(294,350)	(297,937)	3,587
Operating Net Cash Flow	(217,346)	(102,361)	(114,985)
Administrative Fees	(70,417)	(145,000)	74,583
Net Cash Flow	(287,763)	(247,361)	(40,402)
Beginning Cash	43,503	(33,598)	77,101
Net Cash Flow	(287,763)	(247,361)	(40,402)
Interim Financing/(repayment)	335,340	-	335,340
Ending Cash	91,080	(280,959)	372,039

17. Overall, KMW realized an unfavorable net cash flow variance of approximately \$40.4M during the Monitored Period. The key components of the variance are as follows:

- a. Receipts: Unfavorable variance of approximately \$118.57M is attributable to: (i) a customer (the “**Non-Paying Customer**”) suspending payment of approximately \$89M due to KMW under its contract given its concerns over KMW (or its successor’s) ability to fulfill the terms of the contract in view of the NOI filing and the Sale Process, following KMW’s delay in fulfilling the customer’s requirements; and (ii) delays in a \$15M payment due from a customer. In addition, KMW also anticipated receiving an HST refund of approximately \$20M in the third week of April 2020. KMW understands that Canada Revenue Agency (“**CRA**”) is holding payment of the refund as a result of KMW’s failure to file its corporate tax return. KMW’s accountant is refusing to release the corporate tax return on the grounds that its account is unpaid. The foregoing unfavorable variances are partially offset by an inflow of \$50M from Nor-Arc as an advance payment for a new contract.
- b. Payment to suppliers: The favorable variance of \$32.85M is primarily attributable to KMW’s decision to not acquire certain parts in connection with its contract with the Non-Paying Customer. This favourable variance was partially offset by an advance payment of approximately \$3M to 5M for certain spare parts orders which were not projected in the Cash Flow Projections.
- c. Payment for operating expenses: The unfavorable variance of approximately \$12.46M is largely a reversal of the previously reported favourable timing difference relating to payment of certain employment expenses, partially offset by non-payment of May and June, 2020 rent of \$15.6M and lower than anticipated operating expenses. The landlord of KMW’s leased premises is evaluating whether it can obtain benefits of Canada Emergency Commercial Rent Assistance while KMW is undergoing NOI proceedings.
- d. Payroll (incl. contractors): Approximately \$5M of the \$10.9M unfavourable variance is a result of higher than anticipated payroll costs; the balance of the

variance is timing in nature and is attributable to mistakes made in the computation of certain salaries paid in May, 2020, which errors are being corrected in a subsequent payroll run.

- e. Administrative fees: The favorable variance is a timing difference and is expected to reverse.

18. Based on the foregoing and having regard to the funds currently held on deposit by KMW and available pursuant to the DIP Loan, it appears as if KMW has sufficient funds available to satisfy the operational expenses incurred since the Filing Date. The payment of certain priority payables, including payment of amounts subject to the Administrative Charge and D&O Charge are addressed below.

VII. ACTIVITIES OF THE PROPOSAL TRUSTEE

19. Since the Filing Date, the Proposal Trustee has undertaken the following activities, *inter alia*:

- a. updated the Website as necessary;
- b. prepared drafts of written communications to assist the Company in their correspondence with suppliers, customers and employees;
- c. responded to enquiries directed towards the Proposal Trustee at KMWEnergy@mp.ca;
- d. discussed with KMW regarding disclaiming certain agreements, and approving one agreement disclaimer pursuant to subsection 65.11 of the BIA;
- e. monitored KMW's actual cash flows in comparison with the Cash Flow Projections;
- f. discussed with the Company and the Company's counsel regarding the ongoing efforts to restructure KMW's operations and the Sale Process;

- g. drafted this Report and reviewing all Court materials filed in connection with the Company's motion; and
- h. as described in greater detail below, conducted the Sale Process.

VIII. SALE PROCESS

20. The Proposal Trustee conducted the Sale Process, as approved by the Court and described in the First Report. The following steps were taken by the Proposal Trustee, with the assistance of the Company, to conduct the Sale Process:

- a. prepared a form of non-disclosure agreement (“**NDA**”);
- b. developed a teaser letter (the “**Teaser**”), a copy of which is attached as **Exhibit “B”**;
- c. prepared a Sale Process and Notice to Readers, a copy of which was included in the secure online data room (the “**Data Room**”) created by the Proposal Trustee;
- d. supplemented the list of potential purchasers provided to it by the Company, to include companies known by the Proposal Trustee and its affiliated MNP Corporation Finance practice to (i) potentially acquire or invest in assets in industries who are utilizing biomass as a source of energy or who are in the business of designing and engineering services; and (ii) selected venture capital and other investment firms;
- e. sending the teaser via email, on May 8, 2020, to approximately sixty (60) strategic and thirty-four (34) financial prospective parties;
- f. advertising the opportunity in the National Edition of the *National Post* on May 8, 2020. A copy of the advertisement is attached as **Exhibit “C”**;
- g. advertising the Sale Process in the *Insolvency Insider* e-mail publication on May 25, 2020; and

- h. establishing the Data Room.
21. The Proposal Trustee, in connection with the efforts put forth to solicit interest in the Sale Process, was contacted by seven (7) parties with respect to the acquisition opportunity. These 7 parties executed an NDA and were provided with access to the Data-Room. However, for the reasons described below, none of these parties spent a significant amount of time reviewing the documents uploaded in the Data Room and queries raised were limited to losses reported in the historical financial statements. Certain parties withdrew from the bidding process prior to the Bid Deadline (as defined below).
 22. Offers were due at 5 PM (Toronto Time) on May 29, 2020 (the “**Bid Deadline**”).
 23. Despite diligent efforts by the Proposal Trustee and the Company to find a buyer of its assets and operations on a going-concern basis, no offers were received by the Bid Deadline.
 24. Commentary from parties who conducted due diligence on their decision to not pursue the opportunity or submit a bid in the Sale Process included that, in their opinion, the Company was not of a sufficient size to make it a worthy acquisition target to satisfy their objectives.

IX. SALE APPROVAL

25. Pursuant to the Sale Process, if no Qualified Bid is received by the Bid Deadline, the Stalking Horse APA received from the Stalking Horse Bidder (herein after referred to as the “**Purchaser**”) becomes the Winning Bid (as defined in the Sale Process) and the Company shall seek, as expeditiously as possible, approval of the Court to complete the Transaction. A copy of the Stalking Horse APA is attached hereto as **Exhibit “D”**.
26. The Stalking Horse APA provides for the sale of the Purchased Assets for a sum equal to the aggregate of the following amounts, without duplication (the “**Purchase Price**”):
 - a. the amount of \$500M;
 - b. any and all amounts secured by the DIP Charge;

- c. any and all amounts secured by the Administration Charge at Closing;
 - d. any and all amounts secured by the D&O Charge; and
 - e. any and all other amounts and claims which rank in priority to the Secured Indebtedness (as defined above), if any, including, without limitation, on account of unremitted source deductions. (collectively, the "**Priority Payables**").
27. The Purchaser is to satisfy the Purchase Price as follows:
- a. by the application of the \$100M deposit (the "**Deposit**"), to be credited against the Purchase Price;
 - b. by the cancellation of any and all amounts secured by the DIP Charge;
 - c. by the payment to the Proposal Trustee, in trust, of any and all amounts secured by the Administration Charge on closing;
 - d. by the payment to the Proposal Trustee, in trust, of any and all Priority Payables on closing;
 - e. by (i) the payment of any and all amounts secured by the D&O Charge, or (ii) the assumption of amounts secured by the D&O Charge, to be credited against the Purchase Price; and
 - f. by the cancellation of \$500M of the Secured Indebtedness.
28. The Proposal Trustee is advised by the Company that the Purchaser is not related to the Company.
29. The Stalking Horse APA is conditional on approval by this Court and the issuance of a vesting order in favour of the Purchaser.
30. The Stalking Horse APA provides that the Purchaser may, in its sole discretion, offer new employment, conditional upon closing and effective as of the day of closing, to such employees as determined by the Purchaser in its sole discretion, on terms and conditions

substantially similar to their respective terms and conditions of employment with KMW as of the closing date.

31. The Purchaser advises that that it intends to offer employment to all of the Company's current employees on substantially the same terms. Eric Rosen, as KMW's Chief Executive Officer will be retained as an independent contractor.

X. RECOMMENDATION ON THE TRANSACTION

32. The Proposal Trustee has considered the factors set out in Section 65.13 of the BIA and respectfully recommends that the Court make the order sought by the Company for the following reasons:

- a. The Company with the assistance of the Proposal Trustee has made reasonable and good faith efforts to sell the Company on a going-concern basis;
- b. a broad marketing of the Company was conducted by the Company with the assistance of the Proposal Trustee, in accordance with the May 1st Court Order. The Proposal Trustee does not believe that further time spent in marketing the Company's business and assets will result in a superior transaction, to the Stalking Horse APA;
- c. in the Proposal Trustee's view, the duration of the Sale Process was sufficient to allow interested parties an opportunity to perform their due diligence and submit offers. Accordingly, it is the view of the Proposal Trustee that Sale Process was reasonable in the circumstances and the offers or lack thereof takes into account the market value of the Company's business and the Property;
- d. the consideration offered by the Stalking Horse APA greatly exceeds the fair market value of the Company's assets, which is largely comprised of its accounts receivable with a net book value of approximately \$60M, HST refunds of approximately \$80M and limited capital assets. Accordingly, it is the position of the Proposal Trustee that the consideration under the Stalking Horse APA is reasonable and fair;

- e. as no offers were received in the Sale Process other than the Stalking Horse APA, the consideration received under the Stalking Horse APA is more beneficial than a sale or disposition of the Property in a bankruptcy;
 - f. given the nature and extent of KMW's business and assets, a purchaser is unlikely to pay greater than the Secured Indebtedness. Accordingly, there is insufficient value in the Company's assets to allow for any distribution to unsecured creditors;
 - g. the Purchaser has offered employment to all of KMW's employees and the Transaction allows for KMW's customers and suppliers to potentially benefit from the Transaction;
 - h. the Company's business requires the stability of a completed Transaction and a timely exit from the NOI Proceedings in order to continue to operate as a going-concern, particularly relating to its ability to satisfy certain milestones under existing contracts by procuring necessary goods and services from its supply chain; and
 - i. the Transaction is out of the ordinary course of business and complies with the criteria set out in Section 65.13 of the BIA, including the ability of the Company to pay the employee-related amounts (see further details in paragraph 33 below).
33. In compliance with Subsection 65.13(8) of the BIA, any amounts owing to employees of the Company with respect to wages and/or vacation pay, to a limit of \$2,000 per employee, will be paid prior to the closing of the Transaction from the cash flows of the Company or from the additional funds payable by the Purchaser on closing of the Transaction.

XI. VESTING ORDER

34. The Stalking Horse APA is conditional on the issuance of an order approving the Transaction and a vesting order vesting title in and to the Purchased Assets of the Company in and to the Stalking Horse Bidder upon the closing of the Transaction.

35. As at the date of filing of the NOI and based on the Proposal Trustee's review of the Company's books and records, the Company is current in its obligations to CRA on account of outstanding payroll source deductions through June 15, 2020. CRA has not conducted an audit of KMW's books and records. The Company uses a third-party payroll supplier and remits its employee source deductions with each payroll run.

XII. APPROVAL OF THE FEES AND DISBURSEMENTS OF THE PROPOSAL TRUSTEE AND ITS COUNSEL

36. MNP has issued two (2) invoices in its capacity as Proposal Trustee for the period from March 18, 2020 to May 29, 2020. Attached hereto as **Exhibit "E"** is the Affidavit of Sheldon Title sworn June 18, 2020 (the "**Title Affidavit**"), attesting to the fees and disbursements of the Proposal Trustee, in the aggregate amount of \$70,097.22 (being fees of \$62,032.94, and HST of \$8,064.28). To date, the Proposal Trustee has been paid \$44,270.28.

37. WFK has issued three (3) invoices for the period from April 10, 2020 to June 17, 2020. Attached hereto as **Exhibit "F"** is the Affidavit of Christel Paul of WFK, sworn June 18, 2020 (the "**Counsel Affidavit**"), attesting to the fees and disbursements in the aggregate amount of \$7,474.69 (being fees of \$6,449.00, disbursements of \$165.77 and HST of \$859.92). To date, WFK has been paid \$3,821.40.

38. It is the Proposal Trustee's view that its fees and disbursements described in the Title Affidavit, as well as those of WFK described in the Counsel Affidavit, are fair and reasonable in the circumstances. The Proposal Trustee therefore requests that this Court approve its fees and disbursements and the disbursement and fees of its legal counsel.

XIII. CONCLUSION AND RECOMMENDATION

39. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order granting the relief detailed in paragraph 8.

All of which is respectfully submitted on this 18th day of June 2020.

MNP LTD.,
in its capacity as Proposal Trustee under
the Notice of Intention to Make a Proposal of
KMW Inc.

Per:

A handwritten signature in blue ink, appearing to be 'Sheldon Title', written in a cursive style.

Sheldon Title,
Licensed Insolvency Trustee

Exhibit "A"

Estate No.: 35-2638322
Court No.: 35-2638322

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.
OF THE CITY OF LONDON,
IN THE PROVINCE OF ONTARIO

FIRST REPORT TO THE COURT
SUBMITTED BY MNP LTD.,
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.

APRIL 29, 2020

Contents

- I. INTRODUCTION 3**
- II. RESTRICTIONS..... 3**
- III. PURPOSE OF THIS REPORT 4**
- IV. BACKGROUND INFORMATION..... 5**
- V. ASSETS 7**
- VI. CREDITORS..... 7**
- VII. CASH FLOW PROJECTIONS 8**
- VIII. INTERIM FINANCING 11**
- IX. INTERIM FINANCING RECOMMENDATION..... 13**
- X. SALE PROCESS..... 13**
- XI. ADMINISTRATION CHARGE..... 18**
- XII. REQUEST FOR AN EXTENSION OF TIME FOR FILING A PROPOSAL 19**
- XIII. CONCLUSION AND RECOMMENDATION 20**

I. INTRODUCTION

1. On April 11, 2020 (the “**Filing Date**”), KMW Energy Inc. (“**KMW**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). MNP Ltd. was named proposal trustee in the NOI proceeding (the “**Proposal Trustee**”). A copy of the certificate of filing of the NOI is attached as Exhibit “A” to the affidavit of Eric Bertel Rosen, sworn April 24, 2020 (the “**Rosen Affidavit**”).
2. Notice of the NOI as prescribed by the BIA was sent via email on April 17, 2020 to all of KMW’s known creditors. A copy of such notice is attached hereto and marked **Appendix “A”**.
3. Information regarding the proceedings has been posted to the Proposal Trustee’s Case website at www.mnpdebt.ca/KMWEnergy.
4. The primary purpose of these proceedings is to create a stabilized environment to allow the Company to continue operating as a going concern business while it works with the Proposal Trustee to restructure its affairs. It is contemplated that the restructuring of the Company will occur in part by way of a going concern sale transaction for the Company’s business and assets. If approved, the Proposal Trustee intends on running a Stalking Horse Sale Process (the “**Sale Process**”) to solicit bids for the Company’s assets.

II. RESTRICTIONS

5. In preparing this Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the Rosen Affidavit, KMW’s books and records, discussions with management of KMW (“**Management**”) and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report, the Proposal Trustee 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 of the Chartered Professional Accountants of Canada.

6. The Proposal Trustee also bases its Report on the Company's cash flow projections and underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals' Standards of Professional Practice No. 9 (Cash Flow Statement). Certain of the Information referred to in this Report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial Information referred to in this Report was prepared based on estimates and assumptions provided by Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on the Company's business and the economy in general has yet to be determined. In developing the Cash Flow Projections (as defined below), Management has reflected its current view of the potential impact of the COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.

III. PURPOSE OF THIS REPORT

7. The purpose of this Report is to:
- a. Provide information to the Court with respect to the administration of KMW's proposal proceedings, including:
 - i. background information regarding the Company's operations and the circumstances leading to the filing of the NOI;
 - ii. report on the Company's actual cash flows for the period April 6, 2020 to April 26, 2020; and

- b. Provide the Court with the Proposal Trustee's support for, and observations in respect of the Company's request that the Court grant an Order, *inter alia*:
- i. approving interim financing up to a maximum of \$500M (the "**DIP Loan**") from 2751602 Ontario Inc. (the "**DIP Lender**" or "**Stalking Horse Bidder**", as usage dictates) for the purpose of funding KMW's activities and granting the DIP Charge (as defined below) over all of the Company's property, assets and undertakings (collectively, the "**Property**");
 - ii. authorizing and directing the Proposal Trustee, in consultation with the Company, to carry out the Sale Process, as described below, using the Asset Purchase Agreement dated April 24, 2020 (the "**Stalking Horse APA**") between the Company and the Stalking Horse Bidder in respect of the Property to be used as the stalking horse bid;
 - iii. approving the Administration Charge (as defined below) in favour of the Company's legal counsel, the Proposal Trustee, and the Proposal Trustee's legal counsel (collectively, the "**Administrative Professionals**") to secure payment of their reasonable fees and disbursements;
 - iv. approving a third ranking charge over the Property in an amount not to exceed \$50M in favour of the Company's directors and officers to indemnify them against obligations and liabilities that they may incur after the Filing Date (the "**D&O Charge**"); and
 - v. approving an extension of the time for the Company to make a proposal to its creditors to June 25, 2020.

IV. BACKGROUND INFORMATION

8. KMW is an Ontario corporation that carries on business out of its leased premises in London, Ontario. KMW designs, develops and supplies components of biomass combustion system boilers and heaters.

9. As of the Filing Date, the Company employed twelve (12) non-unionized employees and one (1) independent contractor whose role is as a project manager.
10. Based on, and as described in greater detail in the Rosen Affidavit, the Company attributes its financial difficulties primarily to a contract the Company entered into with Georges River Energy, LLC (“**GRE**”) dated December 6, 2016 (the “**GRE Contract**”) for the design and supply of a complete biomass energy system to generate 8.5MW of electric power, including turbine, generation and cooling tower (the “**GRE Project**”). At GRE’s request and in order to reduce the cost of the GRE Project, the Company sourced the turbines from a new supplier to the Company. The turbine, delivered in May 2018, did not function properly. Thereafter, the Company spent an additional US\$1.558MM trying to repair the turbine. To date, the turbine has not functioned to GRE’s satisfaction and GRE is asking that the Company provide it with a new turbine.
11. GRE has threatened litigation, notified the Company of its intention to make a demand under a \$6.413M Performance Bond issued by Liberty Mutual Insurance Company (“**Liberty Mutual**”) in favour of GRE (the “**Performance Bond**”) and did not pay US\$2.58MM owed to KMW under the GRE Project. GRE and KMW have engaged in settlement discussions to resolve the issues related to the GRE Project. Notwithstanding their efforts, the parties have been unable to come to terms on an agreeable settlement, which has resulted in the Company’s liquidity constraints.
12. A summary of the Company’s historical financial results¹ is set out below:

¹ Based on draft unaudited financial statements. The EBITDA calculation provided herein reflects a normalized EBITDA by removing non-recurring or extraordinary expenses.

	Year ended February 28	
	2019	2018
Currency: CAD'000		
Sales	4,542	14,585
Cost of Sales	6,383	10,310
Gross Profit	(1,841)	4,275
Expenses		
Payroll (including payroll taxes)	1,515	997
Other operating expenses	987	1,006
EBITDA	(4,344)	2,272
One time warranty costs	2,669	-
Realized (gain)/loss on foreign exchange	130	(238)
Depreciation	16	15
Interest	93	72
Net income from operations (before tax)	(7,252)	2,424
Provision for taxes	-	4
Net income from operations (after tax)	(7,252)	2,420

13. Additional information in respect of the KMW is set out in the Rosen Affidavit, filed separately in these proceedings. The Proposal Trustee has not repeated such details in this Report.

V. ASSETS

14. The assets are primarily comprised of contracts, accounts receivable, work-in-progress, proprietary engineering designs and software code, and goodwill.

VI. CREDITORS

Secured Creditors

15. A search of the Ontario *Personal Property Security Act* registry, as of April 10, 2020 and the Company's records, indicate that 462673 Ontario Inc. operating as Nor-Arc Steel Fabricators (“**Nor-Arc**”) is KMW's only secured creditor¹².

² On April 17, 2020, Liberty Mutual registered a security interest under the PPSA.

16. The Proposal Trustee understands that from or about April 2010 to and including December 2019, Nor-Arc rendered fabrication services to KMW, which invoices were to be paid within thirty (30) days. As of the Filing Date, KMW's indebtedness to Nor-Arc was approximately \$2.778MM, which indebtedness was secured via KMW executing a general security agreement in favour of Nor-Arc dated April 12, 2011 (the "**Secured Indebtedness**")³. Pursuant to an assignment agreement dated April 20, 2020, the DIP Lender, who is a party related to Nor-Arc, took an assignment of the debt and security owed by KMW to Nor-Arc.
17. Weisz Fell Kour LLP, the Proposal Trustee's counsel, has provided the Proposal Trustee with a verbal opinion confirming that, subject to certain standard assumptions and qualifications, Nor-Arc has valid and enforceable security over the Property.
18. Prior to the Filing Date, on April 9, 2020, Nor-Arc demanded payment from KMW and served a Notice of Intention to Enforce Security pursuant to subsection 244(1) of the BIA. KMW agreed to waive the 10-day period under section 244 of the BIA.

Other Creditors

19. The NOI lists creditors with claims of \$7.033MM as at April 6, 2020 including outstanding amounts due to Nor-Arc totaling \$2.778MM (as explained in paragraph 16). The NOI does not include contingent liabilities under the Performance Bond and under related Indemnity Agreements as detailed in the Rosen Affidavit.

VII. CASH FLOW PROJECTIONS

20. To date, KMW has provided the Proposal Trustee with its full co-operation and unrestricted access to its premises, and books and records.
21. In accordance with the provisions of the BIA, the Company filed with the Official Receiver a projected cash flow statement dated April 20, 2020, which was reviewed by the Proposal Trustee for reasonableness and signed by the Proposal Trustee and the Company (the

³ This amount does not include the contingent liability under the Performance Bond, plus any interest, costs and fees as may be applicable as an indemnitor of KMW under the Performance Bond.

“Cash Flow Projections”). The Cash Flow Projections cover the period starting on April 6, 2020 and ending on July 5, 2020 (the **“Projection Period”**) A copy of the Cash Flow Projection, and related reports, is attached as Exhibit “K” to the Rosen Affidavit.

22. The Proposal Trustee has implemented procedures for monitoring the Company’s receipts and disbursements and has kept in close contact with Management to ensure that operations are continuing in the normal course of business and in accordance with the Cash Flow Projections.

23. The principal assumptions of the Cash Flow Projections are that:

- a. The forecasted collection time on post-Filing Date sales is approximately 30 days and is dependent on successful completion of milestones as per the Purchase Order or contract obtained from the respective customer. In addition, existing accounts receivable will be collected within 45 days;
- b. Operating expenses are assumed to be paid on a current basis;
- c. The payroll costs (i.e. wages, benefits, government remittances, etc.) are based on the 'actual' payroll costs prior to the Filing Date, adjusted to reflect the reductions to payroll arising out of terminations and layoffs;
- d. Professional fees include charges for Company’s counsel and the Proposal Trustee’s fees and expenses, including the fees and disbursements of the Proposal Trustee’s independent legal counsel;
- e. Other disbursements are based on Management's best estimates;
- f. Opening bank balance considered in the projections is different from the bank balance as per bank statement to the extent of cheques issued but not yet cleared. Such cheques primarily pertain to a continuing critical supplier;
- g. No provision for income taxes has been made; and

- h. The Company has not considered benefits of government assistance related to the COVID-19 pandemic in the cash flow projections. The Company is currently evaluating its eligibility to apply for such relief.
24. A summary of the Company's actual receipts and disbursements as compared to the those presented in the Cash Flow Projections for the three weeks ended April 26, 2020 are as follows:

KMW Energy Inc.			
Actual Receipts and Disbursements			
For three week period ending April 26, 2020			
(Unaudited, in \$ CAD)			
	<i>Cumulative Three-Week Period Ended April 26, 2020</i>		
	Actual	Budget	Variance
Receipts	16,949	64,353	(47,404)
Disbursements			
Payment to suppliers	-	60,000	(60,000)
Payments for operating expenses	20,720	72,030	(51,310)
Payroll (inc. contractors)	42,305	42,239	66
Tax	-	11,440	(11,440)
Total Disbursements	63,025	185,708	(122,683)
Operating Net Cash Flow	(46,076)	(121,355)	75,279
Administrative Fees	-	-	-
Net Cash Flow	(46,076)	(121,355)	75,279
Beginning Cash	87,757	87,757	-
Net Cash Flow	(46,076)	(121,355)	75,279
Interim Financing/(repayment)	-	-	-
Ending Cash	41,680	(33,598)	75,279

25. Overall, KMW realized a favorable net cash flow variance of approximately \$75.28M during the 3 weeks ended April 26, 2020. The key components of the variance are as follows:
- a. Receipts: Unfavorable variance of approximately \$47.4M is attributable to: (i) delays in receiving a HST refund of approximately \$20M, which the Company

attributes to CRA's delay in processing refunds during the COVID-19 pandemic; and (ii) delay in receipt of \$39M from a customer, which the Company now expects to receive in early May, 2020. These unfavourable variances were offset by an earlier than anticipated collection of approximately \$11M from a pre-Filing Date account receivable.

- b. Payment to suppliers: The favourable variance of \$60M is timing in nature. The Company advises that it is negotiating purchase orders with the suppliers and the payments to these suppliers will now be made in May 2020.
 - c. Payment for operating expenses: The favourable variance of approximately \$51M is timing in nature, as KMW delayed reimbursing certain employee expenses totaling approximately \$44M pending receipt of funds from the DIP Lender.
 - d. Tax: The favorable variance is a timing difference and it is due to reverse in the forthcoming weeks.
26. Notwithstanding the positive variance up to April 26, 2020, the Cash Flow Projections reflect that KMW is expected to require funding of approximately \$354.2M by the end of the Projection Period. The Company had \$87.75M as at April 6, 2020, which means that during the Projection Period, the Company is projected to have a \$441.95M decrease in cash position.
27. Based on the Proposal Trustee's review of the Cash Flow Projections, there are no material assumptions which seem unreasonable in KMW's circumstances. Based on the Cash Flow Projections and the assumption that the DIP Loan will be available, KMW will have sufficient funding through to the end of the requested extension of the NOI.

VIII. INTERIM FINANCING

28. As set out in the Cash Flow Projections, absent additional financing, the Company does not have the ability to continue to fund operations and the cost of these proceedings beyond

the initial few weeks of the Projection Period. As detailed above, the Company has postponed the purchase of certain goods and supplies pending finalization of the DIP Loan.

29. In light of the contemplated Sale Process, and in order to preserve the value of the Company's business, the DIP Lender has negotiated the terms of the DIP Loan in order to fund KMW's ongoing cash flow shortfalls pursuant to a draft Term Sheet, dated April 24, 2020 (the "**Term Sheet**"). A summary of the DIP Loan's significant terms are as follows:

- a. **Principal Amount:** \$500M on a non-revolving basis;
- b. **Purpose:** (i) Fund working capital needs; (ii) DIP Lender fees and expenses; and (iii) Administrative Professionals fees and disbursements.
- c. **Term:** Repayable on the earliest of (i) Demand; (ii) occurrence of an Event of Default (as defined in the Term Sheet); (iii) the date on which the period for the Company to file a proposal in these proceeding is not extended or is terminated; (iv) the date on which the Company becomes bankrupt; (v) the date upon which a sale of substantially all of the business and assets of the Company is completed; and (vi) July 1, 2020 (such earlier date being the "**Repayment Date**").
- d. **Security and Priority:** The DIP Loan is conditional on the Court ordering a second ranking security charge on the Property (the "**DIP Charge**") in favour of the DIP Lender over all other security interests and encumbrances other than the Administration Charge (the "**DIP Approval Order**");
- e. **Interest:** shall accrue at the annual rate of 11% per annum and be repaid on the Repayment Date;
- f. **Advance:** The Facility shall be available by multiple advances ("**Advance**"), normally to be issued once a week. Notwithstanding the quantum of any Advance requested, the DIP Lender shall only be required to fund such portion thereof that is consistent with the necessary weekly funding set out in the Cash Flow Projections, plus a maximum variation thereto of ten percent (10%); and
- g. **Expenses:** Concurrently with each Advance, a Facility fee of 1.5% of the amount of such Advance, all of which fees shall accrue to and be repaid, together with all other amounts comprising the DIP Loan, on the Repayment Date. In addition, all costs and expenses of the DIP Lender incurred in connection with the DIP Loan,

the term sheet and all security documents and/or any other documents related thereto (including the fees and expenses of its legal counsel).

A copy of the Term Sheet is attached as Exhibit "L" to the Rosen Affidavit.

IX. INTERIM FINANCING RECOMMENDATION

30. The Proposal Trustee has considered the factors set out in Subsection 50.6(5) of the BIA with respect to the granting of a Court order for interim financing and the DIP Approval Order. The Proposal Trustee respectfully recommends that the Court make the order sought by the Company for the following reasons:

- a. For the reasons set out in paragraph 10 and 11, the Company is facing an imminent liquidity crisis. It will require funding in order to: (i) sustain operations and (ii) to conduct the Sale Process;
- b. No creditor of the Company appears to be materially prejudiced by the borrowings under the DIP Loan, and the DIP Approval Order; and
- c. the terms of the borrowings appear to be reasonable in the circumstances and consistent with the terms of debtor-in-possession financing facilities in similar proceedings.

X. SALE PROCESS

Stalking Horse APA

31. The Stalking Horse Bidder has submitted an offer to purchase the right, title and interest of the Company, if any, in and to all of the Property (collectively, the "**Purchased Assets**") for the sum equal to the aggregate of the following amounts, without duplication (the "**Purchase Price**"):

- a. the amount of \$500M;

- b. any and all amounts secured by the DIP Charge;
- c. any and all amounts secured by the Administration Charge at Closing;
- d. any and all amounts secured by the D&O Charge; and
- e. any and all other amounts and claims which rank in priority to the Purchaser Security (as defined below), if any, including, without limitation, on account of unremitted source deductions. (collectively, the "**Priority Payables**").

A copy of the Stalking Horse APA is attached as Exhibit “M” to the Rosen Affidavit.

32. The Stalking Horse APA remains subject to Court approval, if the Proposal Trustee does not receive a better offer through the Sale Process as contemplated below. The Sale Process aims to preserve the ongoing business of the Company, while seeking to identify third party bidders for amounts higher than the Purchase Price.

33. A summary of the other key terms and conditions of the Stalking Horse APA are as follows:

- a. representations and warranties are consistent with insolvency transactions, i.e. the transaction is to be completed on an “as is, where is” basis without material representations and warranties; and
- b. the only significant condition is the granting of an approval and vesting order (the “**Approval and Vesting Order**”) vesting title in and to the purchaser free and clear of all encumbrances, except any permitted encumbrances.

Sale Process

34. The Sale Process is summarized below and is described at Schedule “A” to the Stalking Horse APA. Capitalized terms used in this section and not otherwise defined have the meaning given to them in the Schedule “A” to the Stalking Horse APA.

Milestone	Deadline
Commencement of Sale Process	Not later than five (5) Business Days after the Sale Process Order (as such term is defined in the Stalking Horse APA and below) is granted

<p>Advertise for sale the Purchased Assets in The National Post and other trade publications and distribute a teaser document to potential interested parties</p>	<p>Not later than seven (7) Business Days after the Sale Process Order is granted</p>
<p>Due Diligence</p>	<p>Not later than five (5) Business Days after the Sale Process Order is granted, the Proposal Trustee shall make available to prospective purchasers (collectively, the “Prospective Participants”), upon receipt of an executed non-disclosure agreement (the “NDA”) from Prospective Participants, access to a data room containing information reasonably required by Prospective Participants to consider submitting an offer for the Purchased Assets and facilitate the conduct of due diligence by the Prospective Participants.</p>
<p>Bid Deadline</p>	<p>May 29, 2019 at 5 PM (Toronto time). May get extended by a maximum of 10 days, not to surpass June 8, 2020 if the Proposal Trustee deems it appropriate to do so. Each offer must remain open for acceptance until the June 30, 2020.</p>
<p>Qualified Bids</p>	<p>In order for a bid to qualify as a “Qualified Bid” it must, among other things, be in terms at least a favourable to and no more burdensome than, the Stalking Horse APA and provide for a purchase price of at least the sum of (i) Secured Indebtedness (ii) any and all amounts secured by the DIP Approval Order (iii) any and all amounts secured by the Administration Charge (iv) the Priority Payables and (v) any and all amounts secured by D&O Charge. The Proposal Trustee retains sole discretion to determine whether bids received are Qualified Bids.</p>
<p>Auction</p>	<p>Only if the Proposal Trustee receives one or more Qualified Bids by the Bid Deadline, the Proposal Trustee shall extend invitations by phone, fax and/or email by 10:00 a.m. (Toronto time) on the second (2nd) business day after the Bid Deadline to all bidders who submitted Qualified Bids 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 (or such other date and time as the Proposal Trustee may in its sole discretion designate) at the offices of the Proposal Trustee or by teleconference, video conference or other form of electronic telecommunications, as the Proposal Trustee may deem fit.</p>

- a. Conduct of the Auction: The Proposal Trustee shall conduct the Auction. At the Auction, the bidding shall begin initially with the highest Qualified Bid and subsequently continue in multiples of \$50,000, or such other amount as the Proposal Trustee determines to facilitate the Auction. Additional consideration in excess of the amount set forth in the highest Qualified Bid must be comprised only of cash consideration. The format and procedure for the Auction shall be determined by the Proposal Trustee in its sole discretion.
- b. Winning Bid: In its sole discretion and based, *inter alia*, on the conduct of the Auction, the total financial and contractual terms of the Qualified Bids and various factors relevant to the speed and certainty of completing the sale of the Purchased Assets, the Proposal Trustee shall determine and accept the highest and/or best bid with respect to the Purchased Assets (the “**Winning Bid**”), subject to Court approval.
- c. Court Approval of the Winning Bid: The Company shall make a motion to the Court to obtain approval of the Winning Bid and the Approval and Vesting Order in respect of the Winning Bid and the underlying purchase agreement (the “**Final APA**”) as expeditiously as possible after the Auction.
- d. Court Approval of Agreement if no Qualified Bid: If no Qualified Bid is received by the Bid Deadline (other than the Stalking Horse APA), the Auction will not be held. Accordingly, the Stalking Horse APA will be the Winning Bid and the Company shall seek, as expeditiously as possible, approval of the Court to consummate the Transaction contemplated by that agreement.
- e. Return of Deposits: All deposits received (except such deposit forming part of the Winning Bid) shall be held by the Proposal Trustee “in trust”. All deposits submitted by Prospective Participants who did not submit the Winning 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 Winning Bid shall be dealt with in accordance with the Final APA. If the Winning Bid terminates pursuant to its terms or fails to close because of the Company’ breach or failure to perform under the terms of the Winning Bid, the Proposal

Trustee shall return the deposit submitted with such bid to the bidder that submitted the Winning Bid (the “**Winning Bidder**”) forthwith. If the Winning Bidder fails to complete the approved sale because of its breach or failure to perform under the terms of the Winning Bid, the Proposal Trustee shall not have any obligation to return the deposit submitted with the Winning Bid and such deposit shall be retained by the Proposal Trustee as liquidated damages.

f. Modifications: Subject to the Sale Process Order by the Court, the Company, in consultation with the Proposal Trustee, shall have the right to adopt such other rules for the Sale Process that, in its sole discretion, will better promote the goals of the Sale Process.

35. The Proposal Trustee believes that the Sale Process, as described above, is reasonable in the circumstances, for the following reasons:

- a. it establishes a floor value for the Purchased Assets while providing an opportunity for superior realizations to the Purchase Price contemplated in the Stalking Horse APA;
- b. provided the proposed Sale Process Order is granted, such that the Sale Process commences by no later than May 8, 2020, the Sale Process timeline appears, given the nature of the business, to provide Prospective Participants with sufficient time to complete due diligence and submit competitive bids;
- c. the timeline governing the Sale Process is fair and reasonable having regard to:
 - a) the Company’s DIP Facility being limited to \$500k, with the Cash Flow Projections indicating that the Company may utilize a significant part of the facility. While the Cash Flow Projections indicate that the Company should have sufficient liquidity to sustain its operations through to the completion of the contemplated Sale Process, there is risk that actual cash flow may negatively vary from the Cash Flow Projections, which may result in liquidity constraints; and
 - b) Without additional funding (beyond the DIP Loan) and the transition of the Company’s business to the Stalking Horse Bidder or another Prospective Participant, the Company is likely unable to fully service its existing contracts. A lengthier sale process will potentially put those customers contracts and

relationships at greater risk of being terminated. Additionally, without a smooth transition to a purchaser, it is likely that Liberty Mutual will payout on the Performance Bond;

- d. it is a commonly used method to sell distressed assets in Canadian insolvency proceedings;
 - e. with the Stalking Horse APA and a going concern transaction, the Sale Process will provide greater value/benefits and a higher return for stakeholders than a forced liquidation and/or bankruptcy sale;
 - f. the availability of the DIP Loan provides stability to the Company's cash flow and the sustainability of the businesses during the Sale Process; and
 - g. it will accelerate the realization of the Purchased Assets and, in the Proposal Trustee's view, is commercially reasonable in the circumstances.
36. The Proposal Trustee recommends that the Sale Process, as described above, be approved by this Court on the basis that it is an effective strategy to maximize the value of the Purchased Assets. In the view of the Proposal Trustee, the Stalking Horse APA will provide a benchmark for the realization of the Purchased Assets, while at the same time providing a forum and deadline to permit and encourage any serious alternative bidders to come forward with firm offers to purchase the Company's business and assets as part of a going concern transaction.

XI. ADMINISTRATION CHARGE

37. In order to protect the fees and expenses of the Administrative Professionals, the Company is seeking a first ranking charge (the "**Administration Charge**") on the Property to secure payment of the reasonable fees and expenses of the Administrative Professionals in an amount of \$150,000.
38. The Company is requesting that the Administration Charge rank in priority to the claims of all secured and unsecured creditors over the Property, including the DIP Charge and the D&O Charge.
39. The Proposal Trustee recommends the Administration Charge be approved for the following reasons:

- a. each of the professionals whose fees are to be secured by the Administration Charge has played and will continue to play a critical role in the Company's restructuring and the Sale Process;
- b. The Company intends to satisfy the fees and disbursements of the Administrative Professionals from cash flow during the NOI proceedings. The Administration Charge is sought to protect the Administrative Professionals in the event that the restructuring is not successful; and
- c. The DIP Lender has been notified of the Company's request for the Administration Charge, and the Proposal Trustee is advised that the DIP Lender does not oppose the Administration Charge.

XII. REQUEST FOR AN EXTENSION OF TIME FOR FILING A PROPOSAL

- 40. The time for filing a proposal expires on May 11, 2020.
- 41. In order to allow KMW sufficient time to stabilize its operations by taking the measures identified in paragraphs 28 to 34, KMW seeks a forty-five (45) day extension of the time for filing of a proposal to June 25, 2020.
- 42. In view of the foregoing, the Proposal Trustee supports KMW's request for an extension of time for filing a proposal for the following reasons:
 - a. that KMW is acting in good faith and with due diligence;
 - b. that the extension should not adversely affect or prejudice creditors as KMW is projected to have sufficient funds to pay post-filing services and supplies in the amounts contemplated in the Cash Flow Projections due to the availability of the proposed DIP Loan from the DIP Lender;
 - c. that the Sale Process could generate offers before the end of the requested extension period and allow the Company to be in a position to make a viable proposal; and

- d. that creditors would not be prejudiced by an extension of time for KMW to file its proposal.

XIII. CONCLUSION AND RECOMMENDATION

- 43. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order granting the relief detailed in paragraph 7.

All of which is respectfully submitted on this 29th day of April 2020.

MNP LTD.,
in its capacity as Proposal Trustee under
the Notice of Intention to Make a Proposal of
KMW Inc.
Per:



Sheldon Title,
Licensed Insolvency Trustee

Estate No.: 35-2638322
Court No.: 35-2638322

**IN THE MATTER OF THE NOTICE OF INTENTION TIO MAKE A PROPOSAL
OF KMW INC., OF THE CITY OF LONDON, IN THE PROVINCE OF ONTARIO**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

**FIRST REPORT TO THE COURT SUBMITTED BY MNP
LTD., IN ITS CAPACITY AS PRPOSAL TRUSTEE UNDER
THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.**

MNP LTD.
300-111 Richmond Street West
Toronto, ON M5H 2G4

Sheldon Title
Tel: (416) 263-6945
Fax: (416) 323-5242
Email: sheldon.title@mnp.ca

Exhibit "B"

Acquisition Opportunity
KMW Energy Inc.: CULTIVATING GOOD ENERGY

Background of KMW Energy Inc. (“KMW” or the “Company”)

KMW is a London, Ontario based company which designs, engineers and sells biomass combustion system boilers, producing hot water and high pressure steam. The Company has extensive experience in engineering and designing complete biomass boiler systems including fuel handling, combustion system, heat recovery boiler, emission control and control systems. From consulting, to system design and supply, to development, KMW has over 70 years of experience as a world leader in engineering and supplying biomass combustion systems and boilers across North, Central and South America as well as certain international markets.

Some of the Company’s recent achievements include supplying (i) 1.5 MW Hot Water Boiler to Public Works in Ontario; (ii) 600 BHP Wet Bark Boiler in Quebec; (iii) 8.5 MW CHP Plant in Maine; and (iv) 14 MW Power Plant in Portugal. For additional information, please refer <https://kmwenergy.com/>

Sale Process

The sale process, which was approved by the Court on May 1, 2020, involves a stalking horse offer, which shall serve as the base-line bid against which all other qualifying offers shall be evaluated. Any sale transaction is subject to Court approval.

The deadline for the submission of a bid is on or before 5:00 p.m. (Toronto, Ontario time) on May 29, 2020.

For further information and/or to request a copy of the NDA, please contact Akhil Kapoor at the below-noted coordinates.

Contacts:
MNP LTD.
300 – 111 Richmond Street West
Toronto, ON M5H 2G4

Sheldon Title, CPA, CA, CIRP, LIT
Senior Vice-President
T: 416.263.6945
F: 416.323.5240
E: Sheldon.Title@mnp.ca

Akhil Kapoor
Manager
T: 647.475.4573
F: 416.596.7894
E: akhil.kapoor@mnp.ca

Exhibit "C"

TRANSPORTATION

GREYHOUND CANADA
TO TEMPORARILY
SHUT ALL BUS ROUTES

Greyhound Canada is temporarily slamming the brakes on all of its busing routes and services as ridership plummets amid the COVID-19 pandemic. The transportation company says starting May 13 it will halt all routes until passenger demand recovers. Greyhound Canada says it made the decision after its ridership dropped by 95 per cent. The bus operator says it has already cut costs across its business and “made significant outreach efforts” to provincial and federal governments seeking financial support. It says 400 employees will be affected by the decision. Greyhound Canada has pulled back on its Canadian services in recent years. In 2018, the company announced it was cancelling buses in most of Western Canada, blaming plunging demand. *The Canadian Press*

Planned sales
of assets
still on track**BOMBARDIER**
Continued from FP1

The results are the company's last under Alain Bellemare as chief executive. Bombardier replaced Bellemare with former Hydro-Québec CEO Éric Martel last month after a five-year run that saw Bombardier agreeing to exit such long-time businesses as trains and commercial aviation.

All previously announced divestitures are “continuing to progress toward closing,” Bombardier said Thursday. The planned sale of the CRJ program to Mitsubishi Heavy Industries, which will bring in about US\$550 mil-



HOLLIE ADAMS / BLOOMBERG FILES

Bombardier's widely traded Class B stock dropped 13 per cent to 46 cents in early afternoon trading Thursday in Toronto. The shares are down about 75 per cent this year.

lion, is expected close June 1. First-quarter results were “weak,” Desjardins Capital Markets analyst Benoit Poirier said Thursday in a note to clients. The cash burn “caused further deterioration in the balance sheet,” said Poirier, who cut his rat-

ing on Bombardier to “hold” Sunday while awaiting “better visibility” into the pandemic's impact.

Bombardier's widely traded Class B stock dropped 13 per cent to 46 cents in early afternoon trading Thursday in Toronto. The shares are down about 75 per cent this year.

Deliveries of private planes — which are poised to become Bombardier's sole business in 2021 — will probably sink as much as 35 per cent this year, Martel said. Production rates “are being aligned to market demand,” the company said without being specific.

Business activity will probably hit a low point in the second quarter before gradually recovering in the second half, Bombardier said.

Bombardier halted manufacturing activities in the second half of March in sev-

eral countries — including Canada — as the pandemic worsened. It announced a gradual resumption of operations on April 28.

“It is clear that we are facing a complete new reality,” Martel said Thursday on a conference call with financial analysts. “We will need to change significantly how we operate.”

Bombardier officials have also approached governments in such jurisdictions as Canada, Belgium, Germany and the U.K. to inquire about additional financial assistance if the pandemic persists, the CEO said.

Free cash flow in the first quarter was hurt by delayed aircraft deliveries and postponed train approvals due to travel restrictions and production shutdowns.

“We got caught with a lot of aircraft that we couldn't deliver,” Di Bert said.

Postmedia News

COMMENT

U Guelph's
stand against
prosperityChancellor quits
over fossil fuel
divestment**DIANE FRANCIS**

The University of Guelph's grandstanding move to divest its endowment portfolio of fossil fuel stocks is an insult to Canada and its critically important oil and automotive sectors.

Last month, U of G's board of governors overwhelmingly voted to divest itself of oil stocks for non-financial reasons, thereby joining a coven of universities in British Columbia and Quebec that demonize oil. The Guelph, Ont.-based university caved to pressure by the student group Fossil Free Guelph, which organized a one hour sit-in and repetitive propaganda campaigns. Pathetic.

This capitulation to fanaticism led to the resignation this week of the university's chancellor, Martha Billes, a philanthropist and controlling shareholder of Canadian Tire Corp., one of Canada's most successful companies.

“For over 40 years, I have been an investor in business ventures including the oil businesses in my home city of Calgary and my family business, Canadian Tire Corp. My decision to resign as chancellor was prompted by the incompatibility of my business interests with the board of governors' decision to divest from fossil fuel companies in its endowment portfolio,” she wrote in her resignation letter.

Her remarks to a local paper were even more pointed: “If it weren't for the Canadian oil development, many of the advantages across this country would never have happened. The university, to make a statement against an industry that has been paying their bills for many years, I find untenable.”

The board's decision is hypocritical, considering that the region's economy is driven mostly by the auto industry, which is totally tied to oil. Southwestern Ontario is nearly as important as Alberta and Saskatchewan in terms of Canada's economic output and exports. Without oil and autos, the Canadian economy would be a big version of Prince Edward Island's.

I called Seymour Schulich, a business success who is Canada's largest donor to many universities, and his reaction was simply: “It is easier to find a unicorn than to find wisdom on a university board of governors.”

These boards are often comprised of inappropriate placeholders, and a few have become patsies to a larger movement that scapegoats oil, cars and free enterprise in the climate change debate. Yet their opposition to oil and cars totally misses the mark. Demand, not supply, is the cause of increased carbon emissions, along with the United Nations' glaring exemption from emissions controls on China, India and other developing countries. As a result, these countries have become monstrous pollution machines, burning mostly coal to build their economies and produce their junk exports.

The UN is a joke for allowing this, but where are the so-called environmentalists? Fossil Free Guelph should be demanding bans on all those cheap imports of clothes, furnishings, plastics, electronic devices and fresh produce that are transported on planes and giant container ships, and bought up by students and everyone else.

Not surprisingly, given Schulich's statement about how lame boards are, Billes had only one ally on the board, Garret Bos, during the vote on fossil fuel investments. Based on the brief biographies of those who sit on the board of governors, he is the only engineer and technologist in the mix. He also holds a real-world job, not an advisory, academic or public-sector position, and is the school's information security officer.

The rest of the roster is comprised of academics, students, one labour lawyer, retirees and people whose careers are, or were, attached to the public sector. Notable, however, was its chair, a retired Royal Bank of Canada executive with an arts degree whose pension-paying former bank employer is among the world's Top 10 investors in fossil fuels, according to an environmentalist website.

Fortunately, Martha Billes has taken an important stand and should be applauded. Her integrity and courage is admirable and represents a ray of hope in a country full of uninformed people who voted Liberal, Green, NDP and Bloc, in the hopes of burning the country's two key industries, and with it its standard of living, at the stake.

Financial Post**Martha Billes****IN THE MATTER OF THE BANKRUPTCY OF
WELCOME WAGON LTD./ BIENVENUE CHEZ-NOUS
LTEE. OF THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO**

Notice is hereby given that the bankruptcy of Welcome Wagon Ltd./ Bienvenue Chez-Nous Ltee., a corporation that operated at 1 Sparks Avenue, Suite 13, Toronto, Ontario, occurred on May 4, 2020; and that the First Meeting of Creditors will be held via conference call on May 19, 2020 at 10:00 AM. To join the call the coordinate details are as follows: Local: +1 (647) 749-7008; Toll Free: +1 (888) 457-7239; Conference ID: 512 438 044#

DATED at Toronto this 8th day of May, 2020.**FARBER**

A. FARBER & PARTNERS INC., LIT
150 York Street, Suite 1600
Toronto, ON M5H 3S5
Tel: (416) 497-0150
Fax: (416) 496-3839
www.farbergroup.com

**IN THE MATTER OF THE BANKRUPTCY OF
PROMUS INC.
A COMPANY DULY INCORPORATED
PURSUANT TO THE LAWS OF THE
PROVINCE OF ONTARIO WITH A HEAD
OFFICE IN THE
CITY OF TORONTO
PROVINCE OF ONTARIO**

Notice is hereby given that **PROMUS INC.**, located at 1 Yonge Street, Unit 1801, Toronto, Ontario filed an assignment in bankruptcy on the 1st day of May, 2020 and that Schwartz Levitsky Feldman Inc. was appointed as Trustee, and that the First Meeting of Creditors will be held on the 21st day of May, 2020 at the hour of 10:00 o'clock in the forenoon, at:

Schwartz Levitsky Feldman Inc.
2300 Yonge Street, Suite 1500
Toronto, Ontario**SLF**M4P 1E4
(416) 785-5353
(416) 784-3025 fax**ACQUISITION OPPORTUNITY****KMW**

By Order of the Ontario Superior Court of Justice, MNP Ltd. has been authorized to conduct a sale process and solicit bids for the purchase of the assets and going concern business of **KMW Energy Inc.** (“KMW”).

KMW has 70 years of experience in engineering and designing complete biomass boiler systems including fuel handling, combustion system, heat recovery boiler, emission control and control systems.

The sale process involves a stalking horse offer, which shall serve as the baseline bid against which all other qualifying offers shall be evaluated. Any sale transaction is subject to Court approval. **The deadline for submission of bids is 5:00 PM Toronto time on May 29, 2020.**

To obtain information concerning this opportunity and the sale process, please contact Akhil Kapoor by e-mail at akhil.kapoor@mnp.ca.

MNP
LTD.

LICENCED INSOLVENCY TRUSTEE
300 – 111 Richmond Street West
Toronto ON Canada M5H 2G4
www.mnpdabt.ca

ACQUISITION OPPORTUNITY**FERREX**
ENGINEERING

By Order of the Ontario Superior Court of Justice, MNP Ltd. has been authorized to conduct a sale process and solicit bids for the purchase of the assets and going concern business of **Ferrex Engineering Ltd.** (“Ferrex”).

Ferrex started providing engineering services to the steel and recycling industry and has expanded its portfolio of services within equipment design, automation and information services across Canada and specific international markets.

The sale process has been approved by the Court on May 4, 2020 and any sale transaction is subject to Court approval. **The deadline for submission of bids is 5:00 PM Toronto time on June 8, 2020.**

To obtain information concerning this opportunity and the sale process, please contact Akhil Kapoor by e-mail at akhil.kapoor@mnp.ca or by telephone at (647) 475-4573.

MNP
LTD.

LICENCED INSOLVENCY TRUSTEE
300 – 111 Richmond Street West
Toronto ON Canada M5H 2G4
www.mnpdabt.ca

**The Canadian Bar Insurance Association –
Annual Financial Statements**

Members of The Canadian Bar Insurance Association (CBIA) are hereby advised that the Report of CBIA's Public Accountant and the Financial Statements for the year ended November 30, 2019, are now available on CBIA's website at www.lawyersfinancial.ca. To comply with emergency measures enacted by the Government of Ontario, CBIA's registered office at 5 Park Home Avenue is currently closed, with management and staff working from home. Members may request a copy of the Financial Statements by emailing CBIA at l.sullivan@lawyersfinancial.ca.

**L'Association d'assurances du Barreau canadien –
États financiers annuels**

Les membres de l'Association d'assurances du Barreau canadien sont informés aux présentes que le rapport de l'expert-comptable et les états financiers de l'AABC pour l'exercice terminé le 30 novembre 2019 sont maintenant disponibles sur le site Web de l'AABC à www.financieredesavocats.ca. Pour nous conformer aux mesures d'urgence promulguées par le Gouvernement de l'Ontario, le bureau principal de l'AABC à 5 Park Home Avenue est présentement fermé, et les directeurs et les employés travaillent à partir de leur domicile. Les membres peuvent obtenir des copies des états financiers sur demande en envoyant un courriel à la secrétaire à l.sullivan@lawyersfinancial.ca.

The Canadian Bar Insurance Association Annual General and Special Meeting

Take notice that the 2020 Annual General and Special Meeting of The Canadian Bar Insurance Association (CBIA) shall be held on Friday, May 22, 2020, at 12:00 p.m. EDT, at CBIA's office at 500-5 Park Home Avenue, Toronto, ON (the “Meeting”).

At that time, the Financial Statements and the Public Accountant's report on the Financial Statements shall be presented, the Public Accountants for the ensuing year shall be appointed, the remuneration of the Public Accountants shall be fixed or shall be referred to the Directors for decision, and amendments to the bylaw will be presented clarifying the Description of Officers clause and the Appointment of Officers clause, and permitting meetings of members to be held by electronic means.

A copy of the complete text of the resolutions to be voted on by Members and forms of proxy will be available on CBIA's website at www.lawyersfinancial.ca not less than 21 days before the date of the Meeting.

To comply with emergency measures enacted by the Government of Ontario, the CBIA Board of Directors strongly encourages Members to avoid contact with other people to help prevent the spread of COVID-19, by attending the Meeting via teleconference and/or video conference. Members who wish to vote MUST vote in advance by submitting a form of proxy provided on CBIA's website in accordance with the voting instructions provided on the form of proxy. Although Members are welcome to attend the Meeting via teleconference and/or video conference, Members will NOT have the ability to vote via teleconference and/or video conference during the Meeting. Members who wish to attend the Meeting via teleconference and/or video conference must contact CBIA in advance with their CBA Member number at l.sullivan@lawyersfinancial.ca to obtain access instructions. You will be notified of any change in the meeting location through a website posting on <https://www.lawyersfinancial.ca/about-us/announcements>.

**Assemblée générale annuelle et assemblée extraordinaire de L'Association
d'assurances du Barreau canadien**

Avis est donné aux présentes que l'assemblée générale annuelle et assemblée extraordinaire de 2020 de L'Association d'assurances du Barreau canadien (AABC) se tiendront le vendredi 22 mai 2020 à 12 h, HAE, dans les bureaux de l'AABC au 500 – 5 Park Home Avenue, Toronto (ON) (« l'assemblée »).

C'est là que les états financiers et le rapport de l'expert-comptable sur les états financiers seront soumis; l'expert-comptable de l'année suivante sera nommé; la rémunération de l'expert-comptable sera fixée ou confiée aux administrateurs aux fins de décision; et des amendements au règlement administratif seront présentés pour clarifier la clause de la description des dirigeants et la clause de nomination des dirigeants, et permettre la tenue d'assemblées des membres par moyen électronique.

Le texte intégral des résolutions soumises au vote des membres et les procurations seront publiés sur le site Web de l'AABC au www.financieredesavocats.ca au plus tard 21 jours avant la date de l'assemblée.

Pour nous conformer aux mesures d'urgence promulguées par le Gouvernement de l'Ontario, le conseil d'administration de l'AABC incite fortement les membres à éviter tout contact avec autrui pour éviter la propagation du COVID-19 en participant à l'assemblée par téléconférence et/ou vidéoconférence. Les membres qui souhaitent voter DOIVENT voter par anticipation en soumettant un formulaire de procuration fourni sur le site Web de l'AABC, conforme aux instructions de vote fournies sur le formulaire de procuration. Quoique les membres sont invités à participer à l'assemblée par téléconférence et/ou vidéoconférence, les membres n'auront PAS la possibilité de voter par téléconférence et/ou vidéoconférence durant l'assemblée. Les membres qui souhaitent participer à l'assemblée par téléconférence et/ou vidéoconférence doivent communiquer avec l'AABC au préalable à l.sullivan@lawyersfinancial.ca et fournir leur numéro de membre de l'ABC pour obtenir des instructions sur l'accès automatique.

Vous serez notifié de tout changement du lieu de l'assemblée par un message sur <https://www.lawyersfinancial.ca/fr/propos-de-nous/annonces>.

**NOTICE TO SHAREHOLDERS OF
EXOTHERMIC DISTRIBUTION CORPORATION**

All shareholders of EXOTHERMIC DISTRIBUTION CORPORATION, a corporation incorporated under the Ontario Business Corporations Act, are requested to contact corporate counsel named below by June 8, 2020.

DATED May 8, 2020

Torkin Manes LLP

Attention: Glen Eddie

1500-151 Yonge Street

Toronto, ON M5C 2W7

Tel: 416-777-5357

Fax: 1-888-812-2557

geddie@torkinmanes.com

Exhibit "D"

STALKING HORSE ASSET PURCHASE AGREEMENT

This Agreement made this 24 day of April 2020.

BETWEEN:

KMW ENERGY INC.

(the "Vendor")

- and -

2751602 ONTARIO INC.

(the "Purchaser")

WHEREAS the Vendor has filed a notice of intention to make a proposal under the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA Proceedings**");

AND WHEREAS MNP Ltd. has been appointed as proposal trustee of the Vendor under the BIA Proceedings (the "**Proposal Trustee**");

AND WHEREAS the Vendor will bring a motion for the Sales Process Order (*as hereinafter defined*) to authorize the Vendor to enter into this Agreement and conduct a sales process with respect to the Purchased Assets (*as hereinafter defined*);

AND WHEREAS, subject to the granting of the Approval and Vesting Order (*as hereinafter defined*), the Vendor has agreed to sell to the Purchaser and the Purchaser has agreed to purchase from the Vendor its right, title and interest in and to the Purchased Assets and the Assumed Obligations (*each as defined below*) upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties) the parties hereto agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 Definitions

In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:

"**Administration Charge**" means the charge, in the maximum amount of \$150,000, in favour of the Vendor's Lawyers, the Proposal Trustee and the Proposal Trustee's lawyers, granted by the Court in the BIA Proceedings as security for their respective fees and expenses;

"**Agreement**" means this asset purchase agreement, including all written amendments and written restatements thereto from time to time;

"**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

"**Approval and Vesting Order**" has the meaning given in Section 4.1;

"**Article**" or "**Section**" " mean the specified Article, or Section to this Agreement and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement;

"**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person;

"**Assumed Contracts**" has the meaning given in Section 2.10;

"**Assumed Obligations**" has the meaning given in Section 2.8;

"**Bid Deadline**" means May 29, 2020 (extendable at the discretion of Proposal Trustee for up to ten (10) days, but not beyond June 8, 2020, as set out in Schedule "A");

"**BIA**" means the *Bankruptcy and Insolvency Act* (Canada), R.S.C., 1985, c.B-3;

"**BIA Proceedings**" has the meaning given in the recitals above;

"**Books and Records**" means all of the books and records relating to the Purchased Assets, including, without limitation, all personnel files/records relating to all Transferred Employees and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, business reports, projections and all other documents, plans, files, records, correspondence, and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media, excluding any of the foregoing as applicable to any Excluded Asset;

"**Business**" means the biomass combustion boiler and heater systems manufacturing business carried on by the Vendor;

"**Business Day**" means a day on which banks are open for business in the City of Toronto, but does not include a Saturday, Sunday or statutory holiday recognized in the Province of Ontario;

"**Claims**" means any and all claims, demands, complaints, actions, applications, suits, causes of action, orders, or other similar processes, and "**Claim**" means any one of them;

"**Closing**" means the completion of the purchase and sale of the Purchased Assets in accordance with the provisions of this Agreement;

"Closing Date" means subject to the terms hereof, one (1) Business Day following the date on which the conditions set forth in Article 4 have been satisfied or waived by the appropriate Party or such other date as may be agreed;

"Closing Time" has the meaning given in Section 3.1;

"Contracts" means the right, title and interest of the Vendor to and in all pending and/or executory contracts, agreements, leases and arrangements Related to the Business to or by which any of the Vendor, the Purchased Assets or Business is bound or affected;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"D&O Charge" means the charge, in the maximum amount of \$50,000, in favour of the directors and officers of the Vendor granted by the Court in the BIA Proceedings;

"Deposit" has the meaning given in Section 2.3(a);

"DIP Lender" means 2751602 Ontario Inc.;

"DIP Lender's Charge" means the charge in favour of the DIP Lender granted by the Court in the BIA Proceedings as security for the Vendor's obligations under the DIP Term Sheet;

"DIP Loan" means the loan by the DIP Lender pursuant to the DIP Term Sheet approved by the Court in the BIA Proceedings;

"DIP Term Sheet" means the term sheet by and between 2751602 Ontario Inc., as DIP Lender, and the Vendor, as borrower, and dated April 24, 2020;

"Effective Time" means 12:01 a.m. on the Closing Date;

"Employee" means an individual who was formerly employed or engaged by the Vendor or, as at the Effective Time, is employed or engaged by the Vendor in connection with the Business, and **"Employees"** means every Employee;

"Employee Liabilities" means any and all Liabilities (whether by statute, contract, common law or otherwise) owed to any of the Employees, or otherwise arising out of, or resulting from, the relationship between the Vendor (or any predecessor of the Vendor) and any of the Employees, including any Liability arising as a result of such party being deemed to be a successor employer, related employer or otherwise responsible or liable for payment of any amounts owing to, on behalf of, or in respect of, any of the Employees (including, but not limited to, the Transferred Employees), whether pursuant to the *Employment Standards Act* (Ontario), the *Pay Equity Act* (Ontario) or the *Workplace Safety and Insurance Act, 1997* (Ontario). Without limiting the foregoing, Employee Liabilities shall include:

- (a) all salaries, wages, bonuses, commissions, vacation pay, public holiday pay and other compensation relating to the employment of the Employees (including accrued but unpaid vacation pay and any retroactive pay) and all Liabilities under employee benefit plans relating to employment of the Employees; and

- (b) all termination pay, severance pay, damages in lieu of reasonable notice and other related Liabilities (under statute, contract, common law or otherwise) in respect of the termination and/or severance of employment of the Employees.

"Encumbrances" means any security interests (whether contractual, statutory, or otherwise), mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, leases, title retention agreements, reservations of ownership, demands, executions, levies, charges, options or other rights to acquire any interest in any assets, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including the Administration Charge and all contracts to create any of the foregoing, or encumbrances of any kind or character whatsoever, other than Permitted Encumbrances;

"Excluded Assets" means any assets that the Purchaser elects to exclude in writing prior to Closing pursuant to Section 2.6.

"Governmental Authorities" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and **"Governmental Authority"** means any one of them;

"HST" means all of the harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada);

"Intellectual Property" means any or all of the following items, wherever located: 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, processes, 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, including without limitation;

"Interim Period" means the period from and including the date of this Agreement to and including the Closing Date;

"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), including, without limitation, Employee Liabilities; and, "**Liabilities**" means the plural thereof;

"**Licences and Permits**" means all licences, permits, filings, certificates, authorizations, approvals or indicia of authority Related to the Business or the Purchased Assets or necessary for the operation or use of the Purchased Assets;

"**NOI Date**" means April 11, 2020, being the date on which the Vendor filed a notice of intention to make a proposal under the BIA.

"**Parties**" means the Vendor and the Purchaser collectively, and "**Party**" means any one of them;

"**Permitted Encumbrances**" means all security interests and other interests arising exclusively from the Assumed Contracts;

"**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;

"**Personal Property**" means all of the Vendor's machinery, equipment, furniture, including, without limitation, desks, chairs, tables, copiers, telephone lines and numbers, telecopy machines and other telecommunication equipment, cubicles, cabinets, televisions, all computer hardware, including servers, computers and peripherals, printers and miscellaneous office furnishings and supplies, if any, laptops, cell phones and all other tangible personal property used in the Business, including all property subject to the Assumed Contracts;

"**Prepaid Amounts**" means all prepayments, prepaid charges, deposits, security deposits, sums and fees Related to the Business or in respect of the Purchased Assets;

"**Priority Payables**" has the meaning given in Section 2.2(d).

"**Proposal Trustee**" has the meaning given in the recitals above;

"**Proposal Trustee's Certificate**" has the meaning give in Section 4.2;

"**Purchase Price**" has the meaning given in Section 2.2;

"**Purchased Assets**" means collectively, all of the Vendor's right, title and interest in all of the assets, properties and undertakings Related to the Business, including, but not limited to, the following assets;

- (a) the Assumed Contracts;
- (b) the Personal Property;

- (c) the Receivables;
- (d) the Intellectual Property;
- (e) the Licenses and Permits;
- (f) the Prepaid Amounts;
- (g) the Books and Records;
- (h) all cash, bank balances, moneys in possession of banks and other depositories, term or time deposits and similar cash items of, owned or held by or for the account of the Vendor;
- (i) all rights and interests under or pursuant to all warranties, representations and guarantees, express implied or otherwise, of or made by suppliers or others in connection with the Purchased Assets or otherwise Related to the Business,
- (j) all goodwill and other intangible assets associated with the Business, including all telephone and facsimile numbers used in Related to the Business; and
- (k) all other property, assets and undertaking of the Vendor used in or relating to the Business of whatsoever nature or kind, including without limitation all property, assets and undertaking of the Vendor,

other than the Excluded Assets.

"Purchaser Debt" means collectively, all Liabilities of the Vendor to 462673 Ontario Inc. o/a Nor-Arc Steel Fabricators and assigned to the Purchaser pursuant to the Assignment Agreement dated April 20, 2020 [estimated to be \$2,778,000, as at March 24, 2020, plus interest and costs continuing to accrue];

"Purchaser Security" means all security documents granted by the Vendor to 462673 Ontario Inc. o/a Nor-Arc Steel Fabricators and assigned to the Purchaser pursuant to to the Assignment Agreement dated April 20, 2020;

"Purchaser's Lawyers" means Loopstra Nixon LLP c/o R. Graham Phoenix;

"Qualified Bid(s)" shall mean an offer to purchase all or any of the Purchased Assets which includes a purchase price equal or greater than the aggregate of (i) the Purchaser Debt, (ii) any and amounts secured by the DIP Lender's Charge; (iii) any and all amounts secured by the Administration Charge; and, (iv) any and all amounts secured by the D&O Charge; and (v) any and all Priority Payables;

"Related to the Business" means, directly or indirectly, used in, arising from, or relating in any manner to the Business or the Purchased Assets;

"Receivables" means the right, title and interest of the Vendor to all accounts receivable, bills receivable, trade accounts, book debts, insurance claims, and choses-in-action, now or hereafter due or owing to any of the Vendor, Related to the Business together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits, attributable to the period prior to Closing;

"Rights" has the meaning ascribed thereto in Section 2.11 hereof;

"Sales Process Order" means an order or orders to be sought from the Court upon terms acceptable to the Parties, each acting reasonably, that alone or in combination, among other things, authorizes the Vendor to enter into this Agreement and to conduct a marketing and sale process for the right, title and interest of the Vendor in and to the Purchased Assets and the Excluded Assets substantially in accordance with the sales process attached as Schedule "A" hereto;

"Stalking Horse Bid" has the meaning ascribed thereto in Section 4.1(a) hereof;

"Taxes" means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax, including, Canada Pension Plan and provincial pension plan contributions, employment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

"Transferred Employees" means Employees who have accepted an offer of employment from the Purchaser as of the Closing;

"Winning Bidder" has the meaning ascribed thereto in Section 4.1(b) hereof; and

"Vendor's Lawyers" means Chaitons LLP c/o Harvey Chaiton.

1.2 Section References

Unless the context requires otherwise, references in this Agreement to Sections are to Sections of this Agreement.

ARTICLE 2 **PURCHASE AND SALE**

2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendor shall sell and the Purchaser shall purchase the Purchased Assets and the Purchaser shall assume the Assumed Obligations.

2.2 Purchase Price

The purchase price payable by the Purchaser to the Vendor (or as it may otherwise direct) for the Purchased Assets shall be equal to the aggregate of the following amounts, without duplication (the "**Purchase Price**"):

- (a) the amount of \$500,000;
- (b) any and all amounts secured by the DIP Lender's Charge;
- (c) any and all amounts secured by the Administration Charge at Closing
- (d) any and all amounts secured by the D&O Charge; and
- (e) any and all other amounts and claims which rank in priority to the Purchaser Security, if any, including, without limitation, on account of unremitted source deductions (collectively, the "**Priority Payables**").

2.3 Deposit

- (a) Contemporaneously with the execution and delivery of this Agreement by the Purchaser and in accordance with the terms of the Sales Process Order, the Purchaser has paid a deposit payable to the order of the Proposal Trustee, in trust, in the amount of \$100,000 (the "**Deposit**").
- (b) The Deposit shall be held, pending Closing, by the Proposal Trustee in a non interest-bearing account with a bank.
- (c) If the Closing does not occur by reason of the uncured default of the Purchaser, the full amount of the Deposit (plus accrued interest), less any applicable withholding Tax, shall become the property of the Vendor and be paid over by the Proposal Trustee to the Vendor as liquidated damages and not as a penalty. The Vendor's recourse against the Purchaser in such circumstances shall be limited to the right of the Vendor to retain the Deposit and to seek recovery of an additional amount for any actual damages of the Vendor, provided however that the recovery for such additional damages is not to exceed the value of damages actually incurred as a result of such failure to close.
- (d) If the Closing does not occur for any reason other than the default of the Purchaser, the full amount of the Deposit, less any accrued interest and/or any applicable withholding Tax, shall be returned by the Proposal Trustee to the Purchaser and the Purchaser shall have no further recourse against the Proposal Trustee or the Vendor.

2.4 Satisfaction of Purchase Price

The Purchaser shall satisfy the Purchase Price as follows:

- (a) by the application of the amount of the Deposit, to be credited against the Purchase Price;
- (b) by the cancellation of any and all amounts secured by the DIP Lender's Charge on Closing;
- (c) by payment to the Proposal Trustee, in trust, of any and all amounts secured by the Administration Charge on Closing by way of a certified cheque, wire transfer or bank draft to be credited against the Purchase Price on Closing;
- (d) by payment to the Proposal Trustee, in trust, of any and all Priority Payables on Closing by way of a certified cheque, wire transfer or bank draft to be credited against the Purchase Price on Closing;
- (e) by (i) payment of any and all amounts secured by the D&O Charge or (ii) the assumption of amounts secured by the D&O Charge, to be credited against the Purchase Price; and
- (f) by the cancellation of such portion of the Purchaser Debt as Purchaser deems appropriate, to be credited against the Purchase Price.

2.5 Allocation of Purchase Price

The Purchase Price shall be allocated among the Purchased Assets in the manner agreed to by the Purchaser and the Vendor prior to the Closing Date.

2.6 Excluded Assets

Save and except as otherwise expressly set out herein, the Purchaser may, at its option, exclude any of the Purchased Assets from the transaction contemplated hereby at any time prior to Closing upon delivery of prior written notice to the Vendor, whereupon such assets shall be deemed to form part of the Excluded Assets, provided, however, that there shall be no reduction in the Purchase Price as a result of such exclusion.

2.7 Sales and Transfer Taxes; HST and Receivables Elections

- (a) The Purchaser shall be responsible for the payment on Closing of any Taxes that are required to be paid or remitted in connection with the consummation of the transactions contemplated in this Agreement.
- (b) At the Closing, the Vendor and the Purchaser shall, if applicable, jointly execute an election under Section 167 of the *Excise Tax Act* (Canada) to cause the sale of the Purchased Assets to take place on a HST-free basis under Part IX of the *Excise Tax Act* (Canada) and the Purchaser shall file such election with its HST return for the applicable reporting period in which the sale of the Purchased Assets takes place.
- (c) The Vendor, when transferring Receivables to the Purchaser, and the Purchaser shall execute jointly an election in prescribed form under Section 22 of the *Income*

Tax Act (Canada) in respect of the Receivables and shall each file such election with their respective tax returns for their respective taxation years that include the Closing Date.

2.8 Assumed Obligations

At Closing, the Purchaser shall assume and be liable for the following (collectively, the "**Assumed Obligations**"):

- (a) the Vendor's Liabilities under the Assumed Contracts that arise out of, are incurred, or relate to the period from and after Closing;
- (b) the Vendor's Liabilities under the D&O Charge, if assumed pursuant to Section 2.4(e);
- (c) all Liabilities and Claims arising or accruing from the use of the Purchased Assets from and after the Closing;
- (d) all Employee Liabilities in respect of any of the Transferred Employees, in each case in respect of the period commencing at the Closing Time;
- (e) all Permitted Encumbrances; and
- (f) all Taxes arising or accruing from and after the Closing from the use of the Purchased Assets, including, without limitation, HST to be collected and remitted to Canada Revenue Agency when due.

2.9 Excluded Liabilities

The Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Vendor (collectively, the "**Excluded Liabilities**"), which Excluded Liabilities include, but are not limited to, the following:

- (a) all Liabilities and Claims arising or accruing from the use of the Purchased Assets prior to the Closing; and
- (b) all Employee Liabilities that arise out of or result from the employment or engagement by the Vendor of any of the Employees (other than Transferred Employees) (unless otherwise imposed by law) and/or the termination or severance of such engagement or employment.

2.10 Assumed Contracts

- (a) Save and except as hereinafter set out, the Purchaser shall give notice to the Vendor in writing, at least five (5) Business Days prior to the Closing Date, of those Contracts that it elects to assume on Closing (which Contracts shall be referred to as the "**Assumed Contracts**"). This Agreement and any document delivered under this Agreement will not constitute an assignment or an attempted assignment of any

Contract contemplated to be assigned to the Purchaser under this Agreement which is not assignable without the consent of a third Person if such consent has not been obtained and such assignment or attempted assignment would constitute a breach of such Contract, in which event, the provisions of Section 2.11 hereof shall govern. The Purchaser shall be responsible for any pre-Closing Liabilities of the Vendor required to be paid to any Person in order to complete the assignment of any Assumed Contract to the Purchaser.

- (b) So as to facilitate the Purchaser's determination of which Contracts shall constitute Assumed Contracts hereunder, immediately following the issuance of the Sales Process Order and execution of this Agreement, the Vendor will provide access to and undertake all reasonable efforts to make available to the Purchaser those Persons (or representatives of such Persons) who are then parties with any Contracts with the Vendor for the purpose of permitting the Purchaser to independently assess the status of those Contracts; to determine whether such Contracts are desirable on their existing terms; to determine if the parties to any such Contract would entertain amendments to the same; and, to negotiate and obtain any consent that be by required in with the potential assumption of the same.

2.11 Assignment of Purchased Assets

Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an assignment or transfer of the Purchased Assets or any right thereunder if an attempted assignment or transfer, without the consent of a third Person, would constitute a breach or in any way adversely affect the rights of the Purchaser hereunder. To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**" and each a "**Right**") is not capable of being transferred without the approval, consent or waiver of any third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any Applicable Law unless the approval, consent or waiver of such third Person is obtained, then, except as otherwise expressly provided in this Agreement, and without limiting the rights and remedies of the Purchaser contained elsewhere in this Agreement, this Agreement shall not constitute an assignment or transfer of such Rights unless and until such approval, consent or waiver has been obtained or an order of the Court is granted under the BIA Proceedings compelling assignment. After the Closing and until all such Rights are transferred to the Purchaser, the Vendor shall:

- (a) hold the Rights as bare trustee for the Purchaser;
- (b) cooperate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Rights to the Purchaser; and
- (c) enforce, at the reasonable request of and at the expense of the Purchaser, any rights of the Vendor arising from such Rights against any third Person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of the Purchaser.

In order that the full value of the Rights may be realized for the benefit of the Purchaser, the Vendor shall, at the request and expense and under the direction of the Purchaser and in consultation with the Proposal Trustee, in the name of the Vendor or otherwise as the Purchaser may specify, take all such action and do or cause to be done all such things as are, in the opinion of the Purchaser, acting reasonably, necessary or proper in order that the obligations of the Vendor under such Rights may be performed in such manner that the value of such Rights is preserved and enures to the benefit of the Purchaser, and that any moneys due and payable and to become due and payable to the Purchaser in and under the Rights are received by the Purchaser. The Vendor shall hold as bare trustee and promptly pay to the Purchaser all moneys collected by or paid to the Vendor in respect of every such Right. To the extent that such approval, consent, waiver or order of the Court has not been obtained by the 90th day following the Closing, such Right shall be deemed to be an Excluded Asset and the Vendor may terminate any agreement pertaining to such Right. The Purchaser shall indemnify and hold the Vendor harmless from and against any claim or liability under or in respect of such Rights arising because of any action of the Vendor taken in accordance with this Section.

ARTICLE 3 CLOSING ARRANGEMENTS

3.1 Closing

Closing shall take place at 10:00 a.m. (the "**Closing Time**") on the Closing Date at the offices of the Purchaser's Lawyers, or such other time and location as the Parties may agree upon in writing (including by electronic exchange of documents).

3.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective counsel and money may be tendered by official bank draft drawn upon a Canadian chartered bank, by negotiable cheque payable in Canadian funds and certified by a Canadian chartered bank or trust company, or by wire transfer of immediately available funds to the account specified by that Party.

3.3 Vendor's Closing Deliveries

At the Closing, the Vendor shall deliver to the Purchaser the following, each in form and substance satisfactory to the Vendor and the Purchaser, acting reasonably:

- (a) if applicable, the elections referred to in Section 2.7;
- (b) a copy of the Approval and Vesting Order and the Proposal Trustee's Certificate contemplated thereby;
- (c) a bring down certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true and correct as of the Closing Date, with the same effect as though made on and as of the Closing Date;

- (d) a general conveyance and assumption of liabilities with respect to Purchased Assets and Assumed Obligations;
- (e) a Purchase Price allocation agreement; and
- (f) such further and other documentation as is referred to in this Agreement or as the Purchaser or the Purchaser's Lawyers may reasonably require to complete the transactions provided for in this Agreement.

3.4 Purchaser's Closing Deliveries

At the Closing, the Purchaser shall deliver to the Vendor the following, each in form and substance satisfactory to the Vendor and the Purchasers, acting reasonably:

- (a) all payments in respect of the amounts referred to in Section 2.4;
- (b) satisfactory evidence of cancellation of any and all amounts secured by the DIP Lender's Charge or satisfactory evidence of the assumption of all obligations of the Vendor under the DIP Term Sheet on terms satisfactory to the DIP Lender;
- (c) satisfactory evidence of cancellation of the Purchaser Debt;
- (d) a general conveyance and assumption of liabilities with respect to Purchased Assets and the Assumed Obligations;
- (e) a Purchaser Price allocation agreement;
- (f) if applicable, the elections referred to in Section 2.7;
- (g) a bring down certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true and correct as of the Closing Date, with the same effect as though made on and as of the Closing Date; and
- (h) such further and other documentation as is referred to in this Agreement or as the Vendor or the Vendor's Lawyers may reasonably require to complete the transactions provided for in this Agreement.

3.5 Delivery of the Proposal Trustee's Certificate

When the conditions set out in Article 4 below have been satisfied or waived, the Proposal Trustee will deliver an executed copy of the Proposal Trustee's Certificate to the Purchaser. Upon such delivery, the Closing will be deemed to have occurred. The Proposal Trustee will file a copy of the Proposal Trustee's Certificate with the Court and provide evidence of such filing to the Purchaser.

ARTICLE 4
SALES PROCESS AND CONDITIONS PRECEDENT

4.1 Sales Process

- (a) The Vendor shall bring a motion for the Sales Process Order on or before April 29, 2020. The Sales Process Order shall recognize the within offer by the Purchaser and Purchase Price as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**") and shall also provide for a marketing and sale process of the Purchased Assets to be administered by the Proposal Trustee. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a superior bid can be obtained for the Purchased Assets.
- (b) In the event that one or more Persons submits a Qualified Bid on or before the Bid Deadline, the Proposal Trustee shall conduct an auction for the determination and selection of a winning bid (the Person submitting such bid being the "**Winning Bidder**"). Upon the selection of the Winning Bidder, there shall be a binding agreement of purchase and sale between the Winning Bidder and the Vendor. The Vendor shall forthwith bring a motion following the selection of the Winning Bidder for an order approving the agreement reached with the Winning Bidder and to vest the Purchased Assets in the Winning Bidder and, if granted, shall proceed with closing the transaction forthwith.
- (c) Notwithstanding anything contained herein to the contrary, in the event that the Purchaser is not the Winning Bidder, then upon the making of the order by the Court contemplated in Subsection 4.1(b) above to approve a transaction with such Winning Bidder (the "**Alternate Transaction**"), this Agreement shall be terminated and the Purchaser shall be entitled only to the return of the Deposit (if applicable and as soon as practicable) and neither Party hereto shall have any further liability or obligation, except as expressly provided for in this Agreement.
- (d) If no Qualified Bids are received by the Bid Deadline (other than the Stalking Horse Bid), the Vendor shall forthwith bring a motion to the Court to obtain the Approval and Vesting Order and, if granted, shall proceed with completing the transaction contemplated hereby forthwith.

4.2 Approval and Vesting Order

In the event that the Purchaser is the Winning Bidder, the Approval and Vesting Order shall approve this Agreement and the transactions contemplated hereby and vest, upon the delivery of the Proposal Trustee's Certificate to the Purchaser, all right, title and interest of the Vendor in and to the Purchased Assets to the Purchaser, free and clear of all Claims and Encumbrances pursuant to the terms and conditions of this Agreement, other than Permitted Encumbrances (the "**Approval and Vesting Order**"). The Approval and Vesting Order shall be substantially in the form of the model order approved by the "Ontario Commercial List Users Committee", which shall contemplate the delivery of a certificate by the Proposal Trustee to evidence the completion of the transactions contemplated by this Agreement (the "**Proposal Trustee's Certificate**"). The

Approval and Vesting Order shall be served upon the necessary parties, and in the time frame, as approved by the Purchaser, acting reasonably

4.3 Conditions Precedent of the Purchaser

The Purchaser shall not be obliged to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing, by the Purchaser at any time; and the Vendor agrees with the Purchaser to take all such actions, steps and proceedings within its reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) *Representations and Warranties.* The representations and warranties of the Vendor in Section 5.1 shall be true and correct at the Closing Time;
- (b) *Vendor's Compliance.* The Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before the Closing Time and shall have executed and delivered to the Purchaser at the Closing Time all the deliveries contemplated in Section 3.3 or elsewhere in this Agreement; and
- (c) *Material Change.* There shall be no material change in (i) the nature or conduct of the Business from that existing on the date of this Agreement without consent of the Purchaser or (ii) the nature and extent of the Purchased Assets between the date of this Agreement and the Closing Time.

4.4 Conditions Precedent of the Vendor

The Vendor shall not be obliged to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Vendor, and may be waived, in whole or in part, in writing by the Vendor at any time; and the Purchaser agrees with the Vendor to take all such actions, steps and proceedings within its reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) *Representations and Warranties.* The representations and warranties of the Purchaser in Section 5.2 shall be true and correct at the Closing Time; and
- (b) *Purchaser's Compliance.* The Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed by or complied with at or before the Closing Time and shall have executed and delivered to the Vendor at the Closing Time all the deliveries contemplated in Section 3.4 or elsewhere in this Agreement.

4.5 Non-Satisfaction of Conditions

If any condition precedent set out in Section 4.3 or 4.4 is not satisfied or performed prior to the time specified therefor, the Party for whose benefit the condition precedent is inserted may:

- (a) waive compliance with the condition, in whole or in part, in its sole discretion by written notice to the other Party (but may not claim for any matter waived) and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or
- (b) elect on written notice to the other Party to terminate this Agreement.

4.6 Mutual Conditions

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual conditions that:

- (a) the Purchaser becomes the Winning Bidder;
- (b) the Approval and Vesting Order shall have been made by the Court within 10 days of the Purchaser becoming the Winning Bidder (or such later date agreed upon by the Parties) approving this Agreement and vesting in the Purchaser all the right, title and interest of the Vendor in and to the Purchased Assets free and clear of all Encumbrances, other than Permitted Encumbrances; and
- (c) the Approval and Vesting Order will not have been stayed, varied or vacated and no order will have been issued to restrain or prohibit the completion of the transactions herein contemplated.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and cannot be waived by either Party.

4.7 Condition not Fulfilled

If any condition in Section 4.6 shall not have been fulfilled on or before June 30, 2020 or such later date agreed upon by the Parties, then the Vendor or the Purchaser, in its sole discretion, may terminate this Agreement by notice to the other Party in which event each Party shall be released from all obligations under this Agreement.

ARTICLE 5 **REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of the Vendor

As a material inducement to the Purchaser entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendor set out in this Section 5.1, the Vendor hereby represents and warrants to the Purchaser as follows:

- (a) *Incorporation and Power.* The Vendor is a corporation duly incorporated under the laws of the Province of Ontario and are duly organized, validly subsisting and in good standing under such laws;
- (b) *Corporate Power and Authorization.* The Vendor has the requisite power to own its property and assets, including the Purchased Assets, and to carry on the Business as it is currently conducted;
- (c) *Due Authorization.* Subject to the granting of the Sales Process Order and Approval and Vesting Order, the Vendor has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by them as contemplated by this Agreement and to carry out their obligations under this Agreement and such other agreements and instruments;
- (d) *Enforceability of Obligations.* Subject to the granting of the Sales Process Order and the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Vendor, enforceable against the Vendor, in accordance with its terms;
- (e) *HST.* The Vendor is a registrant under Part IX of the *Excise Tax Act* (Canada); and
- (f) *Residency.* The Vendor is not a non-resident within the meaning of Section 116 of the *Income Tax Act* (Canada).

5.2 Representations and Warranties of the Purchaser

As a material inducement to the Vendor entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendor is entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 5.2, the Purchaser hereby represents and warrants to the Vendor as follows:

- (a) *Incorporation of the Purchaser.* The Purchaser is a corporation duly incorporated under the laws of the jurisdiction of its incorporation and is duly organized, validly subsisting and in good standing under such laws;
- (b) *Due Authorization.* The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments;
- (c) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Purchaser, enforceable against the Purchaser, in accordance with its terms;
- (d) *Approvals and Consents.* Except as otherwise provided herein, no authorization, consent or approval of or filing with or notice to any Governmental Authority or other Person is required in connection with the execution, delivery or performance

of this Agreement by the Purchaser or the purchase of any of the Purchased Assets hereunder; and

- (e) *Residency.* The Purchaser is not a non-resident within the meaning of Section 116 of the *Income Tax Act* (Canada).

5.3 Survival of Representations and Warranties

- (a) The representations and warranties of the Vendor contained in Section 5.1 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive for six (6) months following Closing.
- (b) The representations and warranties of the Purchaser contained in Section 5.2 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive for six (6) months following Closing.

5.4 Acquisition of Assets on "As Is, Where Is" Basis

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as they shall exist on the Closing Date, subject to the terms of the Approval and Vesting Order. The Purchaser also acknowledges that the Proposal Trustee shall administer the sales process contemplated hereby but shall do so in its capacity as an independent officer of the Court and is not, and shall not be construed as, the Vendor hereunder; and, that in conducting the sales process, the Proposal Trustee does not make any representation, warranty of condition on behalf of the Vendor and has no authority or ability to bind the Vendor. The Purchaser further acknowledges that it has entered into this Agreement on the basis that neither the Vendor nor the Proposal Trustee guarantees title to the Purchased Assets and that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and have been waived by the Purchaser. The Purchaser further acknowledges that all written and oral information obtained by the Purchaser from the Vendor, the Proposal Trustee or any of their respective directors, officers, employees, professional consultants or advisors with respect to the Purchased Assets or otherwise relating to the transactions contemplated in this Agreement has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete. The Purchaser further acknowledges that neither the Vendor nor the Proposal Trustee shall be under no obligation to deliver the Purchased Assets to the Purchaser and that it shall be the Purchaser's responsibility to take possession of the Purchased Assets.

ARTICLE 6
INTERIM PERIOD

6.1 Access

During the Interim Period and subject to the terms herein, the Purchaser shall have reasonable access to the Purchased Assets during normal business hours and at such other times as agreed to by the Vendor to, among other things, conduct such inspections of the Purchased Assets as it deems appropriate. Such inspection shall only be conducted in the presence of a representative of the Vendor or the Proposal Trustee. The Purchaser shall not be provided with access to any of the foregoing to the extent that such access would violate or conflict with:

- (a) any Applicable Law to which the Vendor or any of the Purchased Assets is subject;
or
- (b) any agreement, instrument or understanding by which the Vendor is bound.

The Purchaser shall indemnify and hold harmless the Vendor from and against all claims, demands, losses, damages, actions and costs incurred or arising from or in any way related to the inspection of the Purchased Assets by the Purchaser or attendance by the Purchaser at the Lands, save and except for any claims, demands, losses, damages, actions and costs incurred or resulting from the negligence or wilful misconduct of the Vendor.

6.2 Risk of Loss

The Purchased Assets shall remain at the risk of the Vendor, to the extent of its interest, until the Closing and after Closing, the Purchased Assets shall be at the risk of the Purchaser.

6.3 Purchaser's Right to Close or Terminate

In the event that the Purchased Assets shall be damaged prior to Closing, then the Vendor shall advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of same. In the event that the Purchased Assets shall be materially damaged prior to Closing then the Vendor or Purchaser shall be entitled, in its sole and absolute discretion, to elect to terminate this Agreement by notice, in writing, to the other party and in such event the Parties hereto shall be released from all obligations and liabilities hereunder. If the Parties shall not elect to terminate this Agreement as set out above, then the Transaction shall be completed and the Purchaser shall be entitled to all proceeds of insurance payable in respect thereof, if any.

ARTICLE 7
EMPLOYEES

7.1 Discussions with Employees

- (a) Immediately following the issuance of the Sales Process Order and execution of this Agreement, the Vendor will provide access to and undertake all reasonable efforts to make available to the Purchaser all individuals who are then Employees of the Vendor for the purpose of permitting the Purchaser to conduct interviews

and/or to offer to employ or otherwise engage any of these Employees after the Effective Time on terms substantially similar to their respective terms and conditions of employment with the Vendor existing as of the Closing Date, determines, but any such offer to employ or any expression of interest shall be made subject to (a) confidentiality; (b) the issuance of the Approval and Vesting Order; and (c) Closing.

- (b) The Purchaser shall provide the Vendor and the Proposal Trustee with a running list, updated and delivered each Friday during the Interim Period and with a final listing provided two (2) Business Days before Closing, indicating:
 - (i) those Employees to whom offers of employment or expressions of interest have been made;
 - (ii) those Employees who have accepted any such offer; and
 - (iii) those Employees who the Purchaser has determined will not be offered employment with the Purchaser.

7.2 Employment Offers

The Purchaser may, in its sole discretion, offer new employment, conditional upon Closing and effective as of the Effective Time, to such of the Employees as determined by the Purchaser, in its sole discretion, on terms and conditions substantially similar to their respective terms and conditions of employment with the Vendor existing as of the Closing Date.

ARTICLE 8 **TERMINATION**

8.1 Termination by the Parties

This Agreement may be terminated:

- (a) upon the mutual written agreement of the Vendor and the Purchaser;
- (b) pursuant to Sections 4.5(b) or 4.7 by either Party; and
- (c) pursuant to Section 6.3.

8.2 Remedies for Breach of Agreement

If this Agreement is terminated as a result of any breach of a representation or warranty, or failure to satisfy a covenant or obligation of a Party, subject to Section 2.3, the terminating Party's right to pursue all legal remedies with respect to such breach shall survive such termination. For greater certainty, if any order of the Court is made which directly or indirectly results in the termination of this Agreement, then no Party shall have any remedy, legal or otherwise, against the other Party or its property.

ARTICLE 9 **POST-CLOSING MATTERS**

9.1 Post-Closing Receipts

If, following the Closing Date, any of the Purchased Assets are paid to or otherwise received by the Vendor, or if any of the Excluded Assets are paid to or otherwise received by the Purchaser, then the Vendor or the Purchaser, as the case may be, shall hold such assets in trust for the other and shall promptly deliver such assets to the Vendor or the Purchaser, as the case may be.

9.2 Books and Records

The Purchaser shall preserve and keep the Books and Records which relate to the Purchased Assets for a period of six years from the Closing Date or for any longer period as may be required by any Applicable Law or Governmental Authority. Upon reasonable advance notice, after the Closing Date, the Purchaser will grant the Vendor and the Trustee (or any of their assigns) and, in the event the Vendor is adjudged bankrupt, any trustee of the estate of any of the Vendor and their respective representatives, reasonable access during normal business hours, to use such Books and Records included in the Purchased Assets, including, without limitation, any personnel files/records of the Transferred Employees relating to the period up to the Closing and any Employees engaged by the Vendor at or in respect of the Purchased Assets up to and including the Closing Date, and computer systems, tapes, disks, records and software acquired as part of the Purchased Assets.

ARTICLE 10 **GENERAL CONTRACT PROVISIONS**

10.1 Headings and Sections

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

10.2 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

10.3 Currency

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian dollars.

10.4 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

10.5 Time Periods

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

10.6 Consent

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

10.7 No Strict Construction

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party, including, without limitation, the doctrine of *contra proferentum*.

10.8 Entire Agreement

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

10.9 Expenses

Each Party shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with the transactions contemplated in this Agreement, and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement.

10.10 Announcements

Except as required by Applicable Law, all public announcements concerning the transactions provided for in this Agreement or contemplated by this Agreement shall be jointly approved in advance as to form, substance and timing by the Parties after consultation.

10.11 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile:

- (a) in the case of notice to the Vendor at:

275 Colborne St.
London, ON N6B 2S7

Attention: Eric Rosen
Email: erosen@kmwenergy.com

with a copy to:

Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Attention: Harvey Chaiton
Fax: (416) 218-1849
Email: harvey@chaitons.com

with a copy to the Proposal Trustee:

MNP Ltd.
111 Richmond Street West, Suite 300
Toronto, ON M5H 2G4

Attention: Sheldon Title
Email: stitle@mnt.ca

with a copy to:

Weisz Fell Kour LLP
100 King St W, Suite 5600
Toronto M5X 1C9

Attention: Caitlin Fell
Fax: (416) 613 8290
Email: cfell@wfkclaw.ca

(b) in the case of a notice to the Purchaser at:

331567 Hwy 11 North – Suite PO Box 280
Earlton, ON P0J 1E0

Attention: Mario Leveille
Email: mario.levaille@norarc.com

with a copy to:

Loopstra Nixon LLP
135 Queens Plate Drive, Suite 600
Toronto, ON M9W 6V7

Attention: Graham Phoenix
Fax: (416) 746-8319
Email: gphoenix@loonix.com

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section.

10.12 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns including a receiver or trustee in bankruptcy of the Vendor. Neither Party may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the above, the Purchaser may at any time assign any of its rights or obligations arising under this Agreement to any Affiliate of the Purchaser and, upon such assignment and completion of the transactions contemplated by this Agreement, the Purchaser shall be released and discharged from all obligations hereunder but not before Closing. Additionally, notwithstanding the above, the Purchaser may direct that, on Closing, the Purchased Assets vest in any Affiliate of the Purchaser.

10.13 Third Party Beneficiaries

Unless where provided to the contrary by the specific terms hereof, this Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

10.14 Time of the Essence

Time shall be of the essence in respect of the obligations of the Parties arising prior to Closing under this Agreement.

10.15 Amendment

No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by the Party to be bound thereby.

10.16 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing Date, provided that the reasonable costs and expenses of any actions taken after the Closing Date at the request of a Party shall be the responsibility of the requesting Party.

10.17 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

10.18 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the Courts of the Province of Ontario. The Parties consent to the jurisdiction and venue of the Court for the resolution of any disputes under this Agreement.

10.19 Execution and Delivery

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed and delivered either in original or faxed form or by electronic delivery in portable document format (PDF) and the parties adopt any signatures received by a receiving fax machine as original signatures of the parties.

10.20 Non-Merger

The representations, warranties and covenants of each Party contained in this Agreement (other than Article 4) will not merge on and will survive the closing of the Transaction and will continue in full force and effect, notwithstanding the closing of the Transaction or any investigation or knowledge acquired by or on behalf of the other Party.

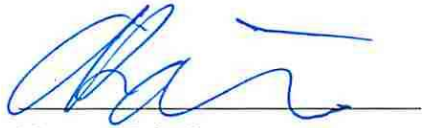
10.21 Independent Legal Representation or Advice

As this Agreement has been prepared with the assistance of the Vendor's Solicitors, the Parties acknowledge that they are aware that such solicitors have had a continuing solicitor/client relationship with certain of the shareholders of the Vendor's and that the Vendor's Solicitors may continue now and in the future to act for such shareholders, and no Party hereto shall in any manner attempt to have the Vendor's Solicitors continuing role terminated for any reason.

*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURES ON SEPARATE PAGE.]*

IN WITNESS OF WHICH the Parties have executed this Agreement.

KMW ENERGY INC.

Per: 

Name: Eric Rosen

Title: Authorized Signing Officer

I have the authority to bind the corporation

2751602 ONTARIO INC

Per: _____

Name: Mario Leveille

Title: Authorized Signing Officer

I have the authority to bind the limited partnership

IN WITNESS OF WHICH the Parties have executed this Agreement.

KMW ENERGY INC.

Per: _____

Name: Eric Rosen

Title: Authorized Signing Officer

I have the authority to bind the corporation

2751602 ONTARIO INC

Per:  _____

Name: Mario Leveille

Title: Authorized Signing Officer

I have the authority to bind the limited partnership

SCHEDULE "A"
STALKING HORSE SALES PROCESS

[see attached]

STALKING HORSE SALE PROCESS

KMW ENERGY INC.

Defined Terms

1. These terms and conditions, and the process described herein shall collectively be hereinafter referred to as the “**Sale Process**”.
2. All capitalized terms contained herein but not otherwise defined herein shall have the meanings ascribed thereto in the Agreement to which this schedule is appended.
3. For greater certainty, “**Stalking Horse Bid**” shall mean the transaction contemplated by the stalking horse asset purchase agreement between the Company, as vendor, and 2751602 Ontario Inc., as purchaser, approved by the Court pursuant to the Sale Process Order.

Role of the Proposal Trustee

4. The Sale Process will be administered by the Proposal Trustee on behalf of the Company. The roles and responsibilities of the Proposal Trustee are described in further detail throughout this Sale Process, however, the Proposal Trustee’s role in the Sale Process does not include managing, operating, or taking possession or control of the Company’s property, assets or undertakings.
5. The Company and its principals, employees and professional advisors shall cooperate with the Proposal Trustee throughout the Sale Process and provide documents and information requested as part of the Sale Process to the Proposal Trustee in a prompt fashion.

Commencement of the Sale Process

6. The Sale Process shall commence immediately upon the date on of the Sale Process Order (the “**Commencement Date**”).
7. Within five (5) business days of the Commencement Date, the Proposal Trustee shall contact parties identified by the Company who may be interested in purchasing the business and/or assets of the Company together with any other parties who may be identified by the Company and Proposal Trustee as potentially interested in purchasing the assets of the Company (the “**Prospective Participants**”) and provide those parties with a copy of a “teaser” document. The teaser document shall contain general details about the opportunity to purchase the assets of the Company (the “**Opportunity**”), as well as some general background information about the Company.
8. Within seven (7) business days of the Commencement Date, or as soon thereafter as is practical, the Proposal Trustee shall also (a) publish a notice advertising the Opportunity in the National Post and/or such other trade publications or other publications as the

Proposal Trustee may deem appropriate or advisable, and (b) post the Opportunity on its website.

Due Diligence

9. Any Prospective Participants who advise the Proposal Trustee of their interest in participating in the Sale Process shall execute a non-disclosure agreement (the “**NDA**”) in a form satisfactory to the Proposal Trustee.
10. Commencing on the Commencement Date (and after each respective Prospective Participant has executed the NDA), the Proposal Trustee shall make available to the Prospective Participant the following:
 - a) a copy of a template asset purchase agreement (the “**Template APA**”); and
 - b) access to an electronic data room, to be maintained by the Proposal Trustee, which shall contain information pertaining to the Opportunity along with other corporate financial and other documents as provided by the Company.

Bid Deadline

11. All offers must be submitted in writing to and received by the Proposal Trustee at 111 Richmond Street West, Suite 300, Toronto, ON, M5H 2G4, attention: Sheldon Title, or electronically to stitle@mp.ca by no later than 5:00pm (Toronto time) on May 29, 2020 (the “**Bid Deadline**”), provided that should the Proposal Trustee deem it appropriate, acting commercially reasonably, such deadline may be extended by a maximum of ten (10) days, not to surpass June 8, 2020. Each offer must remain open for acceptance until the June 30, 2020.

Qualified Bids

12. An offer will only be considered in this Sale Process, in which case it shall be considered a “**Qualified Bid**”, if it is submitted before the Bid Deadline and if it meets the following minimum criteria:
 - a) it must be submitted in writing, substantially in the form of Template APA, with any changes to the offer blacklined against the Template APA;
 - b) it must be for a price equal to or greater than the sum of (i) the Purchaser Debt; (ii) any and all amounts secured by the DIP Lender’s Charge; (iii) any and all amounts secured by the Administration Charge; (iv) the Priority Payables; and (v) any and all amounts secured by the D&O Charge;
 - c) it must be irrevocable until five business days after the Auction (*as defined herein*);
 - d) it must be accompanied by a deposit in the form of a certified cheque or bank draft (or in the form of confirmed wire transfer in the case of offers submitted

electronically) payable to the Proposal Trustee “in trust” which is equal to at least ten (10%) percent of the total purchase price payable under the offer;

- e) it includes an acknowledgement that the purchaser has relied solely on its own independent review and investigation and that it has not relied on any representation by the Company, the Proposal Trustee or their respective agents, employees or advisers;
- f) it must not contain any condition or contingency relating to due diligence or financing or any other material conditions precedent to the offeror’s obligation to complete the transaction; and
- g) it must include written evidence, satisfactory to the Proposal Trustee, that the offeror has the financial means to complete the proposed acquisition,

provided however that the Proposal Trustee may, exercising its reasonable discretion, waive compliance with one or more of the foregoing Qualified Bid requirements and deem such non-compliant offer to be a Qualified Bid.

- 13. The Stalking Horse Bid shall be deemed to be a Qualified Bid.
- 14. Offers for all or part of the business, assets and undertakings of the Company will be considered.

Auction

- 15. If no Qualified Bid is received by the Bid Deadline (other than the Stalking Horse Bid), the Auction (*as defined herein*) will not be held.
- 16. If more than one Qualified Bid is received by the Bid Deadline, the Proposal Trustee shall extend invitations by phone, fax and/or email by 10:00 a.m. E.S.T. on the second (2nd) Business Day after the Bid Deadline to all bidders who submitted Qualified Bids 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 Proposal Trustee or by teleconference, video conference or other form of electronic telecommunications, as the Proposal Trustee may deem fit.
- 17. The Proposal Trustee shall conduct the Auction. At the Auction, the bidding shall begin initially with the highest Qualified Bid and subsequently continue in multiples of \$50,000, or such other amount as the Proposal Trustees determines to facilitate the Auction. Additional consideration in excess of the amount set forth in the highest Qualified Bid must be comprised only of cash consideration (which, for clarity, may be satisfied by way of credit bid). The format and other procedures for the Auction shall be determined by the Proposal Trustee in its sole discretion.

Selection of the Winning Bid

- 18. The winning bid (the "**Winning Bid**") shall be, either:

- a. in the event that no other Qualified Bid is received by the Bid Deadline, the Stalking Horse Bid;
or,
- b. in the event that multiple Qualified Bids are received, following the conclusion of the Auction (if applicable), the party submitting the highest and best offer through the Auction, which the Proposal Trustee is satisfied, acting reasonably, is capable of being completed as required by the Sales Process Order.

Court Approval

19. As soon as practicable after determination of the Winning Bid, the Company will make a motion to the Court (the “**Approval Motion**”) for an approval and vesting order in respect of the Winning Bid and the underlying purchase agreement (the “**Final APA**”).
20. The Proposal Trustee shall serve and file a report with respect to the Sale Process and Winning Bid in advance of the Approval Motion.

Other Terms

21. All deposits received (except such deposit forming part of the Winning Bid) shall be held by the Proposal Trustee “in trust”. All deposits submitted by Prospective Participants who did not submit the Winning 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 Winning Bid shall be dealt with in accordance with the Final APA.
22. In the event that a deposit is forfeited for any reason it shall be forfeited as liquidated damages and not as a penalty.
23. All Qualified Bids (other than the Winning Bid) shall be deemed rejected on the earlier of (a) the date on which the transaction contemplated by the Final APA is completed and (b) June 30, 2020.
24. Subject to the Sale Process Order or other order of the Court, the Company, in consultation with the Proposal Trustee, shall have the right to adopt such other rules for, or extend any deadlines in, the Sale Process that, at its sole discretion, will better promote the goals of the Sale Process.

Exhibit "E"

Estate No.: 35-2638322
Court No.: 35-2638322

ONTARIO
**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.
OF THE CITY OF LONDON,
IN THE PROVINCE OF ONTARIO**

AFFIDAVIT OF SHELDON TITLE
(Sworn June 18, 2020)

I, Sheldon Title, of the City of Richmond Hill, in the Province of Ontario,

MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Vice President and a Licensed Insolvency Trustee with MNP Ltd. (“**MNP**”) the Licensed Insolvency Trustee (the “**Proposal Trustee**”) acting in the Notice of Intention to Make a Proposal (“**NOI**”) filed by KMW Energy Inc (the “**Company**”) and as such have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. On April 11, 2020, filed a NOI pursuant to section 50.4 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).
3. The Proposal Trustee has prepared two Statements of Account in connection with its appointment detailing its services rendered and disbursements incurred for the period March 18, 2020 to May 31, 2020. Attached hereto and marked as **Exhibit “A”** to this my Affidavit is a summary of the Statements of Account.

4. Attached hereto and marked as **Exhibit "B"** are copies of MNP's Statements of Account. The average hourly rate in respect of these accounts is \$375.05.
5. The particulars of the professionals who performed the work, the time spent, and fees associated with such work are contained in the attached Statements of Account.
6. I hereby confirm that the information detailed herein and attached accurately reflects the services provided by the Proposal Trustee in this proceeding and the fees and disbursements claimed by it.
7. This affidavit is sworn in support of a motion to, *inter alia*, approve the costs of administration, and an interim taxation of the Proposal Trustee's accounts and for no other or improper purpose.

SWORN BEFORE ME by video conference)
 From the City of Richmond Hill, in the Regional)
 Municipality of York, to the Town of Erin in)
 Wellington County, on this 18th day of June, 2020)


 Commissioner for Taking Affidavits



 Sheldon Title

Matthew Eric Lem, a Commissioner, etc.,
 Province of Ontario, for MNP Ltd. and MNP LLP.
 Expires February 21, 2023.

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF SHELDON TITLE

Sworn before me via videoconference

This 18th day of June 2020



Commissioner for taking Affidavits, etc.

Invoice Number	Period	Hours	Amount	Accrual	Disbursements	HST/PST	Total	Average Rate
9272541	March 18, 2020 to April 29, 2020	103.3	\$39,177.24	\$	\$0	\$5,093.04	\$44,270.28	\$379.26
9355142	April 30, 2020 to May 29, 2020	62.1	\$22,855.7	\$	0\$	\$2,971.24	\$25,826.94	\$368.05
Total		165.4	\$62,032.94		\$0	\$8,064.28	\$70,097.22	\$375.05

Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF SHELDON TITLE

Sworn before me via videoconference

This 18th day of June 2020



Commissioner for taking Affidavits, etc.

Invoice



Invoice Number : 9272541

Client Number : 0817413

Invoice Date : May 6 2020

Invoice Terms : Due Upon Receipt

KMW Energy Inc.
c/o MNP Ltd.
300-111 Richmond Street West
Toronto, ON M5H 2G4

For Professional Services Rendered :

In the matter of the proposal for KMW Energy Inc. for services rendered for the period ending April 29, 2020	41,586.60
Adjustment	-2,409.36
Sub Total :	<hr/> 39,177.24
Harmonized Sales Tax :	<hr/> 5,093.04
Total (CAD) :	<hr/> 44,270.28 <hr/>

HST Registration Number : 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We sincerely appreciate your trust in us.

Licensed Insolvency Trustees
111 RICHMOND STREET WEST, SUITE 300;
TORONTO ON; M5H 2G4
P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

DETAILED TIME CHARGES

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
18-Mar-2020	Jessie Hue	.40	Conflict check and email S. Title.
19-Mar-2020	Akhil Kapoor	.40	Call with Sheldon to understand background of the file, scope of the work and going through emails shared by Sheldon on conflict check, discussion with Jessie on preparation of the folder in K drive among other matters.
19-Mar-2020	Sheldon Title	1.80	conference call at 11:00 (35 mins) with Harvey, Graham, Gerry Higgins, Mario, Craig Gauld, discussion with Akhil on cash flow, sale process, call with Craig and Gerry at 2:45 (45 mins); emails to Craig and Gerry afterwards; finalize engagement letter and forward on to debtor;
20-Mar-2020	Akhil Kapoor	2.00	Review of the website and other information for KMW energy, preparation of draft Data room index
21-Mar-2020	Sheldon Title	.30	email exchange with Gerry re: creditors listing
23-Mar-2020	Akhil Kapoor	1.50	Preparation of data room index and sharing it with Sheldon
24-Mar-2020	Akhil Kapoor	.50	Discussion with S. Title and J. Hue about the file, sharing DR Index with Sheldon after few updates and initiating work on CAF (to be completed on Wednesday)
24-Mar-2020	Jessie Hue	.30	Banking, prepare receipt voucher and posting.
24-Mar-2020	Sheldon Title	1.00	call with Chaiton, emails to Higgins & Gauld, emails with Akhil; review of information request listing; call with Chris and Craig on next steps; receipt of email from Higgins on corporate info and share with Jessie Hue
25-Mar-2020	Akhil Kapoor	.50	Preparation of CAF and sharing with Sheldon with a list of queries
26-Mar-2020	Akhil Kapoor	.20	Going through DR Index shared by Sheldon with G. Higgins
26-Mar-2020	Jessie Hue	.10	CAF finalize insert electronic signature, save to directory and email S. Title same.
26-Mar-2020	Sheldon Title	.40	vet and finalize information request and forward to debtor
27-Mar-2020	Sheldon Title	.20	arranging call for Monday; discussion with Harvey Chaiton
30-Mar-2020	Akhil Kapoor	.20	Update on NOI documents and Ascend
30-Mar-2020	Sheldon Title	.40	email from Craig on deferral of meeting; email to Craig/Gerry on status of cash flow/creditor listing and call to Harvey
31-Mar-2020	Akhil Kapoor	.20	Glancing through available information to prepare for NOI

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
31-Mar-2020	Sheldon Title	.40	call with Graham Phoenix and email with Harvey thereafter; receipt of creditor listing and forward same to Jessie;
01-Apr-2020	Jessie Hue	1.90	Reformat the creditor listing with amounts and correct fields and entry for uploading.
01-Apr-2020	Sheldon Title	.70	call with Harvey/Graham on status; review of creditors listing
02-Apr-2020	Akhil Kapoor	.60	Call with G. Higgins and C. Gauld to discuss issues in 3-month cash flow shared by them
02-Apr-2020	Akhil Kapoor	.50	Review of data shared by Sheldon and preparation for the call with the client in the afternoon
02-Apr-2020	Akhil Kapoor	.60	1) Sharing detailed list of queries with G. Higgins and email communication with him regarding few queries
02-Apr-2020	Jessie Hue	.70	Review the discrepancy, email S. Title findings.
02-Apr-2020	Sheldon Title	.60	email from Higgins with projections, email to re-introduce Higgins to Akhil, review of projections and call to Akhil to discuss
03-Apr-2020	Akhil Kapoor	.20	1) Arranging initiation of website and email address for future correspondence with stakeholders2) Updating Sheldon about the progress in receipt of information on the cash flows
03-Apr-2020	Akhil Kapoor	2.00	Working on all the open points, verifying documents shared by G. Higgins during the day and sharing draft 13-week cash projections with him for his comments and further action. To be finalized on Monday, April 6 2020
03-Apr-2020	Akhil Kapoor	.80	Email communications (>15 emails) with G. Higgins on the 13 pointers shared yesterday
03-Apr-2020	Sheldon Title	.20	call and email with Phoenix to update him on the cash flow projections
06-Apr-2020	Akhil Kapoor	2.50	Cash flow projections- Bank reconciliation, Payroll and certain expenses2) Multiple email exchange with Gerry to discuss cash flows
07-Apr-2020	Akhil Kapoor	3.00	Continuing communication with Gerry on cash flows- revenue agreements and corresponding payments, spare part orders and expenses, back up of expenses- rent, insurance, telephone and other expenses
07-Apr-2020	Jessie Hue	.20	Correspondence with S. Title on status of the uploading of creditors list.
08-Apr-2020	Akhil Kapoor	3.00	1) Working on piecemeal data shared by Gerry- Legal and other professional expenses, contractor expenses, health benefit premium for employees, Ensyn contract2) Multiple emails shared with Gerry to discuss the cash flow information.
08-Apr-2020	Sheldon Title	.10	call with Chaiton

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
09-Apr-2020	Akhil Kapoor	2.00	Review of piece meal information provided by Gerry re payroll, accounts receivables, HST refund, adding cost of an old contractor, increase in misc. expenses among other changes
09-Apr-2020	Jessie Hue	3.80	Search for NOI notice, prepare the notice and attempt to retrieve sign up documents and forward emails to personal email account. Correspondence with S. Title regarding information. Preparation of the Consent word document save to pdf and insert digital signature. Assemble the NOI notice package, amendments to the style of cause, redo the consent and NOI notice. Set up printer for use without VPN and printing notices to creditors and mailing.
09-Apr-2020	Sheldon Title	1.00	call with Graham Phoenix
10-Apr-2020	Akhil Kapoor	1.50	Review of piecemeal information incl. expense reimbursements to employees, revision in other expenses, HST receipts, payments and HST receivable from CRA on quarterly return filing and sending the sheet to Sheldon for his review
10-Apr-2020	Jessie Hue	.60	Emails with S. Title in preparation for the filing of the NOI, save consent with digital signature and email to S. Title.
10-Apr-2020	Sheldon Title	3.00	emails/calls with Harvey Chaiton re: filing, calls and emails with Graham Phoenix, receipt of security docs from Graham, calls and emails with Caitlin Fell re: appointment as independent counsel and review of security; to emails on her review; emails with debtor re: resolution and NOI docs, send same to Eric Rosen for execution, Phoenix email to Chaiton on authorization to proceed; internal email to delegate/plan work;
11-Apr-2020	Sheldon Title	.40	Efile NOi and emails to Harvey, Craig, Eric and Gerry; email to Graham on same
13-Apr-2020	Akhil Kapoor	.60	Call with KMW team re action plan for Sale Process and cash flows
13-Apr-2020	Akhil Kapoor	.30	Review of Data room index and sharing it with Gerry Higgins for his perusal.
13-Apr-2020	Jessie Hue	.60	Insert digital signature and recirculate, merge projected cash flow statement in and pdf for efilng and efile cash flow projections, form 29 and Form 30, reports on cash flow statements.
13-Apr-2020	Sheldon Title	1.40	development of agenda and circulate it in response to G. Higgins message, prep for call, including review of recent projections, conference call with Rosen, Craig and Gerry and Akhil (for part),

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
14-Apr-2020	Akhil Kapoor	1.30	Finalization of communication docs (suppliers, customers and employees) and sharing with KMW team
14-Apr-2020	Akhil Kapoor	1.20	Finalization of cash flows and sharing final cash flows, a set of queries and assumptions with KMW team for their review
14-Apr-2020	Jessie Hue	.60	Correspondence the Branch Services for mailing of the NOI and meeting with Akhil and Sheldon.
14-Apr-2020	Sheldon Title	.70	Receipt of certificate of filing and forward same to Harvey and Graham; review of communications and forward to Akhil; emails exchanged with Akhil on same
15-Apr-2020	Akhil Kapoor	.60	Discussion on queries in the cash flow and discussing assumptions of the cash flow and obtaining management confirmation on the cash flow (confirmation on assumptions and couple of queries pending)
15-Apr-2020	Akhil Kapoor	.40	Finalization of Form 29 and Form 30 in Ascend and ready for signatures
15-Apr-2020	Akhil Kapoor	.25	1) Request for email address of creditors to send creditor notice, coordinating with Jessie and company for the same.2) Email communication with company to provide pending information.
15-Apr-2020	Jessie Hue	1.30	Prepared and efile the amended prepare the NOI notice and circulate to S. Title and A. Kapoor. Inquiry for website follow up and same with S. Title.
15-Apr-2020	Sheldon Title	1.50	Review of stalking horse bid and dip term sheet; call with Harvey on communications
16-Apr-2020	Akhil Kapoor	.20	Discussion re assumptions and queries on a contract and legal costs for a Performance Bond
16-Apr-2020	Akhil Kapoor	.30	Email communications with Gerry (KMW) and Sheldon about data room, creditor list and other issues
16-Apr-2020	Akhil Kapoor	.40	Email communication with Gerry (KMW) for queries (HST, contracts) and internally to arrange creditor list for the purpose of sending NOI notice
16-Apr-2020	Jessie Hue	2.80	Preparation of the NOI and correspondence with A. Kapoor. Finalize retainer letter with digital signature and email S. Title. Compile the NOI notice and circulate to A. Kapoor and S. Title. Prepare for mailing and inquiry with Branch offices and circulate same with team. Setup inquiry follow up with IT to setting up website.
16-Apr-2020	Sheldon Title	.50	consideration of creditors list, revisions to notice to creditors, instruct Jessie to locate additional email

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			addresses; email to Eric to offer assistance in meetings and discussions;
17-Apr-2020	Akhil Kapoor	1.75	1) Email communications with Gerry and Eric re changes in payroll cost and expense reimbursements2) Discussion with Eric re assumptions to the cash flow3) Discussion with Gerry and J. Hue re creditor contacts and sending NOI notice to all creditors
17-Apr-2020	Jessie Hue	4.90	Preparation of the notice of the NOI, search for address, prepare the email list for affidavit, update creditor list with additional creditor and email same to A. Kapoor, prepare email blast to creditors. Email set up confirmation and further inquiry.
17-Apr-2020	Sheldon Title	.90	call with Jane Dietrich on performance bond on turbine unit developed for her client and to receipt of her email requesting cash flow and to be added to service list; call with Harvey Chaiton; emails to Jessie to verify mailing; reach out and email Amelie and Sheri to obtain Revenue Quebec email/fax; emails with Harvey and Graham to arrange call; review of revised docs; email to Dietrich the NOI
19-Apr-2020	Akhil Kapoor	.50	Finalization of projected cash flows basis changes suggested by Gerry and Eric, preparing Form 29, Form 30, PDF of the Projected Cash Flow Statement and sharing with Sheldon for final review
19-Apr-2020	Sheldon Title	.90	conference call Harvey Chaiton/Graham Phoenix
20-Apr-2020	Akhil Kapoor	1.00	Preparing outline of the report for Sheldon's review
20-Apr-2020	Akhil Kapoor	.70	Discussion on new contract queries, discussion with E. Rosen and G. Higgins re final cash flows, discussion re execution of Projected Cash Flow statement, Form 29 and Form 30 and sending final set to J. Hue for e-filing.
20-Apr-2020	Jessie Hue	.30	Provide Form 29 and projections with pdf digital signatures for A. Kapoor.
20-Apr-2020	Sheldon Title	.30	review of revised DIP, stalking horse APA and stalking horse sale process
20-Apr-2020	Sheldon Title	.40	review of projections and Fountaine contract; forward question to Akhil and sign off on final form of projections
20-Apr-2020	Sheldon Title	.30	email from/to Higgins on creditors package; review of questions received to date through email and incorporate it as part of my email to Higgins
21-Apr-2020	Akhil Kapoor	.40	Reading affidavit of E. Rosen to gain better understanding of the company and current situation for the purpose of writing the Court report and CIM,

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			going through revised outline of the report shared by Sheldon
21-Apr-2020	Akhil Kapoor	.30	1) Discussion with G. Higgins re data room set up and communication with suppliers, customers and employees2) Arranging set up of the data room
21-Apr-2020	Jessie Hue	.20	Follow up with website.
21-Apr-2020	Jessie Hue	.40	Create data room and provide access and email S. Title and A. Kapoor same.
21-Apr-2020	Jessie Hue	.40	Compile cash flow projections EFILE Form 29, Form 30 and cash flow projections with the OSB,
21-Apr-2020	Sheldon Title	.30	call with Sam Babe on his client's (Rentech's) request for info on status of PepsiCo's contract; respond to Harvey's request to forward NOI to BLG (Liberty)
21-Apr-2020	Sheldon Title	.70	call with Phoenix, Chaiton on revised docs, emails to Fell on upcoming court attendance and need for opinion, review of report outline and provide comments on same
22-Apr-2020	Akhil Kapoor	.10	Call with Sheldon re outline of the report
22-Apr-2020	Akhil Kapoor	2.00	Working on the Court report (First draft to be prepared by Thursday, April 23)
22-Apr-2020	Jessie Hue	.40	Review of the notice email, request of the friendly email account.
22-Apr-2020	Jessie Hue	.80	Create website and posting documentation. Review of the friendly URL and email Morgan the live website and request friendly URL
22-Apr-2020	Sheldon Title	.10	email to/from Rappos; call with Akhil
22-Apr-2020	Sheldon Title	.40	review of revised documents; email to Graham/Thomas on same
23-Apr-2020	Akhil Kapoor	5.30	Working on the report re sections on Sale Process, Stalking Horse Agreement, DIP Financing, Trustee recommendations, request for extension, Sale Process among others
23-Apr-2020	Akhil Kapoor	.50	Call with E. Rosen, G. Higgins, S. Title re status update and way forward to filing of First Court Report
23-Apr-2020	Akhil Kapoor	.80	Reviewing all emails on KMW Email address and resolving them and putting them in appropriate folders for future purpose
23-Apr-2020	Jessie Hue	.60	Correspondence and discussion with Akhil regarding email account filing and additional questions.
23-Apr-2020	Sheldon Title	1.00	call with Graham Phoenix, Thomas Lambert on APA; email to set up conference call with Gerry, Craig and Eric, review and respond to incoming emails; conference call with Akhil, Gerry and Craig to discuss status of data room (info still being gathered); variance analysis on cash flow and need to have that

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			info delivered by 4/27; discussion re: pre filing obligations to Purolator (\$800 owing) and janitorial service and suggestion to cut off the accounts as at 4/11.
24-Apr-2020	Akhil Kapoor	2.20	1) Reviewing revised Stalking Horse and DIP Lender Agreement, finalization of First draft of Court report and sharing it with Sheldon for his review 2) Email communication with Gerry re timeline to receive actual cash flows
24-Apr-2020	Sheldon Title	.20	call with Heather Meredith of McCarthy's re: Pepsi's contract; email to Harvey to advise
26-Apr-2020	Akhil Kapoor	.60	1) Reading Sheldon's comments in the Court Report and email communication with him regarding couple of issues 2) Updating Michael about the file as he will help in arranging Prospective Purchaser list
26-Apr-2020	Sheldon Title	2.00	review/revise report; emails to Akhil/Michael on prospective customer list; set up call with Caitlin Fell; email to Akhil on revisions to report
27-Apr-2020	Akhil Kapoor	.70	1) Preparation of actual vs projected cash flows. 2) Emailing list of queries to Gerry Higgins along with an extract of actual vs projected cash flows
27-Apr-2020	Akhil Kapoor	.50	Preparation of historical financial results of the Company and incorporating it in the report
27-Apr-2020	Akhil Kapoor	.20	1) Preparation of Management rep letter, sharing it with Sheldon and understanding changes made by him. 2) Sharing it with company for signatures
27-Apr-2020	Akhil Kapoor	1.50	1) Finalization of report after going through Sheldon's comments, incorporating all the changes and sharing revised version with Sheldon. Also, incl. a section on activities performed by the Proposal Trustee subsequent to NOI Filing date. 2) Reviewing revised version shared by Sheldon; to work on variance report with the Company on April 28 before filing the report with the Court
27-Apr-2020	Jessie Hue	.30	Website posting
27-Apr-2020	Jessie Hue	.20	Email request for mailing address to arrange courier to pick up signed documentation.
27-Apr-2020	Sheldon Title	.60	review of first request for funding, banking activity to date and email to Gerry Higgins and Geneva to provide KMW with assistance in managing cash flow; email to Gerry to respond to his indicating that data room and actual cash flow info delayed
27-Apr-2020	Sheldon Title	2.00	further work on the report and revisions to rep letter; call with Chaiton and Fell on security/extension/etc.

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
28-Apr-2020	Akhil Kapoor	.30	Sharing variance analysis commentary with Company for approval and updating the report with the commentary for Sheldon's review
28-Apr-2020	Akhil Kapoor	.40	Finalization of appendices of Court report
28-Apr-2020	Akhil Kapoor	.20	Reviewing KMW email address and reverting to them; sharing query emails with Company
28-Apr-2020	Akhil Kapoor	.80	Discussing cash flow variance commentary (especially related to a customer contract) with Sheldon and updating the report
28-Apr-2020	Akhil Kapoor	1.20	1) Call with G. Higgins and Geneva about the variance in actual cash flows, data room index, prospective purchaser list2) Updating the report with variance analysis section
28-Apr-2020	Matthew Lem	1.60	Review of draft report to court
28-Apr-2020	Sheldon Title	.20	call with Chaiton to update on status; call to Fell
28-Apr-2020	Sheldon Title	1.50	finalization of work on report; incorporate Matt's and Caitlin's comments; provide draft to company and its counsel for comment before serving
28-Apr-2020	Sheldon Title	.30	call with Mario at Nor Arc re: first loan advance and commentary on pre-filing payments
28-Apr-2020	Sheldon Title	.80	call with Craig Gauld on JPB contract and advising on same given JPB's request that KMW call to discuss status of project; emails to/from with Higgins/Gauld on same
29-Apr-2020	Akhil Kapoor	.30	Email communication with E. Rosen and Sheldon re Management Rep Letter
29-Apr-2020	Akhil Kapoor	.20	Discussion with Gerry re creditor NOI notice and forwarding new emails received from creditors as well responding to such creditors
29-Apr-2020	Akhil Kapoor	.10	Preparation of data room terms of use
29-Apr-2020	Michael Litwack	.20	Coordinating preparation of interested party list.
29-Apr-2020	Sheldon Title	.20	email to Bell Canada subsequent to conference call
29-Apr-2020	Sheldon Title	.70	conference call with Higgins, Gauld, Rosen and Geneva re: (i) clarification around pre and post-NOI obligations, comments on report, Miller Thomson trust funds/set off and additional creditors
29-Apr-2020	Sheldon Title	1.00	consideration of Sam Rappos' changes to the report and processing of same; finalization of report; emails with Caitlin and Cristal Paul re: affidavit of service of service of report; email from Phoenix on additional wording in order

SUMMARY OF TIME CHARGES

PROFESSIONAL	AVERAGE HOURLY RATE	HOURS	AMOUNT
Jessie Hue – Estate Administrator (Corporate Insolvency)	217.00	21.8	4,730.60
Michael Litwack - Manager (Corporate Insolvency)	366.00	0.2	73.20
Sheldon Title – Partner (Corporate Insolvency)	595.00	29.4	17,493.00
Akhil Kapoor – Manager (Corporate Insolvency)	366.00	50.3	18,409.80
Matthew Lem – Partner (Corporate Insolvency)	550.00	1.6	880.00
TOTAL		103.3	\$ 41,586.60

Invoice



Invoice Number : 9355142

Client Number : 0817413

Invoice Date : Jun 8 2020

Invoice Terms : Due Upon Receipt

KMW Energy Inc.
c/o MNP Ltd.
300-111 Richmond Street West
Toronto, ON M5H 2G4

For Professional Services Rendered :

In the matter of the proposal for KMW Energy Inc. for services rendered for the period ending May 29, 2020 22,855.70

Sub Total : 22,855.70

Harmonized Sales Tax : 2,971.24

Total (CAD) : 25,826.94

HST Registration Number : 103697215 RT 0001

Invoices are due and payable upon receipt.

Thank you for your business. We sincerely appreciate your trust in us.

Licensed Insolvency Trustees
111 RICHMOND STREET WEST, SUITE 300;
TORONTO ON; M5H 2G4
P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca

DETAILED TIME CHARGES

Date	Professional	Hours	Detailed Time Descriptions
30-Apr-2020	Sheldon Title	.20	Call with C. Fell
30-Apr-2020	Sheldon Title	.10	Emails relating to Liberty's request for documentation related to the performance bond between company, H. Chaiton and me.
30-Apr-2020	Robbie Epstein	2.50	Company research, competitor research, buyer list prep for purpose of administering sale process
30-Apr-2020	Akhil Kapoor	.30	Discussion with CF team re providing them information to obtain list of prospective purchasers
30-Apr-2020	Akhil Kapoor	.30	Responding to G. Higgins queries in the data room index and advising them about the data requirements.
30-Apr-2020	Akhil Kapoor	1.00	Preparation of NDA and teaser
01-May-2020	Sheldon Title	.30	Attendance before Justice Hailey on 10 AM motion to approve sale process, etc.; brief call afterwards with C. Fell
01-May-2020	Sheldon Title	.30	Review of sale process info received and respond to G. Higgins's email on need to include customer contracts in data room
01-May-2020	Robbie Epstein	1.30	Buyer List prep
01-May-2020	Akhil Kapoor	1.00	Finalization of teaser and sharing with Company for comments
01-May-2020	Akhil Kapoor	.50	Finalization of newspaper ad and sharing with Company for comments
01-May-2020	Akhil Kapoor	1.20	Reviewing data room index status received from G. Higgins and reverting to his queries. Also, requesting for addl. information related to the Sale Process due to commence on May 7 2020
01-May-2020	Akhil Kapoor	.20	Finalization of NDA for S. Title's review
01-May-2020	Akhil Kapoor	.10	Discussion with R.Epstein from CF team re list of prospective purchasers shared by him
02-May-2020	Akhil Kapoor	.20	Email discussion with S. Title re status of Sale Process incl. Teaser, advertisement, NDA and prospective purchaser list
03-May-2020	Sheldon Title	.40	Review of ad and teaser
04-May-2020	Robbie Epstein	2.30	Financial Buyer list prep, emails to insolvency team, discussion with S. Smegal
04-May-2020	Akhil Kapoor	.60	Updating KMW about revised teaser, newspaper ad, explaining them our concern in teaser and advertisement. Also, reviewing their list of P. Purchasers and trade publications
04-May-2020	Akhil Kapoor	.20	Reviewing and understanding revised Bell invoice for KMW

04-May-2020	Akhil Kapoor	.50	Commencing preparation of Sale Process document in MS Word
04-May-2020	Akhil Kapoor	.20	Glancing through addl. information related to customer contracts received from Company
04-May-2020	Akhil Kapoor	1.00	Preparing Q&A for KMW basis data received and updating the company about pending information
04-May-2020	Akhil Kapoor	.10	Updating S. Title about the critical points to discuss the plan of action to go live within 5 days of Court Order
04-May-2020	Akhil Kapoor	.20	Discussion with R. Epstein from CF team about list of PE firms who may be interested in KMW's assets and obtaining a list of such 36 PE firms (inc. family owned firms)
05-May-2020	Sheldon Title	.40	Emails to/from G. Higgins and Jeanne on CEWS; email to/from Cassels and to S. Rappos on service list; email to G. Higgins on set off issue
05-May-2020	Jessie Hue	.30	Update the website with the Service List.
05-May-2020	Jessie Hue	.60	Updating the potential purchasers list with searching of the email address and updating schedule accordingly.
05-May-2020	Akhil Kapoor	.50	Discussion with G. Higgins re list of pending items and Q&A queries. Also, shared updated Q&A for review. Received all items except Vendor POs; have requested for the same. Have received and read comments on teaser as well.
05-May-2020	Akhil Kapoor	.50	1) Emailing Canadian Biomass magazine to connect me with the concerned publishing team to advertisement the Sale Process on their website 2) providing required details to their team 3) Email and call with their manager and obtaining quotes
05-May-2020	Akhil Kapoor	.80	1) Finalization of advertisement quote and proof from National Post and updating S. Title and Company about it. 2) Discussion with Company regarding few changes to be made in teaser and advertisement
05-May-2020	Akhil Kapoor	2.30	Reviewing information by G. Higgins and uploading in the data room- Financial statements, Accounts receivables and payables, HST returns, cash flow projections, Bank statements, Company and business understanding docs and lease agreement
05-May-2020	Akhil Kapoor	.10	Revising KMW teaser basis comments received from G. Higgins
05-May-2020	Akhil Kapoor	.20	Revising the advertisement and sharing with National Post for a proof quote
05-May-2020	Akhil Kapoor	.30	1) Updating data room index and sharing revised pending list with G. Higgins, also requesting for their comments in teaser and advertisement 2) Also,

			arranging email address of prospective purchasers for the purpose of sending teaser to them
06-May-2020	Sheldon Title	.60	Letter from PFD, legal counsel for JPB; review with A.Kapoor to obtain info necessary to respond; emails to C. Fell on same; call with C. Fell and email re: A.MacFarlane's request for info; follow up with J. Hue on the website
06-May-2020	Jessie Hue	.50	Updating the potential purchasers list with searching of the email address and updating schedule accordingly.
06-May-2020	Akhil Kapoor	.20	1) Discussion with National Post re mistakes in final proof and arranging revised proof 2) Discussion with Canadian Bio Magazine re quotation for various advertising channels available on their website
06-May-2020	Akhil Kapoor	1.50	Preparation of Sale Process, Terms of Use, Disclaimer and other details
06-May-2020	Akhil Kapoor	2.20	Continuing from yesterday and reviewing and uploading balance data re customer contracts, order book, source deduction payments, Sale Process docs, Q&A, GSA, Leasehold, Insurance and others in data room
06-May-2020	Akhil Kapoor	.60	Discussion with S. Title re information asked by certain lawyers, providing response to their email.
06-May-2020	Akhil Kapoor	.30	1) Reviewing emails on KMW mailbox, addressing them and discussion on an email from customer lawyer with S. Title 2) Email communication and speaking with C. Gauld re the lawyer's letter (on behalf of a KMW customer) received by MNP and discussing background of the dispute with them
06-May-2020	Akhil Kapoor	.20	Finalization of advertisement with S. Title and informing National post about it
07-May-2020	Sheldon Title	.40	Review of notice to reader and sale process; comment thereon and email back to A. Kapoor; review of purchaser list; email to BLG/H. Chaiton on emails relating to Liberty Mutual request
07-May-2020	Jessie Hue	3.50	Updating the potential purchasers list with searching of the email address and updating schedule accordingly.
07-May-2020	Akhil Kapoor	.70	Reviewing and sending a detailed query list to G. Higgins and E.Rosen re customer contracts, order book, AR listing, Patents, DIP Lender Installment, status of payment to utilities and requesting to share actual cash flows for monitoring purpose
07-May-2020	Akhil Kapoor	.40	1) Discussing with J. Hue and CF team re Prospective Purchaser and arranging email address of PP. 2) Discussion with Canada Biomass Magazine re advertising KMW teaser on their website

07-May-2020	Akhil Kapoor	.50	Finalization of Sale Process and Notice to reader after Sheldon's review and uploading it in Firmex
07-May-2020	Akhil Kapoor	.80	Finalization of Sale Process and Notice to Reader for data room and sharing with S. Title for review
08-May-2020	Jessie Hue	.30	Update website with the endorsement and court order.
08-May-2020	Jessie Hue	1.70	Preparation of the email blast, meeting with A.Kapoor and S. Title. Forward email from J. Rivers as to status of email.
08-May-2020	Jessie Hue	.40	Update the creditors list in Ascend and email the creditors the NOI notice and email same with S. Title.
08-May-2020	Akhil Kapoor	1.60	1) Finalization of email to be sent to prospective purchasers, prospective purchaser list (incl. internal calls) 2) Discussion with Company re patents, PP list 3) Updating data room with Patent related information
10-May-2020	Akhil Kapoor	.50	Review of KMW emails, sorting them into "Read or delivered teaser", "NDA received", updating prospective purchaser list with the NDAs received
11-May-2020	Sheldon Title	.20	Exchange of emails with C. Fell on James MacLellan's request for client to have access to data room
11-May-2020	Jessie Hue	.30	Update the website with the motion record.
11-May-2020	Akhil Kapoor	.50	Discussion with creditor and G. Higgins re creditors concerns relating to their outstanding balances
11-May-2020	Akhil Kapoor	.80	1) Review of KMW Data room to ensure docs are in order, adding prospective purchaser group in the data room and providing access to PP who have executed the NDA 2) Calls with PPs to discuss their concerns before executing the NDA
11-May-2020	Akhil Kapoor	1.30	1) Discussion on NDA, noting queries, forwarding a marked-up NDA to S. Title for his review, going through all emails on KMW email and reverting them accordingly, also managed the email in proper folders for future reference 2) Call with prospective purchaser to provide high level overview
12-May-2020	Sheldon Title	.10	Email to C.Fell on McCain revisions to NDA
12-May-2020	Sheldon Title	.20	Emails to and from M. Adourian of OSB and J. Hue on extension order
12-May-2020	Jessie Hue	.30	E-file the endorsement and Extension Court Order with the OSB. Further email confirmation with S. Title and M. A. Adourian at the OSB the e-file confirmation.
12-May-2020	Akhil Kapoor	2.00	1) Discussion on NDA, sending couple of NDAs to S. Title for his review 2) NDA received and providing data room access 3) Follow up with Company for queries 4) Discussion on creditor queries with G. Higgins and team (Company) and responding to some of the

			queries 5) Review of KMW email to check NDAs received, organizing the email folder, replying to queries etc.
13-May-2020	Sheldon Title	.30	Emails exchanged with C. Fell on NDA; review changes and forward to A. Kapoor to direct to McCain; set up call with C. Fell to discuss Liberty motion
13-May-2020	Jessie Hue	.30	T/c and email creditor the NOI notice.
13-May-2020	Jessie Hue	.10	Review of Post Media invoice and email S. Title direction for payment.
14-May-2020	Sheldon Title	.10	Call with C. Fell re: Liberty Mutual application and trustee position on same
14-May-2020	Akhil Kapoor	1.30	1) Going through the cash flows received from Company, noting down queries and updating G. Higgins about them, also updating S. Title about them and the DIP funding received by the Company so far. 2) Following up for remaining pending points. 3) Discussion with G. Higgins re certain queries
14-May-2020	Akhil Kapoor	.50	Reverting to emails from creditors and prospective purchasers and sending revised NDA to one of the PPs.
15-May-2020	Sheldon Title	.20	Emails to and from C. Fell with regards to 11 AM Liberty hearing and review of actual cash flow statements
15-May-2020	Akhil Kapoor	1.00	Discussion with Company re creditor matters, queries in data room among other things
19-May-2020	Akhil Kapoor	2.20	1) Review of data received from G. Higgins incl. response to previous queries and preparing addl. list of queries re cash flows, insurance, customer contracts among other issues and sharing the same with G. Higgins 2) NDA discussion with couple of PPs 3) Reviewing KMW email box, reverting to queries, informing Company about an email from a creditor who has certain issues but he has not been able to connect with the Company 4) Discussion with Insolvency Insider to post the teaser on their website
20-May-2020	Sheldon Title	.70	Call with G. Higgins, C. Gauld and A. Kapoor relating to JPBE and SEW-Eurodrive issue, where JPBE approached supplier to buy goods, including KMW IP, from supplier direct and to my advice that KMW stay the course pending sale process to preserve the assets given the contract has not been terminated; call to H. Chaiton to advise him on same
20-May-2020	Akhil Kapoor	.30	Call with Company re creditor emails and how to handle interactions between customers and suppliers.
20-May-2020	Akhil Kapoor	.20	Reminding Company about open query list and an email from a creditor and email conversation with G. Higgins

21-May-2020	Sheldon Title	.70	Brief call with C. Gauld followed by discussions and emails re: status of Fountaine contract; call with A. Kapoor followed by call with G. Higgins and to arranging follow up call on May 23, 2020 to better understand terms of contract and status
21-May-2020	Akhil Kapoor	1.60	1) Review of query (part of queries) response received from G. Higgins. 2) Enquiring with him about deferral/loss of a critical contract and raising few queries 3) Discussion with S. Title re above critical contract 4) Informing a PP that their NDA changes have been approved and they can send an executed copy 5) Informing the lawyer of a creditor about the proof of claim process and we will inform them when we commence that process 6) Reviewing and uploading certain information in the data room
22-May-2020	Sheldon Title	.20	Call with C. Fell re: Fountaine, JPB
22-May-2020	Sheldon Title	.90	Call with G. Higgins, M. Leveille and E. Rosen on Fountaine contract and to my advice as to the need for open communication given Fountaine's ceasing to pay
22-May-2020	Akhil Kapoor	1.10	1) Preparation of email response to a disputed creditor, discussing it with G. Higgins (KMW) and sharing it with S. Title for final comments 2) Discussion with KMW team to provide actual cash flows for 2 weeks ended May 24 and agreeing to discuss variances after receiving the 2 weeks cash flows 3) Discussion with a PP re NDA clauses
23-May-2020	Sheldon Title	.30	Follow up email to Higgins/Rosen re: Fountaine; review of Ironbridge Equity NDA and forward same to C. Fell
25-May-2020	Akhil Kapoor	.30	NDA discussion with a PP and sending PP's version of NDA to S. Title for legal opinion on the changes made in the NDA
25-May-2020	Akhil Kapoor	.40	Sharing NDA with PPs and providing access to PPs based on receipt of executed NDA
25-May-2020	Akhil Kapoor	.40	Review of actual cash flows shared by KMW team for the period ended May 22 2020
25-May-2020	Akhil Kapoor	.70	Call with KMW team re actual cash flows, vendor POs, Petro Canada and HST refund.
25-May-2020	Akhil Kapoor	.40	Email communication with G. Higgins re insurance coverage, Vendor POs and data room activity status
26-May-2020	Akhil Kapoor	.40	1) Review of revised cash flows received (with comments) for the period ended May 22, 2020 2) Providing a brief status update to S. Title about KMW activities

26-May-2020	Akhil Kapoor	.30	Discussion with a PP re the type of offers proposed to be submitted, providing NDA to a PP and providing DR access to another PP
26-May-2020	Akhil Kapoor	.20	Review of Bank statements and discussing queries on outstanding cheques
26-May-2020	Akhil Kapoor	.20	Review of a vendor PO received and uploading the same in the data room for PP review
27-May-2020	Sheldon Title	.40	Call with E.Rosen and call with H.Chaiton on same
27-May-2020	Akhil Kapoor	.30	1) Providing data room access to parties (PPs) signing the NDA and updating the tracker 2) Review of NDAs received
28-May-2020	Sheldon Title	.70	Call with H. Chaiton, E. Rosen, C. Gauld and G. Higgins on Fountaine agreement, review of cash flow results; call with C. Fell re: NDA/email to A. Kapoor
28-May-2020	Akhil Kapoor	.70	Call with KMW re queries on supplier payments, variances in payroll cost vs projections, other receipts and updating S. Title about actual cash flows for 7 weeks ended May 22
28-May-2020	Akhil Kapoor	.40	1) Discussion with a PP and proving bulk download access to them 2) Informing another PP about non-acceptance of their NDA as submission is next day and brief discussion with him through emails 3) Email communication with couple of PPs
28-May-2020	Akhil Kapoor	.40	Emailing couple of queries to Company related to payroll cost and supplier payments. Scheduling a call with KMW team to discuss them at 3 pm.
29-May-2020	Sheldon Title	.20	Call with Phoenix on non-receipt of offers/email to H. Chaiton et al on same
29-May-2020	Akhil Kapoor	.10	Discussion re bid status on submission date
Total		62.10	

SUMMARY OF TIME CHARGES

PROFESSIONAL	AVERAGE HOURLY RATE	HOURS	AMOUNT
Jessie Hue – Estate Administrator (Corporate Insolvency)	217.00	8.3	1,801.10
Sheldon Title – Partner (Corporate Insolvency)	595.00	7.90	4,700.50
Akhil Kapoor – Manager (Corporate Insolvency)	366.00	39.80	14,566.80
Robbie Epstein – Senior Associate (Corporate Finance)	550.00	6.1	1,787.30
TOTAL		62.10	\$ 22,855.70

Exhibit "F"

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KMW ENERGY INC.**

AFFIDAVIT OF CHRISTEL PAUL

I, CHRISTEL PAUL, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am an executive legal assistant with the law firm Weisz Fell Kour LLP (“**WFK**”) and, as such, I have knowledge of the following matters. Where I have relied on information from others, I state the source of such information and verily believe it to be true.
2. On April 11, 2020, MNP LTD. was appointed as the Proposal Trustee in the Notice of Intention to Make a Proposal of KMW Energy Inc. (the “**Proposal Trustee**”).
3. The Proposal Trustee retained WFK to advise with regards to matters related to MNP’s appointment and the performance of its duties and powers.
4. WFK’s fees and disbursements for the period of April 10, 2020 to June 17, 2020 are summarized in the invoices rendered to the Proposal Trustee (the “**Invoices**”).

5. The Invoices are a fair and accurate description of the services provided, the disbursements incurred, and the amounts charged by WFK, and are based on its standard rates and charges.

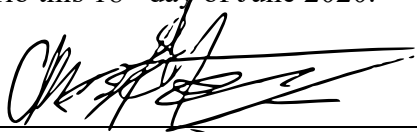
6. The Invoices contain information and advice over which lawyer and client privilege is asserted. As a result, redacted copies of the Invoices are attached hereto and marked as **Exhibit “A”**. Copies of the complete Invoices have been provided to the Proposal Trustee and I am advised by the Proposal Trustee that they have been reviewed and consider the fees and disbursements fair and reasonable.

7. Attached hereto and marked as **Exhibit “B”** is a summary of the timekeepers whose services are reflected on the Invoices, including year of call and hourly rate, and the total fees and hours billed. The Billing Summary indicates an average hourly rate of \$482.77.

8. The total amount being claimed for the work performed by WFK for the period of April 10, 2020 to June 17, 2020, for which approval is being sought at this court is \$6,614.77 including \$6,449.00 for fees and \$165.77 for disbursements, exclusive of HST.

9. This affidavit is sworn in support of the Proposal Trustee’s motion for approval of its fees and disbursements, as well as those of its legal representatives, and for no other improper purpose.

SWORN BEFORE ME *by video conference*
at the City of Toronto, in the Province of
Ontario this 18th day of June 2020.



Commissioner for Taking Affidavits
(or as may be)

} *Christel Paul*

CHRISTEL PAUL

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF CHRISTEL PAUL SWORN BEFORE ME
BY VIDEO CONFERENCE
THIS 18th DAY OF JUNE, 2020

A handwritten signature in black ink, appearing to read 'Christopher M. McGoeey', written over a horizontal dashed line.

A COMMISSIONER FOR TAKING AFFIDAVITS

CHRISTOPHER M. McGOEY
LSO No. 79679K



INVOICE

Invoice # 493492
 Date: 06/18/2020
 Due On: 07/18/2020

100 King Street West, Suite 5600
 Toronto, ON
 M5X 1C9
 T: 416.613.8280
 F: 416.613.8290

MNP LLP
 111 Richmond Street West, Suite 300
 Toronto, ON
 M5H 2G4

00064-MNP LLP

Proposal Proceedings of KMW Energy Inc.

Date	Description	Hours	Rate	Total	LP
06/02/2020	Call with S.Title re: supplier and emails from TGF.	0.40	\$520.00	\$208.00	CF
06/03/2020	Emails with O. Gaffney - counsel to Super Radiator Coils.	0.10	\$520.00	\$52.00	CF
06/08/2020	Emails re: court time; call with S. Title re: update on proceedings.	0.30	\$520.00	\$156.00	CF
06/17/2020	Reviewed Second Report of Proposal Trustee. Provided instruction to C. Deng to generate initial form of motions materials. Drafted motions materials re: fee approval.	1.70	\$250.00	\$425.00	CM
Quantity Subtotal					2.5

Time Keeper	Hours	Rate	Total
Caitlin Fell	0.8	\$520.00	\$416.00
Christopher McGoey	1.7	\$250.00	\$425.00
Quantity Total			2.5
Subtotal			\$841.00
Tax (13.0%)			\$109.33
Total			\$950.33

Detailed Statement of Account

Other Invoices

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
493483	07/04/2020	\$2,702.96	\$0.00	\$2,702.96

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
493492	07/18/2020	\$950.33	\$0.00	\$950.33
Outstanding Balance				\$3,653.29
Total Amount Outstanding				\$3,653.29

Please make all amounts payable to: Weisz Fell Kour LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

Remittance Advice

Wire Transfer Information

Bank Name/Address: Royal Bank of Canada
Main Branch - Toronto
Royal Bank Plaza
200 Bay Street
Toronto, ON M5J 2J5

Account Number: 1570431
Transit Number: 00002
Bank Number: 003

Name/Account #: Weisz Fell Kour LLP

SWIFT: ROYCCAT2

Payment by e-transfer: trust@wfklaw.ca

Please include the invoice number 493492 as an additional reference so we may accurately identify and apply your payment.
Please provide adequate payment to cover the wire fees assessed by your financial institution.



INVOICE

Invoice # 493483
 Date: 06/04/2020
 Due On: 07/04/2020

100 King Street West, Suite 5600
 Toronto, ON
 M5X 1C9
 T: 416.613.8280
 F: 416.613.8290

MNP LLP
 111 Richmond Street West, Suite 300
 Toronto, ON
 M5H 2G4

00064-MNP LLP

Proposal Proceedings of KMW Energy Inc.

Date	Description	Hours	Rate	Total	LP
05/01/2020	Prepare for court; attend court hearing.	0.80	\$520.00	\$416.00	CF
05/06/2020	Emails to S. Bachand re: noi proceedings; calls with S. title re liberty and data room. Emails with H. Chaiton re lift stay.	0.80	\$520.00	\$416.00	CF
05/11/2020	Emails with J MacLellan re confirmation of confidentiality and non bidder.	0.40	\$520.00	\$208.00	CF
05/13/2020	Review and comment on NDA for McCain Capital Partners; emails to Chaitons re: same.	0.50	\$520.00	\$260.00	CF
05/14/2020	Call with S. Title re: lift stay motion; call with H. Chaiton re: same.	0.40	\$520.00	\$208.00	CF
05/21/2020	Review comments on McCain NDA. Call with S. Title re: NDA and other issues on the file.	0.60	\$520.00	\$312.00	CF
05/26/2020	Review Ironbridge NDA; calls with S. Title re: issues of customer payments.	0.60	\$520.00	\$312.00	CF
05/27/2020	Emails with J. MacLellan re data room; emails from S. Title re: customer payments and decline to allow bidder in data room.	0.50	\$520.00	\$260.00	CF

Quantity Subtotal 4.6

Time Keeper	Hours	Rate	Total
Caitlin Fell	4.6	\$520.00	\$2,392.00

Quantity Total	4.6
Subtotal	\$2,392.00
Tax (13.0%)	\$310.96
Total	\$2,702.96

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
493483	07/04/2020	\$2,702.96	\$0.00	\$2,702.96
Outstanding Balance				\$2,702.96
Total Amount Outstanding				\$2,702.96

Please make all amounts payable to: Weisz Fell Kour LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

Remittance Advice

Wire Transfer Information

Bank Name/Address: Royal Bank of Canada
Main Branch - Toronto
Royal Bank Plaza
200 Bay Street
Toronto, ON M5J 2J5

Account Number: 1570431
Transit Number: 00002
Bank Number: 003

Name/Account #: Weisz Fell Kour LLP

SWIFT: ROYCCAT2

Payment by e-transfer: trust@wfkllaw.ca

Please include the invoice number 493483 as an additional reference so we may accurately identify and apply your payment.
Please provide adequate payment to cover the wire fees assessed by your financial institution.



INVOICE

Invoice # 493435
 Date: 05/04/2020
 Due On: 06/03/2020

100 King Street West, Suite 5600
 Toronto, ON
 M5X 1C9
 T: 416.613.8280
 F: 416.613.8290

MNP LLP
 111 Richmond Street West, Suite 300
 Toronto, ON
 M5H 2G4

00064-MNP LLP

Proposal Proceedings of KMW Energy Inc.

Services

Date	Description	Hours	Rate	Total	LP
04/10/2020	Conducted corporate PPSA registry searches for all Canadian jurisdictions.	0.60	\$250.00	\$150.00	CM
04/10/2020	Review security of Nor-Arc on KMW Energy Inc., including review of general security agreement, PPSA registrations and memorandum of understanding. Calls with S. Title re: same.	1.40	\$520.00	\$728.00	CF
04/12/2020	Reviewed PPSA registrations.	0.20	\$250.00	\$50.00	CM
04/21/2020	Review DIP loan agreement and emails with S. Title and H. Chaiton	0.70	\$520.00	\$364.00	CF
04/22/2020	Review and comment on asset purchase agreement. Emails with S. Title re same	0.90	\$520.00	\$468.00	CF
04/24/2020	Review motion material served by KMW.	0.60	\$520.00	\$312.00	CF
04/28/2020	Review and comment on First Report of the Trustee. Further review revised drafts re: same; calls with S. Title.	1.60	\$520.00	\$832.00	CF
04/30/2020	Review emails re: performance bond default and lifting of stay; calls with S. Title re: same.	0.60	\$520.00	\$312.00	CF
Quantity Subtotal					6.6
Services Subtotal					\$3,216.00

Expenses

Date	Type	Description	Quantity	Rate	Total	Total
04/20/2020	Expense	Due Diligence Searches: PPSA Search: KMW Energy Inc. PPSA Search: KMW Energy Inc. (MNP)	1.00	\$165.77	\$165.77	\$187.32
					Expenses Subtotal	\$165.77

Time Keeper	Hours	Rate	Total
Caitlin Fell	5.8	\$520.00	\$3,016.00
Christopher McGoey	0.8	\$250.00	\$200.00
Quantity Total			6.6
Subtotal			\$3,381.77
Tax (13.0%)			\$439.63
Total			\$3,821.40
Payment (06/11/2020)			-\$3,821.40
Balance Owing			\$0.00

Detailed Statement of Account

Other Invoices

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
493483	07/04/2020	\$2,702.96	\$0.00	\$2,702.96

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
493435	06/03/2020	\$3,821.40	\$3,821.40	\$0.00
Outstanding Balance				\$2,702.96
Total Amount Outstanding				\$2,702.96

Please make all amounts payable to: Weisz Fell Kour LLP

Please pay within 30 days.

HST No.: 737783274 RT 0001

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF CHRISTEL PAUL SWORN BEFORE ME
BY VIDEO CONFERENCE
THIS 18th DAY OF JUNE, 2020

A handwritten signature in black ink, appearing to read 'Christopher M. McGoeey', written over a horizontal dashed line.

A COMMISSIONER FOR TAKING AFFIDAVITS

CHRISTOPHER M. McGOEY
LSO No. 79679K

EXHIBIT "B"

Summary of Timekeepers		
Legal Professional	Year of Call	Hourly Rate
Caitlin Fell, Partner	2011	\$520.00
Christopher McGoey, student-at-law/associate	2020	\$250.00

Billing Summary		
May 1, 2020 – June 17, 2020		
	Total Hours for Caitlin Fell:	11.2
	Total Professional Fees for Caitlin Fell:	\$5824.00
	Total Hours for Christopher McGoey:	2.5
	Total Professional Fees for Christopher McGoey:	\$625.00
	Total Hours:	13.7
	Average Hourly Rate:	\$482.77
	Total Professional Fees	\$6449
	Disbursements	\$165.77
	Subtotal	\$6614.77
	HST	\$859.59
	TOTAL	\$7474.36

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF KMW ENERGY INC.**

Estate File Number: 35-2638322
Court File No.: 35-2638322

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto

AFFIDAVIT OF CHRISTEL PAUL

WEISZ FELL KOUR LLP
100 King Street West,
Suite 5600
Toronto, ON M5X 1C9

Carlin Fell
LSO No. 60091H
cfell@wfklaw.ca
Tel: 416.613.8282
Fax: 416.613.8290

**Lawyers for the Proposal Trustee,
MNP LTD**

Estate No.: 35-2638322
Court No.: 35-2638322

**IN THE MATTER OF THE NOTICE OF INTENTION TIO MAKE A PROPOSAL
OF KMW INC., OF THE CITY OF LONDON, IN THE PROVINCE OF ONTARIO**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

**SECOND REPORT TO THE COURT SUBMITTED BY MNP
LTD., IN ITS CAPACITY AS PRPOSAL TRUSTEE UNDER
THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
KMW ENERGY INC.**

MNP LTD.
300-111 Richmond Street West
Toronto, ON M5H 2G4

Sheldon Title
Tel: (416) 263-6945
Fax: (416) 323-5242
Email: sheldon.title@mnp.ca