

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR.

)

WEDNESDAY, THE 6<sup>th</sup>

JUSTICE HAINEY

)

DAY OF JANUARY, 2021

)

BRIDGING FINANCE INC., AS AGENT

Applicant

AUDIBLE CAPITAL CORP., AVENIR TRADING CORP.,  
1892244 ALBERTA LTD., AVENIR SPORTS  
ENTERTAINMENT LTD., AVENIR SPORTS  
ENTERTAINMENT CORP. and PORTLAND WINTER  
HAWKS, INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, c.B 3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE  
ACT, R.S.O. 1990, c.C.43, AS AMENDED

**ORDER**

(Bidding Procedures and  
Stalking Horse APA Approval)

**THIS MOTION**, made by KSV Restructuring Inc.<sup>1</sup> in its capacity as Court-appointed receiver (in such capacity, the "**Receiver**") of the Property (as defined in the Receivership Order dated May 7, 2020) of Audible Capital Corp., Avenir Trading Corp., 1892244 Alberta Ltd., Avenir Sports Entertainment Ltd., Avenir Sports Entertainment Corp. and Portland Winter Hawks, Inc. for an order, among other things: (i) abridging the time for service of the Notice of Motion and Motion Record herein, if necessary, and validating service thereof; (ii) approving the bidding procedures substantially in the form attached as Schedule "A" hereto (the "**Bidding Procedures**"); and (iii) approving the Stalking Horse APA (as defined below) for the purpose of acting as stalking horse bidder, was heard this day by videoconference due to the COVID-19 pandemic.

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<sup>1</sup> Effective August 31, 2020, KSV Kofman Inc. changed its name to KSV Restructuring Inc.

**ON READING** the Notice of Motion of the Receiver, the Fourth Report of the Receiver dated December 22, 2020 (the "**Fourth Report**"), filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavits of Aiden Nelms, sworn, filed:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record in respect of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Fourth Report, the Bidding Procedures and the Stalking Horse APA, as applicable.

### **BIDDING PROCEDURES**

3. **THIS COURT ORDERS** that that the Bidding Procedures (subject to any amendments thereto that may be made in accordance therewith) are hereby approved.
4. **THIS COURT ORDERS** that the Receiver and its advisors are hereby authorized and directed to carry out the Bidding Procedures and to take such steps and execute such documentation as may be necessary or incidental to the Bidding Procedures.
5. **THIS COURT ORDERS** that the Receiver and its affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the Bidding Procedures, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of the Receiver in performing its obligations under the Bidding Procedures (as determined by this Court).

## **STALKING HORSE APA**

6. **THIS COURT ORDERS** that the bid made by the Purchaser pursuant to the Asset Purchase Agreement dated as of December 15, 2020 among the Receiver and Avina Acquisition Corp., as Purchaser, in the form attached as Appendix "A" to the Fourth Report (the "**Stalking Horse APA**") is hereby approved as the stalking horse bid, provided that nothing herein approves the sale and the vesting of the Purchased Assets to the Purchaser pursuant to the Stalking Horse APA and that the approval of the sale and vesting of such assets shall be considered by this Court on a subsequent motion made to this Court following completion of the sale process pursuant to the terms of the Bidding Procedures if the Stalking Horse Bidder is the Successful Bidder.

7. **THIS COURT ORDERS** that the Receiver's obligation to pay the Break Fee pursuant to section 3.4 of the Stalking Horse APA is hereby approved.

## **REQUESTED INFORMATION**

8. **THIS COURT ORDERS** that all Investment Companies who have not provided the Requested Information to the Receiver as of the date of this Order are hereby directed and ordered to provide the Requested Information to the Receiver forthwith, and in any event no later than January 13, 2021.

## **GENERAL**

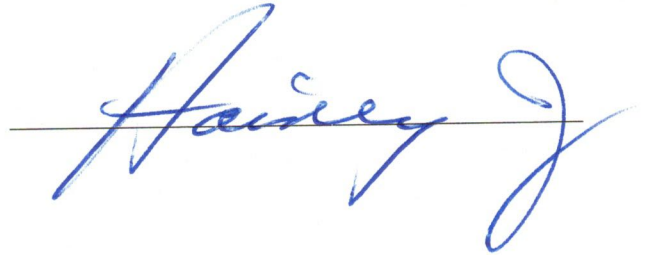
9. **THIS COURT ORDERS** that this Order shall have full force and-effect in all provinces and territories in Canada.

10. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder or under the Bidding Procedures.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as

may be necessary or desirable to give effect to this Order, or to assist the Receiver and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.





**Schedule "A"**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

B E T W E E N:

BRIDGING FINANCE INC. AS AGENT

Applicant

- and -

AUDIBLE CAPITAL CORP.,  
AVENIR TRADING CORP., 1892244 ALBERTA LTD.,  
AVENIR SPORTS ENTERTAINMENT LTD.,  
AVENIR SPORTS ENTERTAINMENT CORP. and  
PORTLAND WINTER HAWKS, INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.  
1990, c.C.43, AS AMENDED

**Bidding Procedures**

Set forth below are the bidding procedures (the "**Bidding Procedures**") to be employed with respect to the sale (the "**Sale**") of certain of Audible Capital Corp.'s ("**Audible**") assets set out in Schedule "A" hereto (the "**Investment Assets**") pursuant to a court approved solicitation process in the receivership proceedings bearing Court File No. CV-20-00640212-00CL.

On January 6, 2021, the Court issued an order (the “**Sale Process Order**”) approving and accepting for the purpose of conducting a “stalking horse” solicitation process (the “**Stalking Horse Process**”) in accordance with these Bidding Procedures that certain asset purchase agreement dated December 15, 2020 (the “**Stalking Horse Bid**”) between KSV Restructuring Inc., in its capacity as Court-appointed Receiver of Audible et al, and not in its personal capacity (the “**Receiver**”), and Avina Acquisition Corp. (the “**Stalking Horse Bidder**”), including, without limitation, the payment of a break fee (the “**Break Fee**”) by the Receiver to the Stalking Horse Bidder in accordance with the provisions of the Stalking Horse Bid, and approving these Bidding Procedures.

Subject to Court availability and the terms hereof, the Receiver shall bring a motion (the “**Approval and Vesting Order Motion**”) on or before March 2, 2021 (or, if there is no Auction, on or before February 23, 2021) seeking the granting of an order by the Court authorizing the Receiver to proceed with the Sale of the Investment Assets to the Qualified Bidder(s) making the Successful Bid (each as defined below) (the “**Successful Bidder**”) (such order, as approved, the “**Approval and Vesting Order**”).

#### **Key Dates**

On or before January 7, 2021 at 5:00 p.m. (prevailing Eastern Time)	Delivery of Teasers and Sales Packages
On or before January 7, 2021 at 5:00 p.m. (prevailing Eastern Time)	Confidential Data-Site to be established
February 4, 2021 at 5:00 p.m. (prevailing Eastern Time)	Bid Deadline - Due Date for Bids and Deposits
February 8, 2021 at 5:00 p.m. (prevailing Eastern Time)	Receiver to provide the Stalking Horse Bidder and each Qualified Bidder a schedule setting forth either or both: (i) the highest or otherwise best fully binding offer for all of the Investment Assets; and (ii) the highest or otherwise best fully binding offer(s) for all or any combination of the Investment Assets
February 11, 2021 at 10:00 a.m. (prevailing Eastern Time)	Auction (if any)

February 23, 2021 at 10:00 a.m. (prevailing Eastern Time) (pending the Court's availability), or as soon as practicable if the Auction is not required	Approval and Sale Order hearing
March 2, 2021 at 10:00 a.m. (prevailing Eastern Time) (pending the Court's availability), or as soon as practicable if the Auction is required	Approval and Sale Order hearing

### **Assets to Be Sold En Bloc or Piecemeal**

The Receiver is offering for sale all of the Investment Assets and the Receiver will consider (i) a bid for all of the Receiver's right, title and interest in and to the Investment Assets (an "**En Bloc Bid**"); or (ii) separate bids to acquire some but not all of the Investment Assets (a "**Piecemeal Bid**"), provided that the Receiver will only consider Piecemeal Bids if a combination of one or more Piecemeal Bids in the aggregate meet the requirements to be a Qualified Bid (as defined below). The Receiver will be responsible for conducting the solicitation process and an auction (the "**Auction**") (if any). The Auction, if any, will be conducted by the Receiver.

### **The Bidding Process**

The Receiver shall be responsible for the marketing and sale of the Investment Assets pursuant to the process described by the Receiver's Report to Court dated December ●, 2020 (the "**Bidding Process**"), which is set out below. The Receiver shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of the Bidding Process, *provided, however*, that the adoption of any rule that materially deviates from these Bidding Procedures shall require the prior written consent of the Stalking Horse Bidder and Bridging Finance Inc., as agent ("**Bridging**") or a further Order of the Court.

### **Participation Requirements**

"**Qualified Bidder**" is a bidder who submits a bid in substantially the same form as the Stalking Horse Bid, for a cash purchase price of at least CAD\$4,936,000 million and includes the Required Bid Terms and Materials (as defined below).

### **Bid Deadline**

A Qualified Bidder that desires to make a bid shall deliver written copies of its bid and the Required Bid Terms and Materials to the Receiver no later than 5:00 p.m. (prevailing Eastern time) on February 4, 2021 (the "**Bid Deadline**"). Bridging has confirmed to the Receiver that it will not participate in the process as a bidder, and accordingly, the Receiver shall forthwith provide copies of any bids received to Bridging.



### **Bid Requirements**

All bids (other than the Stalking Horse Bid) must include, unless such requirement is waived by the Receiver after consultation with Bridging, the following (collectively, the “**Required Bid Terms and Materials**”):

- (i) A base cash purchase price equal to or greater than CAD\$4,936,000, being the amount payable under the Stalking Horse Bid plus the Break Fee (CAD\$186,000) and CAD\$100,000 bid increment (collectively, the “**Base Purchase Price**”);
- (ii) A provision stating that the bidder’s offer is irrevocably open for acceptance until the earlier of (i) the date that the Investment Assets have been sold pursuant to the closing of the sale approved by the Court; and (ii) the Outside Date;
- (iii) An executed copy of a proposed purchase agreement and a redline of the bidder’s proposed purchase agreement reflecting variations from the Stalking Horse Bid (the “**Marked Agreement**”);
- (iv) A cash deposit in the amount of not less than five *per cent* (5%) of the amount of the Base Purchase Price, in the form of a wire transfer, certified cheque or such other form acceptable to the Receiver (the “**Bid Deposit**”), which shall be held in the trust account of the Receiver’s solicitors (the “**Escrow Account**”). Funds shall be disbursed from the Escrow Account only as follows: (i) if the Qualified Bidder is the Successful Bidder, its Bid Deposit will be applied without interest on Closing to the purchase price payable by it under its bid on the closing thereof; and (ii) if the Qualified Bidder is not the Successful Bidder, then its Bid Deposit shall be returned without interest to it forthwith following the expiration of its offer (which in the case of the Back-Up Bidder shall be following closing of the sale to the Successful Bidder).

A bid received from a Qualified Bidder that includes all of the Required Bid Terms and Materials and is received by the Bid Deadline is a “**Qualified Bid**”. The Receiver, in consultation Bridging, reserves the right to determine the value of any Qualified Bid, and which Qualified Bid constitutes the best offer (the “**Lead Bid**”). For greater certainty, the Lead Bid can be two or more Piecemeal Bids. Details of the Lead Bid will be provided by the Receiver to all Qualified Bidders after the Bid Deadline and no later than 5:00p.m. (Eastern Time) two (2) Days before the date scheduled for the Auction.

Notwithstanding the bid requirements detailed above, the Stalking Horse Bid shall be deemed to be a Qualified Bid and the Stalking Horse Bidder shall be deemed to be a Qualified Bidder.

### **“As Is, Where Is, With All Faults”**

The Sale of the Investment Assets shall be on an “as is, where is” and “with all faults” basis and without representations, warranties, or guarantees, express, implied or statutory, written or oral, of any kind, nature, or description by the Receiver or its agents, representatives, partners or employees, or any of the other parties participating in the sales process pursuant to these Bid Procedures, except as may otherwise be provided in a definitive purchase agreement with the Receiver. By submitting a bid, each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Investment Assets prior to making its bid, that it has relied solely upon its own

independent review, investigation and/or inspection of any documents and/or the Investment Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Investment Assets, the financial performance of the Investment Assets or the location of the Investment Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or as set forth in a definitive purchase agreement with the Receiver.

### **Free of Any and All Liens**

Except as otherwise provided in the Stalking Horse Bid or another Successful Bidder's purchase agreement, and subject to any permitted encumbrances therein, all of the Receiver's and Audible's right, title and interest in and to the Investment Assets shall be sold free and clear of all liens and encumbrances pursuant to the Approval and Vesting Order.

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

If one or more Qualified Bids (other than that submitted by the Stalking Horse Bidder) have been received by the Receiver on or before the Bid Deadline, the Receiver shall advise all Qualified Bidders of the Lead Bid and invite all Qualified Bidders (including the Stalking Horse Bidder) to attend the Auction to be conducted by the Receiver in accordance with the Auction Procedures attached hereto as Appendix 1. The Auction shall be conducted by video conference. The Qualified Bid that is selected by the Receiver as the successful bid in accordance with the Auction Procedures shall be the "**Successful Bid**".

If no Qualified Bid (other than the Stalking Horse Bid) is submitted by the Bid Deadline, then the Stalking Horse Bid shall be the Successful Bid, the Stalking Horse Bidder shall be the Successful Bidder and the Auction shall be cancelled.

**The Receiver to Determine Highest and/or Best Bid:** The Receiver shall determine after each round of offers in the Auction, in its reasonable business judgment, the best bid and this bid shall be the Lead Bid. In making such determination, the Receiver may consider, without limitation: (i) the amount and nature of the consideration; (ii) the ability of the Qualified Bidder in question to close the proposed transaction; (iii) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (iv) any purchase price adjustment; (v) the net economic effect of any changes made to the Stalking Horse Bid; and (vi) such other considerations as the Receiver deems relevant in its reasonable business judgment. At the end of each round of offers, the Receiver shall advise the Qualified Bidders of the material terms of the then highest and/or best bid, and the basis for calculating the total consideration offered in such offer. If at the end of any round of bidding a Qualified Bidder has elected not to submit a further bid meeting the criteria set out herein (including the Minimum Bid Increment), then such Qualified Bidder shall not be entitled to continue to participate in the next round of offers or in any subsequent round.

If only one Qualified Bid is submitted after a round of offers then that Qualified Bid shall be the Successful Bid. The next highest offer, as determined by the Receiver (the "**Back-up Bid**"), shall be required to keep its offer open and available for acceptance until the closing of the Court Approved Sale of the Investment Assets to the Successful Bidder.



### **Highest versus Best Offer**

In determining the Lead Bid, the highest and/or best sale offer or offers during each round of offers, and the Successful Bid, the Receiver, in consultation with Bridging, is not required to select the offer with the highest purchase price and may, exercising its reasonable business judgment, select another offer or offers on the basis that it or they are the best offer even though not the highest purchase price, individually or in the aggregate. Without limiting the foregoing, the Receiver, in consultation with Bridging, may give such weight to the non-monetary considerations as it determines, exercising its reasonable business judgment, is appropriate and reasonable, including those considerations described above under “The Receiver to Determine Highest and/or Best Bid”.

### **Break Fee**

To provide an incentive and to compensate the Stalking Horse Bidder for performing the substantial due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Receiver has agreed to pay the Stalking Horse Bidder, under the conditions outlined herein and in the Stalking Horse Bid, a Break Fee of \$186,000 inclusive of HST (if any), in the event that the Stalking Horse Bidder is not the Successful Bidder.

The Break Fee is a material inducement for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Break Fee, if payable in accordance with the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Sale Process Order.

### **Acceptance of Qualified Bids**

The sale of the Investment Assets to any Successful Bidder by the Receiver is expressly conditional upon the approval of the Successful Bid by the Court at the hearing of the Approval and Vesting Order Motion. The presentation of the Successful Bid to the Court for approval does not obligate the Receiver to close the transaction contemplated by such Successful Bid unless and until the Court approves the Successful Bid. The Receiver will be deemed to have accepted a bid only when the bid has been approved by the Court at the hearing on the Approval and Vesting Order Motion.

### **Approval and Vesting Order Motion Hearing**

The Approval and Vesting Order Motion shall, subject to court availability, be made returnable on or before March 2, 2021 (or, if there is no Auction, as soon as practicable). The Receiver, in consultation with Bridging, reserves its right to the extent consistent with the Stalking Horse Bid to change the date of the hearing of Approval and Vesting Order Motion in order to achieve the maximum value for the Investment Assets.

### **Miscellaneous**

The solicitation process and these Bidding Procedures are solely for the benefit of the Receiver and nothing contained in the Sale Process Order or these Bidding Procedures shall create any rights in any other person (including, without limitation, any bidder or Qualified Bidder, and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Sale

Process Order. The bid protections incorporated in these Bidding Procedures are solely for the benefit of the Stalking Horse Bidder.

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



## APPENDIX I

### Auction Procedures

#### Auction

1. If the Receiver, in consultation with Bridging, determines to conduct an Auction pursuant to the Bidding Procedures, the Receiver will notify the Qualified Bidders who made a Qualified Bid that an Auction will be conducted. The Auction will be convened by the Receiver and conducted by video conference at 10:00 a.m. (Eastern Time) on February 11, 2021, or such other place and time as the Receiver may advise. Capitalized terms used but not defined have the meaning given to them in the Bidding Procedures. The Auction shall be conducted in accordance with the following procedures:
  - a) Participation at The Auction. Only a Qualified Bidder is eligible to participate in the Auction. The Receiver shall provide all Qualified Bidders with the amount of the Leading Bid by 5:00pm (Eastern Time) two (2) Days before the date scheduled for the Auction. Each Qualified Bidder must inform the Receiver whether it intends to participate in the Auction no later than 12:00 p.m. (Eastern Time) on the Business Day prior to the Auction. Only the authorized representatives of each of the Qualified Bidders, Bridging, the Receiver and their respective counsel and other advisors shall be permitted to attend the Auction.
  - b) Bidding at the Auction. Bidding at the Auction shall be conducted in rounds. The Leading Bid shall constitute the "Opening Bid" for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the "Opening Bid" for the following round. In each round, a Qualified Bidder may submit no more than one Overbid. Any Qualified Bidder who bids in a round (including the Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.
  - c) Receiver Shall Conduct the Auction. The Receiver and its advisors shall direct and preside over the Auction. At the start of each round of the Auction, the Receiver shall provide the terms of the Opening Bid to all participating Qualified Bidders at the Auction. The determination of which Qualified Bid constitutes the Opening Bid for each round shall take

into account any factors that the Receiver reasonably deems relevant to the value of the Qualified Bid, including, among other things, the following: (i) the amount and nature of the consideration; (ii) the Receiver's assessment of the certainty of the Qualified Bidder to close the proposed transaction on or before the Outside Date; (iii) the likelihood, extent and impact of any potential delays in closing; (iv) the net economic effect of any changes from the Opening Bid of the previous round, and (v) such other considerations as the Receiver deems relevant in its reasonable business judgment (collectively, the "**Bid Assessment Criteria**"). All Bids made after the Opening Bid shall be Overbids, and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction. The Receiver shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction.

- d) Terms of Overbids. An "**Overbid**" is any Bid made at the Auction subsequent to the Receiver's announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Bidder must comply with the following conditions:
- (i) *Minimum Overbid Increment:* Any Overbid shall be made in minimum Cash Purchase Price increments of CAD\$100,000 above the Opening Bid, or such increments as the Receiver, in consultation with Bridging, may determine in order to facilitate the Auction (the "**Minimum Overbid Increment**"). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time, plus any additional Minimum Overbid Increments.
  - (ii) *The Bid Requirements same as for Qualified Bids:* Except as modified herein, an Overbid must comply with the Bid Requirements, provided, however, that the Bid Deadline shall not apply. Any Overbid made by a Qualified Bidder must provide that it remains irrevocable and binding on the Qualified Bidder and open for acceptance as a Back-Up Bid until the closing of the Successful Bid.
  - (iii) *Announcing Overbids:* At the end of each round of bidding, the Receiver shall announce the identity of the Qualified Bidder and the material terms of the then highest and/or best Overbid, including the assets proposed to be acquired and the basis for calculating the total consideration offered in such Overbid based on, among other things, the Bid Assessment Criteria.
  - (iv) *Consideration of Overbids:* The Receiver, in consultation with Bridging, reserves the right to make one or more adjournments in the Auction in durations set by the Receiver to, among other things: (A) allow individual Qualified Bidders to consider how they wish to proceed; (B) consider and determine the current highest and/or best Overbid at any given time during the Auction; and, (C) give Qualified Bidders the opportunity to provide the Receiver with such additional evidence as it may require that the Qualified Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Receiver may have clarifying discussions with a Qualified Bidder, and the Receiver may allow a Qualified Bidder to make technical clarifying changes to its Overbid following such



discussions. BIDDERS MUST OBTAIN ALL NECESSARY APPROVALS AND FUNDING COMMITMENTS IN ADVANCE OF THE AUCTION.

- (v) *Failure to Bid:* If at the end of any round of bidding a Qualified Bidder (other than the Qualified Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction.
- e) Additional Procedures. The Receiver, in consultation with Bridging, may adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction, the order of bidding provided they are not inconsistent with any of the provisions of the Bidding Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Bidders.
- f) Closing the Auction. The Auction shall be closed after the Receiver, in consultation with Bridging, has: (i) reviewed the final Overbid of each Qualified Bidder on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the proposed sale; and (ii) identified the Successful Bid and the Back-Up Bid and the Receiver has advised the Qualified Bidders participating in the Auction of such determination
- g) Finalizing Documentation. Promptly following a Bid of a Qualified Bidder being declared the Successful Bid or the Back-Up Bid, the Qualified Bidder shall execute and deliver such revised and updated definitive transaction agreements as may be required to reflect and evidence the Successful Bid or Back-Up Bid. For greater certainty, every Bid made at Auction is deemed to be a signed and binding bid based on the bidder's original Qualified Bid.

## Schedule "A"

<b>Private Company</b>	<b>Number of Shares</b>
Archeoptix Biomedical Inc.	760,000
Phononic, Inc.	66,700
Performance Phenomics Inc.	1,000,000
Conavi Medical Inc.	24,193
Synaptive Medical Inc. – Common Shares	740,000
Synaptive Medical Inc. – Common Share Warrants (CAD\$25.52 strike price until September 21, 2026)	21,000
Synaptive Medical Inc. – Class B Shares	2,365,622
Synaptive Medical Inc. – Class B Warrants (US\$3.75 strike price for 3 years)	1,182,811
Orthogonal Inc.	185,903
Mobility View Inc.	7,187
Sage Senses Inc. (operating as Motion Gestures)	172,163
Hammerhead Resources Inc. (formerly Canadian International Oil Corp.)	40,000
Panaxium Inc.	969,767
EdgeHill Partners	18 units
BioSteel Sports Nutrition Inc.	All shares held by Audible Capital Corp.



**BRIDGING FINANCE INC., AS AGENT**

-and-

**AUDIBLE CAPITAL CORP. et al**

Applicant

Respondents

Court File No.: CV-20-00640212-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceedings commenced in Toronto

**BIDDING PROCEDURES AND STALKING  
HORSE APA APPROVAL ORDER**

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Lawyers for KSV Restructuring Inc., solely in its  
capacity as Court-appointed Receiver and not in  
its personal capacity