



**First Report of
KSV Kofman Inc.
as CCAA Monitor of
Discovery Air Inc.**

March 29, 2018

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COURT FILE NO.: CV-18-594380-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF DISCOVERY AIR INC.**

FIRST REPORT OF KSV KOFMAN INC. AS MONITOR

March 29, 2018

1.0 Introduction

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on March 21, 2018 (the “Initial Order”), Discovery Air Inc. (the “Company”) was granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) and KSV Kofman Inc. (“KSV”) was appointed monitor (the “Monitor”). A copy of the Initial Order is attached as Appendix “A”.
2. The principal purpose of these CCAA proceedings is to conduct a sale solicitation process (“SSP”) for: (i) the Company’s wholly-owned operating subsidiaries, Great Slave Helicopters Ltd. (“GSH”), Air Tindi Ltd. (“ATL”) and Discovery Mining Services Ltd. (“DMS”) (together, the “Non-Applicant Subsidiaries”); and (ii) its 9.7% interest in Top Aces Holdings Inc. (“TA Holdings”), through which it holds an interest in Top Aces Inc. (“Top Aces”), formerly Discovery Air Defence Services Inc.

1.1 Purposes of this Report

1. The purposes of this report (“Report”) are to:
 - a) provide background information about the Company;
 - b) summarize the terms of an Asset Purchase Agreement dated as of March 21, 2018 among the Company and CEP IV Co-Investment Limited Partnership, Clairvest Equity Partners IV Limited Partnership, Clairvest Equity Partnership IV-A Limited Partnership, DA Holdings Limited Partnership and G. John Krediet (collectively, the “Top Aces Buyer”) pursuant to which the Top Aces Buyer has submitted a stalking horse offer (the “Top Aces Stalking Horse Agreement”) to purchase the shares of TA Holdings (the “TA Shares”) and certain other assets owned by the Company (together with the TA Shares, the “Top Aces Property”) and assume certain liabilities;

- c) summarize the terms of the following three Asset Purchase Agreements dated as of March 21, 2018 between the Company and 10671541 Canada Inc. (the “Northern Business Buyer”), an entity incorporated by Clairvest Group Inc. and its affiliates (“Clairvest”), whereby the Northern Business Buyer has submitted stalking horse offers to purchase, in separate transactions:
- i. the Company’s issued and outstanding shares in the capital of GSH (the “GSH Shares”), the intercompany debt owing from GSH to the Company, and certain assets owned by the Company but used solely in connection with the GSH business (together with the GSH Shares, the “GSH Property”) and to assume certain liabilities related to the GSH business (the “GSH Stalking Horse Agreement”);
 - ii. the Company’s issued and outstanding shares in the capital of ATL (the “ATL Shares”), the intercompany debt owing from ATL to the Company, and certain assets owned by the Company but used solely in connection with the ATL business (together with the ATL Shares, the “ATL Property”) and to assume certain liabilities related to the ATL business (the “ATL Stalking Horse Agreement”);
 - iii. the Company’s issued and outstanding shares in the capital of DMS (the “DMS Shares”) and certain assets owned by the Company but used solely in connection with the DMS business (together with the DMS Shares, the “DMS Property”) and to assume certain liabilities related to the DMS business (the “DMS Stalking Horse Agreement”);
- d) summarize the proposed SSP pursuant to which the Top Aces Property, the GSH Property, the ATL Property and the DMS Property will be marketed for sale, including the bidding procedures to be used in connection with the SSP;
- e) summarize the Company’s budget-to-actual cash flow results since the commencement of these proceedings;
- f) provide an overview of the Monitor’s activities since the date of its appointment;
- g) provide the Monitor’s rationale for its recommendation that the stay of proceedings be extended to and including June 29, 2018; and
- h) recommend that this Honourable Court make an order (the “SSP Order”):
- i. approving the SSP and authorizing the Monitor to conduct the SSP;
 - ii. approving the execution, delivery, compliance with and performance by the Company of each of the following (collectively, the “Stalking Horse Agreements”) and solely as stalking horse bids under the SSP:
 - the Top Aces Stalking Horse Agreement;
 - the GSH Stalking Horse Agreement;

- the ATL Stalking Horse Agreement;
 - the DMS Stalking Horse Agreement; and
- iii. extending the stay of proceedings to and including June 29, 2018.

1.2 Restrictions

1. In preparing this Report, KSV has relied upon the Company's books and records and discussions with the Company's management, the Company's counsel and representatives of Clairvest and its counsel. KSV has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
2. Any party wishing to place reliance on the Company's financial or other information in this Report should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.

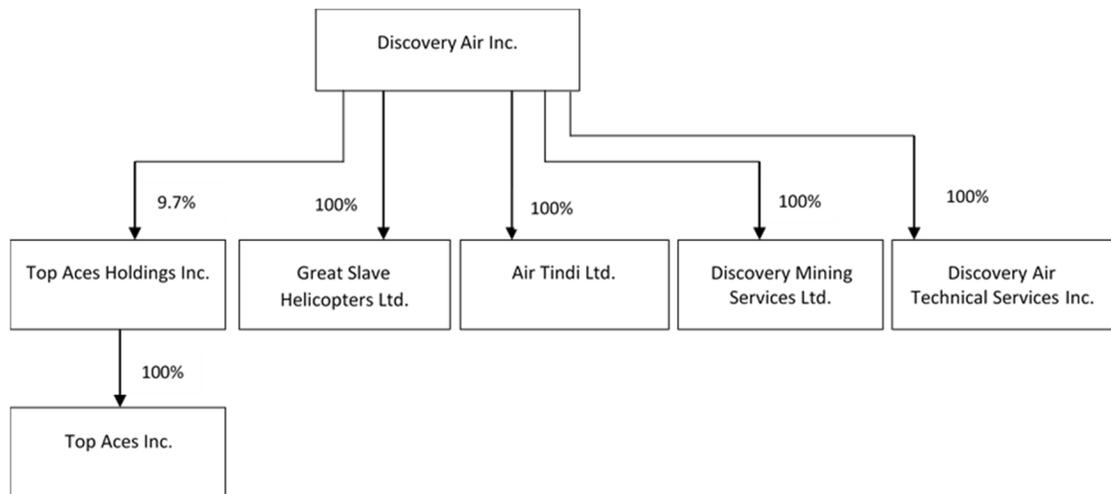
1.3 Currency

1. All currency references in this Report are to Canadian dollars.

2.0 Background

1. The Company is a holding company that provides management services to the Non-Applicant Subsidiaries and Top Aces, including strategy, corporate finance, accounting, legal, insurance, human resources and information technology¹. The Company was founded in 2004 and is headquartered in Toronto, Ontario. (Throughout this Report, the Company and the Non-Applicant Subsidiaries are collectively referred to as the "Group").
2. The Group provides specialty aviation and logistics support services across Canada and in select locations internationally, including the US, Bolivia and Chile. A condensed corporate chart of the Group, including the Company's residual interest in TA Holdings, is provided below.

¹ In advance of these proceedings, and in order to separate each of the businesses in the context of the SSP, some of these services were transferred to Top Aces and to the Non-Applicant Subsidiaries, as necessary for each to carry on its business in the ordinary course.



3. Clairvest is the Company's 95.5% shareholder and its most significant secured creditor. As at January 31, 2018, the Company's obligations owing to Clairvest under its secured debentures totalled approximately \$72.7 million.
4. An affiliate of Clairvest has agreed to fund these proceedings through a \$12.6 million debtor-in-possession facility (the "DIP Facility"), which was approved pursuant to the Initial Order.
5. The affidavit of Paul Bernards, the Company's Chief Financial Officer, sworn March 21, 2018, was filed with the Court in support of the Company's application for CCAA protection and provides, *inter alia*, details regarding the Company's background, including the reasons for the commencement of these proceedings. Mr. Bernards has also filed an affidavit sworn March 28, 2018 in support of this SSP approval motion (the "SSP Affidavit").
6. Further information regarding these proceedings and the Group's background is provided in the pre-filing report of the Monitor dated March 21, 2018, a copy of which is attached as Appendix "B", without appendices.
7. All Court materials filed in these proceedings are available on the Monitor's website at www.ksvadvisory.com/insolvency-cases/discovery-air.

3.0 Top Aces Stalking Horse Agreement²

1. The Company has entered into the Top Aces Stalking Horse Agreement, subject to Court approval. A copy of the Top Aces Stalking Horse Agreement is attached to the SSP Affidavit.
2. The proposed SSP Order provides that the sale and/or vesting of any property, assets or undertaking of the Company, including the Top Aces Property, is subject to Court approval following completion of the SSP.

² Terms not defined in this section have the meanings provided to them in the Top Aces Stalking Horse Agreement or the SSP. The summary of the Top Aces Stalking Horse Agreement contained in this section is for information purposes only. Parties with an interest in these proceedings or in the SSP are strongly encouraged to read the Top Aces Stalking Horse Agreement.

3. The key terms and conditions of the Top Aces Stalking Horse Agreement include the following:
- a) Purchaser: Top Aces Buyer.
 - b) Purchase Price (in the form of a credit bid): \$20.825 million (being the amount of the Clairvest Credit Bid Amount) plus the Assumed Liabilities.
 - c) Purchased Assets: the Company's right, title and interest in, to and under the Top Aces Property, including:
 - i. the TA Shares;
 - ii. the assets, property and undertaking owned by the Company and used solely in connection with the business of Top Aces;
 - iii. all original books and records of Top Aces or otherwise relating to the Top Aces Business;
 - iv. each of the Contracts relating to the business carried on by Top Aces as set out in Schedule 2.1(b) of the Top Aces Stalking Horse Agreement (the "Top Aces Assigned Contracts");
 - v. any and all debts, liabilities, obligations, causes of action and other claims that the Company may have against TA Holdings, Top Aces or any other Person;
 - vi. any other property, assets and undertaking of the Company related to the Top Aces business as specifically identified by the Top Aces Buyer on or before Closing; and
 - vii. the Residual Assets.
 - d) Assumed Liabilities: all liabilities and obligations owing by the Company under or in respect of the Top Aces Assigned Contracts and all liabilities and obligations arising from, or in relation to, the Permitted Encumbrances.
 - e) Termination: the agreement may be terminated by either party if the Top Aces Buyer is not selected as the Successful Bidder on the earlier of: (i) 30 days after the Bid Deadline (the bid deadline being May 21, 2018); and (ii) Court approval of the Accepted Bid, provided however, if the Top Aces Buyer is selected as the Backup Bidder it cannot terminate its agreement until the closing of the transaction with the Successful Bidder.
 - f) Approvals and Consents: other than Court Approval and any consent required in connection with the assignment of any Top Aces Assigned Contracts or any Purchased Assets, no authorization, consent or approval of, or filing with or notice to any Governmental Authority or any other Person is required in connection with the execution, delivery or performance of the Top Aces Stalking Horse Agreement.

- g) Transition Services: to the extent necessary, the Company shall provide the Top Aces Buyer with transition services (the “Top Aces Transition Services”) relating to: (i) record keeping, financial, tax and other reporting obligations and other general administrative services; and (ii) shared Contracts, services and assets both among the Company, TA Holdings and Top Aces, and among the Company, TA Holdings, Top Aces and one or more of the Non-Applicant Subsidiaries, or between or among any combination of the foregoing parties. The Top Aces Buyer may require one or more agreements in respect of the Top Aces Transition Services.
- h) Conditions Precedent: the agreement is consistent with standard insolvency transactions, i.e. to be completed on an “as is, where is” basis with minimal representations, warranties and conditions. The conditions include that:
 - i. the SSP Order shall have been issued and entered on or before April 4, 2018, or such later date as the Company and the Top Aces Buyer agree in writing;
 - ii. the Approval and Vesting Order shall have been issued and entered on or before June 14, 2018, or such later date as the Company and the Top Aces Buyer agree in writing;
 - iii. the Top Aces Buyer shall sign, and be bound by the terms of, all shareholders’ agreements in respect of TA Holdings and Top Aces, including the limited governance, information and liquidity rights contemplated therein; and
 - iv. there shall not have been a Material Adverse Change.
- i) Other: there is no break-fee or expense reimbursement (jointly, “Bid Protections”) payable to the Top Aces Buyer.

4.0 Northern Stalking Horse Agreements³

1. The Company and the Northern Business Buyer have entered into the GSH Stalking Horse Agreement, the ATL Stalking Horse Agreement and the DMS Stalking Horse Agreement (collectively, the “Northern Stalking Horse Agreements”), copies of which are attached to the SSP Affidavit. Other than the Purchase Price (which, in each case, is to be satisfied by the assumption by the Northern Business Buyer of secured debt owed to Clairvest under either or both of the DIP Facility and the Debentures), the structure of the three Northern Stalking Horse Agreements are virtually identical and are summarized in the table below.

³ Terms not defined in this section have the meanings provided to them in the Northern Stalking Horse Agreements or the SSP. The summary of the Northern Horse Agreements contained in this section is for information purposes only. Parties with an interest in these proceedings or in the SSP are strongly encouraged to read the Northern Stalking Horse Agreements.

Term	GSH	ATL	DMS
Purchaser	Northern Business Buyer		
Purchased Assets	The GSH Property	The ATL Property	The DMS Property
Purchase Price	\$12.381 million plus the Assumed Liabilities.	\$19.765 million plus the Assumed Liabilities.	\$5 million plus the Assumed Liabilities.
Satisfaction of Purchase Price	The Purchase Price shall be satisfied on closing by: (i) the assumption of liabilities and obligations under the DIP Facility equal to the Clairvest DIP Indebtedness Assumption Amount; (ii) the assumption of liabilities and obligations under the Clairvest Convertible Debentures equal to the Clairvest Convertible Debentures Indebtedness Assumption Amount; and (iii) the assumption and/or satisfaction of the Assumed Liabilities ⁴ .		
Assumed Liabilities	<p>The Northern Business Buyer will assume all contracts relevant to the respective Northern Businesses and/or address the obligations owing to each of their lenders on terms acceptable to those lenders, including:</p> <ul style="list-style-type: none"> a) all liabilities and obligations under or in respect of the GSH/ATL/DMS Assigned Contracts; b) liabilities and obligations under the Clairvest Convertible Debentures and the DIP Facility; c) all liabilities and obligations in respect of the Amended and Restated Credit Agreement dated May 26, 2015 among, <i>inter alia</i>, the Company, the Canadian Imperial Bank of Commerce (“CIBC”) and GSH/ATL/DMS, as guarantors; d) all liabilities and obligations in respect of an Aircraft Loan Agreement, dated as of January 31, 2014, as amended, and an Aircraft Loan Agreement, dated as of March 31, 2014, each among, <i>inter alia</i>, the Company, Element Financial Corporation and GSH/ATL/DMS, as guarantors; e) all liabilities and obligations in respect of an Aircraft Loan Agreement, dated as of March 26, 2012, as amended, among, <i>inter alia</i>, the Company, Roynat Inc., ATL, GSH and DMS; f) all liabilities and obligations arising from, or in relation to, intercompany transactions between the Company and each of GSH, ATL and DMS, respectively; and g) all liabilities and obligations arising from, or in relation to, the Permitted Encumbrances. 		
Approvals and Consents	<p>No authorization, consent, approval of or filing with or notice to any Governmental Authority or any other Person is required, except for:</p> <ul style="list-style-type: none"> a) Court Approval; b) any consent required in connection with the assignment of the Assigned Contracts or any Purchased Assets (whether obtained by Court Order or otherwise); and c) any consent or approval in respect of any change of control provisions in Contracts (whether obtained by Court Order or otherwise). 		

⁴ The allocation of these amounts will be determined on or before closing, but does not affect the purchase price.

Term	GSH	ATL	DMS
Transition Services	<p>The Company⁵ shall provide Transition Services relating to:</p> <ul style="list-style-type: none"> a) record keeping, financial, tax and other reporting obligations and other general administrative services as reasonably requested by the Northern Business Buyer; and b) shared Contracts, services and assets both between the Company and the respective Non-Applicant Subsidiary and among the Company, the respective Non-Applicant Subsidiary and one or more of the Company's other Non-Applicant Subsidiaries, or between or among any combination of the foregoing parties. <p>The Northern Business Buyer may require the Company to enter into one or more agreements in respect of Transition Services.</p>		
Termination	<p>Each purchase agreement may be terminated if the Northern Business Buyer is not the Successful Bidder, by either party upon the earlier of:</p> <ul style="list-style-type: none"> a) thirty (30) days after the Bid Deadline (June 4, 2018); and b) approval of the Court of the Accepted Bid, provided however, in the event that the Northern Business Buyer is the Backup Bidder, it may not terminate the agreement until the closing of the transaction with the Successful Bidder. 		
Conditions Precedent	<p>The agreements are consistent with standard insolvency transactions, i.e. to be completed on an "as is, where is" basis with minimal representations, warranties and/or conditions. Conditions include that:</p> <ul style="list-style-type: none"> a) the SSP Order shall have been issued and entered on or before April 4, 2018, or on or before such later date as the Company and the Northern Business Buyer agree; b) the Approval and Vesting Order shall have been issued and entered on or before June 28, 2018; c) the Northern Business Buyer shall sign, and be bound by, the terms of all shareholders' agreements in respect of the applicable Non-Applicant Subsidiary; and d) there shall not have been a Material Adverse Change, as defined in the Stalking Horse Agreements. 		
Bid Protections	None		

2. Each Northern Stalking Horse Agreement is an independent offer and, accordingly, is not conditional on acceptance of any of the other bids being the Successful Bid in the SSP for GSH, ATL, DMS and/or Top Aces.

5.0 Security Opinion

1. Since the SSP contemplates that Clairvest will be bidding the obligations owed to it under the Clairvest Convertible Debentures as the currency in each of the Stalking Horse Agreements and that any other Successful Bid would address such Clairvest Convertible Debentures, in advance of these proceedings the Monitor obtained an independent legal opinion from its counsel in these proceedings, Goodmans LLP ("Goodmans"), on the validity and enforceability of Clairvest's security.

⁵ Some of these services may be provided by Top Aces.

2. Subject to the assumptions and qualifications contained in the opinion, the opinion concludes that: (i) the security granted to Clairvest by the Company and the Non-Applicant Subsidiaries, as registered under the *Ontario Personal Property Security Act* (“PPSA”), creates a valid and perfected security interest in the personal property collateral of each of the Company and the Non-Applicant Subsidiaries which is situated in Ontario; and (ii) Clairvest has a perfected, first-ranking security interest in the shares of GSH, ATL, DMS and TA Holdings owned by the Company. Goodmans has also advised that, while they have not rendered or sought opinions in other Canadian Provinces or Territories, searches under applicable personal property security regimes in each Province (other than Quebec) and Territory have been performed and that Clairvest has registrations in each such Province or Territory (with the exception of Yukon Territory where there are no registrations against the Company or the Non-Applicant Subsidiaries). Searches were not performed in Quebec in light of the nature of the collateral and the cost of obtaining such searches.
3. A copy of the security opinion will be made available to the Court should the Court wish to review it.

6.0 SSP⁶

1. The purpose of the SSP is to provide interested parties with the opportunity to submit offers to purchase: (i) the Top Aces Property; (ii) the GSH Property or all or substantially all of the assets of GSH; (iii) the ATL Property or all or substantially all of the assets of ATL; and (iv) the DMS Property or all or substantially all of the assets of DMS. A copy of the proposed SSP is attached as Appendix “C”.
2. The following table summarizes the key SSP deadlines.

Milestone	Top Aces SSP	GSH, ATL, DMS SSP
Commencement	April 4, 2018	April 4, 2018
Bid Deadline	May 21, 2018	June 4, 2018
Auction Date (if required)	May 31, 2018	June 14, 2018
Closing Deadline	July 31, 2018	July 31, 2018

3. The key terms of the SSP are summarized as follows⁷:
 - a) Notice: the Company will issue a press release providing notice of the SSP and any other relevant information that the Company and the Monitor consider appropriate (the “Notice”). The Notice will be disseminated by Canada Newswire in Canada and in international locations as determined appropriate by the Monitor.
 - b) Publication: the SSP authorizes (but does not direct) the Monitor to publish a notice in *The Globe and Mail* (National Edition) or any other newspaper or industry journal.

⁶ All capitalized terms not otherwise defined have the meaning set out in the SSP.

⁷ The summary of the SSP contained in this section is for information purposes only. The full details of the SSP are provided in Appendix “C”. Interested parties are strongly encouraged to read the SSP in its entirety.

- c) Marketing: with the assistance of the Company, the Monitor has prepared the following:
- i. a list of financial parties who may be interested in Top Aces and a list of financial and strategic parties who may be interested in GSH, ATL and/or DMS;
 - ii. non-disclosure agreements for each of the transactions (“NDAs”);
 - iii. two documents (“Teasers”) describing the investment opportunities and the SSP process (one for Top Aces and one for the Non-Applicant Subsidiaries), which the Monitor will send, together with the NDAs, to all prospective purchasers as soon as possible following the granting of the SSP Order, should it be granted, and to any other party who requests a copy of the Teasers or who is identified by the Company or the Monitor as a potential bidder; and
 - iv. a confidential information memorandum (“CIM”) for each of Top Aces, GSH, ATL and DMS.
- d) Data Rooms: virtual data rooms have been set up for interested parties to perform diligence. The information available in the data rooms includes, *inter alia*, financial and corporate information, information regarding management and employees, operational data, and information concerning legal, environmental and safety considerations.
- e) Participation Requirements: any party who wishes to participate in one or more of the SSPs (an “Interested Party”) must provide the Monitor with:
- i. an executed NDA, including the identity of the principals of the Interested Party;
 - ii. an acknowledgement of the terms of the SSP (in the form attached as Schedule “B” to the SSP); and
 - iii. such form of financial disclosure and credit support or enhancement that allows the Monitor to determine the Interested Party’s financial and other capabilities to complete a transaction.
- Each Interested Party who meets the criteria noted above will be deemed a “Bidder”. The Monitor will provide each Bidder with a copy of the applicable CIM and access to the corresponding data room or rooms.
- f) Due Diligence: the Monitor, with the Company’s assistance, will provide each Bidder with due diligence material and information, including access to the data rooms, management presentations and on-site inspections (as necessary and appropriate, in the Monitor’s discretion).

- g) Formal Offers: Bidders who wish to submit a formal offer (each, a “Sale Proposal”) must do so by the Bid Deadline, being May 21, 2018 for Top Aces and June 4, 2018 for the Non-Applicant Subsidiaries. All offers for the acquisition of the shares of the Non-Applicant Subsidiaries must be in the form of the applicable Stalking Horse Agreement with any changes blacklined against the template (“Final Bid”). Bidders must submit a separate Share Purchase Agreement or Asset Purchase Agreement for each SSP in which the Bidder is making a Sale Proposal.
- h) Final Bid Criteria: in order to be considered a Final Bid, a Sale Proposal must, among other things:
- i. subject to subsection (ii) below, be binding and irrevocable until the earlier of 30 days after the Bid Deadline and approval by the Court of the Accepted Bid;
 - ii. acknowledge that if such Final Bid is selected by the Monitor as the Backup Bid at the Auction, it shall remain binding, irrevocable and open for acceptance by the Company until the closing of the transaction with the Successful Bidder;
 - iii. include a refundable cash deposit payable to the Monitor, in trust, in an amount equal to 15% of the purchase price;
 - iv. provide value to the creditors and other stakeholders of the Company (having regard to the relative priority of creditor claims) that is equal to or greater than the value of the applicable Stalking Horse Agreement (as determined by the Monitor);
 - v. not subject to further due diligence or financing;
 - vi. include a description of any desired arrangements with respect to transition services; and
 - vii. contemplate closing the transaction set out therein on or before July 31, 2018.
- i) Qualified Bid: if a Sale Proposal meets the Final Bid Criteria, it will be deemed a “Qualified Bid” and the Bidder in respect of each Qualified Bid will be a “Qualified Bidder”. Each of the Stalking Horse Bidders is a Qualified Bidder in respect of the applicable SSP and each of the Stalking Horse Agreements is a Qualified Bid for all purposes in connection with the applicable SSP. The Monitor will notify each Bidder if its Sale Proposal is a Qualified Bid within five (5) Business Days of the applicable Bid Deadline.
- j) Selection of Successful Bidders: if one or more Qualified Bids (in addition to the applicable Stalking Horse Agreement) for a particular SSP is received by the Bid Deadline, all Qualified Bidders for such SSP will be invited to an Auction (including the applicable Stalking Horse Bidder) in order to determine the Successful Bidder. If no Qualified Bid for a SSP other than the applicable Stalking Horse Agreement is received by the Bid Deadline, the respective Stalking Horse Bidder will be declared the Successful Bidder.

- k) Accepted Bid: the “Accepted Bid” for a SSP will either be: (i) the applicable Stalking Horse Agreement if no Qualified Bid is received by the Bid Deadline; or (ii) in the event of an Auction, the superior bid as determined by the Monitor. The party that submits the Accepted Bid for a SSP is referred to as the “Successful Bidder” with respect to such SSP. Within seven Business Days of the selection of an Accepted Bid (or as soon as possible thereafter), the Company shall file an Approval Motion with the Court in respect of that transaction. All the Qualified Bids for that transaction and the SSP, other than the applicable Accepted Bid, Backup Bid and Stalking Horse Agreement, shall be deemed to have been rejected by the Monitor on and as of the date of approval of the applicable Accepted Bid by the Court.
- l) Failure to Close: if the Successful Bidder for any transaction fails to close, the Monitor shall be authorized but not required to: (i) direct the Company or the Non-Applicant Subsidiary party to the Accepted Bid to exercise any available rights and remedies in accordance with the terms of such Accepted Bid; (ii) designate the Backup Bidder as the Successful Bidder and direct the Company to close the applicable transaction under the Backup Bid; or (iii) take such other steps as deemed advisable.
- m) Auction Procedures: the significant aspects of the Auction are as follows:
- i. if one or more Auctions are required, the Auction or Auctions will be held at the offices of Goodmans;
 - ii. to the extent that the Monitor is to conduct multiple Auctions, it may choose to conduct such Auctions concurrently or consecutively, in its discretion;
 - iii. unless otherwise ordered by the Court or consented to in writing by the Monitor, only the authorized representatives and professional advisors of the Monitor, the Company and the Non-Applicant Subsidiaries, the applicable Stalking Horse Bidder and each other Qualified Bidder invited to an Auction shall be eligible to attend an Auction and make any Subsequent Bid (as defined below) at an Auction;
 - iv. all Qualified Bidders must have at least one individual representative present in person at the Auction who has the authority to bind such Qualified Bidder;
 - v. at least one day prior to the Auction, the Monitor will send a notice to all Qualified Bidders indicating which of the Qualified Bids will be the Starting Bid at the Auction as well as other applicable Auction rules, including the bid increments for the applicable Auction. Bidding at the Auction shall be in increments that will be determined by the Monitor and communicated by the Monitor no later than two days prior to the commencement of the Auction;

- vi. all Qualified Bidders are permitted to increase their Qualified Bid in accordance with the procedures set out below (each, a “Subsequent Bid”);
- vii. all Subsequent Bids will be made in public such that all bidders are aware of each Bid;
- viii. bidding at the Auction will begin with the Starting Bid and continue, in one or more rounds of bidding in increments as may be set by the Monitor from time to time, so long as during each round at least one Subsequent Bid is submitted by a Qualified Bidder;
- ix. credit bids are permitted at the Auction, provided that the validity of such secured indebtedness has been confirmed by the Monitor prior to commencement of the Auction;
- x. bidding shall continue until such time as the Accepted Bid is determined by the Monitor, in consultation with its advisors;
- xi. the Monitor will have the right to modify the bidding increments at the commencement of any round of bidding at the Auction;
- xii. after each round of bidding, the Monitor will announce the Subsequent Bid that the Monitor has determined, after consultation with its advisors, to be the superior bid (the “Leading Bid”). A round of bidding will conclude after each participating Qualified Bidder has had an opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid;
- xiii. if no Qualified Bidder submits a Subsequent Bid after a period of 30 minutes after the Monitor determines the Leading Bid, and the Monitor chooses not to adjourn an Auction, the Leading Bid shall be the Accepted Bid for the applicable SSP and the Auction will be concluded. The Monitor has the discretion to extend the time period to submit Bids; and
- xiv. if an Auction for a SSP is conducted, the Monitor shall determine, in consultation with its advisors, the next best Qualified Bid (the “Backup Bid”). The Qualified Bidder who submitted the Backup Bid will be the “Backup Bidder”. The Backup Bidder shall be required to keep its last submitted Subsequent Bid open for acceptance, or if it has not made a Subsequent Bid, its Qualified Bid, until the closing of the transaction with the Successful Bidder.

6.1 Top Aces Sale Process

1. As previously discussed in Mr. Bernard's March 21 affidavit, Discovery owns approximately 9.7% of the shares of TA Holdings. The remaining 90.3% of the TA Holdings shares are owned by Clairvest (64.75%) and a group of institutional financial investors led by JP Morgan Asset Management. The 9.7% interest in TA Holdings which is being marketed for sale in the SSP is subject to a shareholder agreement which provides limited rights for any buyer, including that the buyer will not be entitled to any board representation and will have restricted liquidity rights. Given the small size of the Top Aces interest available for sale, and the restrictions in relation to it, the Monitor believes that the most likely buyers for the Top Aces interest are financial buyers. Top Aces management is concerned that if strategic buyers, who are most likely direct competitors of Top Aces, gain access to non-public information in respect

of Top Aces, such information could be used against Top Aces, which would be adverse to its competitiveness and long term viability and, similarly, any acquisition of a minority interest in TA Holdings could lead to the same end. Accordingly, the Monitor is of the view that it is appropriate to limit the marketing of the Top Aces interest to financial buyers. The SSP provides the Monitor with the appropriate flexibility to grant access to any prospective purchaser the Monitor determines to be *bona fide*.

6.2 Clairvest's Access to SSP Information

1. Clairvest has multiple roles in these proceedings. It is the Group's most significant financial stakeholder, it has several representatives on the Company's Board, entities related to it are providing DIP financing for these proceedings and other entities related to it have submitted four stalking horse offers in the SSP.
2. In order to ensure the integrity of the SSP, it is contemplated that the Monitor will carry out the SSP, with the assistance of the Group's management, but that neither management nor the Monitor shall communicate with Clairvest regarding any SSP activity, including any other bids submitted in the SSP. The SSP does not provide Clairvest with any special information rights and it has no better information rights in the SSP than any other bidder.
3. The SSP includes several provisions to address the integrity of the process including Paragraph 16 of the SSP which states that "*Neither the Companies nor their Representatives or affiliates shall communicate the identities of any Interested Parties or information in respect of any bids or transaction documents to representatives of either of the Stalking Horse Bidders, whether in that capacity or any other capacity, unless and until the identity of the Qualified Bidders are exchanged with all other Qualified Bidders at Auction*". Such information shall also not be provided by the Monitor to Clairvest during the SSP. The proposed SSP Order also addresses this concern.

6.3 SSP Recommendation

1. The Monitor recommends that this Court issue the SSP Order for the following reasons:
 - a) in the Monitor's view, the SSP is commercially reasonable and is intended to canvass the market for transactions superior to each Stalking Horse Agreement;
 - b) in the Monitor's view, the terms and conditions of the Stalking Horse Agreements, including the values contemplated therein, are reasonable;
 - c) in the Monitor's view, the duration of the SSP is sufficient to allow interested parties to perform diligence and to submit offers. It is contemplated that the SSP will commence immediately following the granting of the proposed SSP Order;
 - d) the Monitor believes it is reasonable for the deadline to submit offers for the Top Aces interest to be two weeks shorter than the process for the Non-Applicant Subsidiaries as less diligence is required for the acquisition of the 9.7% interest in TA Holdings versus the 100% interest of each of the Non-Applicant Subsidiaries;

- e) the Monitor is also of the view that it is appropriate to market the Top Aces interest to financial buyers only due to the limited rights afforded in the Top Aces shareholder agreement to any buyer, and the highly competitive nature of the Top Aces business. There is a risk that a strategic buyer would only perform diligence to gain intelligence concerning the Top Aces business which it could use to the detriment of Top Aces and which would be adverse to the long-term viability of the Top Aces business;
- f) none of the Stalking Horse Agreements contemplate the payment of any Bid Protections, which is commonly seen in stalking horse agreements. In the Monitor's experience, bid protections in transactions of this nature are often between 2% to 4% of the purchase price. The absence of any Bid Protections should encourage participation in the SSP;
- g) the SSP provides prospective bidders with the opportunity to submit offers for the shares of the Non-Applicant Subsidiaries (as contemplated by the Stalking Horse Agreements) or their assets;
- h) interested parties can submit offers for any or all of the Non-Applicant Subsidiaries;
- i) Clairvest does not have any special information rights in the SSP and the SSP precludes the Group's management and the Monitor from sharing any SSP information with Clairvest or its representatives (in any capacity);
- j) the SSP provides the Monitor with the flexibility to extend any deadline in the SSP by up to two weeks without Court approval; and
- k) a stalking horse sale process provides stability to insolvent businesses during the restructuring process by informing stakeholders, such as employees, customers and vendors, that there is a going-concern buyer for the business.

7.0 Cash Flow Forecast

1. Since the commencement of these proceedings, the Company has made two draws on the DIP Facility totalling \$4.9 million.
2. As at the date of this Report, the Company is operating in accordance with its cash flow forecast filed with the Company's CCAA Application materials, which contemplated advances of approximately \$4.8 million for the same period.

8.0 Overview of the Monitor's Activities

1. Since the date of its appointment (March 21, 2018), the Monitor's activities have included the following:
 - carrying out its duties and obligations under the Initial Order, including arranging for a notice to be published in *The Globe and Mail* (National Edition) on March 26, 2018 and April 3, 2018 and sending a notice advising of these CCAA proceedings to each of the Company's known creditors owed greater than \$1,000;

- assisting the Company with the rollout of its stakeholder communications plan;
- working with the Company on cash management matters, including to submit its drawdown certificates and to prepare its weekly variance analysis, as required under the DIP Facility;
- working with the Company to prepare for the SSP, including drafting the Teasers, CIMs, NDAs, buyers lists and populating the data rooms;
- reviewing and commenting on draft materials filed for the SSP approval motion, including the SSP, the SSP Affidavit and the proposed SSP Order; and
- responding to a small number of enquiries received from the Company's unsecured debenture holders. In this regard, the Monitor has provided a brief overview of the CCAA proceedings, the proposed SSP and the date of the Comeback Hearing. The Monitor has advised that all materials filed in these proceedings are or will be available on its website and provided a link to the website.

9.0 Stay Extension

1. The Monitor supports the Company's request for an extension of the stay of proceedings to and including June 29, 2018 for the following reasons:
 - a) the Company is acting in good faith and with due diligence;
 - b) the extension will provide the opportunity to carry out the SSP, which is the principal purpose of these proceedings and is supported by the Monitor for the reasons set out in Section 6.3 of this Report;
 - c) the cash flow forecast filed with the Company's CCAA Application materials covers the period ending June 30, 2018. The cash flow reflects that the Company and the Non-Applicant Subsidiaries are projected to have sufficient funding under the Court approved DIP Facility to continue to operate in the normal course through the proposed stay extension period;
 - d) Clairvest, being the principal economic stakeholder and DIP lender in these proceedings, supports the stay extension;
 - e) CIBC's counsel has advised that CIBC does not oppose the extension; and
 - f) no creditor will be materially prejudiced if the extension is granted.

10.0 Conclusion and Recommendation

1. Based on the foregoing, KSV respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(h) of this Report.

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc". The letters are cursive and fluid.

**KSV KOFMAN INC.
IN ITS CAPACITY AS MONITOR OF
DISCOVERY AIR INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)

WEDNESDAY, THE 21ST

JUSTICE HAINEY)

DAY OF MARCH, 2018)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT



INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Paul Bernards, sworn March 21, 2018, and the Exhibits thereto (the "**Bernards Affidavit**"), and on reading the consent of KSV Kofman Inc. ("**KSV**") to act as the Monitor (in such capacity, the "**Monitor**"), and upon reading the pre-filing report of KSV dated March 21, 2018, in its capacity as the proposed Monitor, and on hearing the submissions of counsel for the Applicant and those subsidiaries set out in Schedule "A" hereto (each a "**Non-Applicant Subsidiary**" and collectively the "**Non-Applicant Subsidiaries**", and together with the Applicant the "**Discovery Air Group**"), the proposed Monitor and Clairvest Group Inc., no one appearing for any other party although duly served as appears from the affidavit of service of Katie Parent sworn March 21, 2018,

SERVICE AND DEFINED TERMS

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Subsidiaries shall enjoy certain benefits of the protections and authorizations provided by this Order, as set out herein.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

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

5. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system including, subject to the Definitive Documents (as hereinafter defined), the operating facility with Canadian Imperial Bank of Commerce (“**CIBC**”) and borrowings that may be made under that facility as well as the cash pooling arrangements currently in place as described in the Bernards Affidavit or replace it with another substantially

similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Discovery Air Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Discovery Air Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System (and, in particular, in its capacity as the operating facility lender), an unaffected creditor under the Plan or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3, as amended (“**BIA**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System. For greater certainty, any security held by CIBC in connection with the foregoing shall continue to retain its priority in respect of any usage or borrowings made from and after the date of this Order.

6. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

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

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

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

8. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts

payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, once a month on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that the Applicant shall be entitled but not obligated to continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) owing to each of Roynat Inc. ("**Roynat**") and ECN Aviation Inc. ("**ECN**") in connection with the secured credit facilities that it has with each such lender and, in the case of Roynat, its regularly scheduled payment of principal on April 15, 2018 provided, for greater certainty, that the maturity of the Roynat facility on such date is stayed as set out herein (all as contemplated by the cash flow forecast attached to the Bernards Affidavit).

10A **THIS COURT ORDERS** that the Applicant shall continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) and other repayments of borrowings from time to time outstanding pursuant to the terms of the operating facility with CIBC provided, for greater certainty, that the maturity of and the final repayment of principal upon maturity or any acceleration under the CIBC facility is stayed as set out herein.

11. **THIS COURT ORDERS** that other than as set out in paragraphs 10 and 10A, and except as may otherwise specifically be permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) with the approval of the Monitor, enter into one or more agreements for the provision of shared services with any or all of Top Aces Inc. and/or the Non-Applicant Subsidiaries; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

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

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours’ prior written notice, and (b) at

the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE DISCOVERY AIR GROUP OR THEIR PROPERTY

15. **THIS COURT ORDERS** that until and including April 20, 2018, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceedings shall be commenced or continued against or in respect of the Non-Applicant Subsidiaries, or any of their current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the “**Non-Applicant Subsidiaries’ Property**”, and together with the Non-Applicant Subsidiaries’ businesses, collectively, the “**Non-Applicant Subsidiaries’ Property and Business**”), arising upon or as a result of (i) the insolvency of the Applicant; (ii) the making or filing of these proceedings or of any order in these proceedings; (iii) any default or event of default arising as a result of or pursuant to either of (i) or (ii) or any default under the terms of any document entered into in connection with any of Discovery’s or the Non-Applicant Subsidiaries’ secured debt facilities including any guarantee thereunder to which any of the Applicant or the Non-Applicant Subsidiaries are a party; or (iv) any default arising out of a contract or agreement to which the Applicant and one or more Non-Applicant Subsidiaries is a party (collectively the “**Non-Applicant Subsidiary Default Events**”). Without limitation, the operation of any provision of a contract or agreement between a Non-Applicant Subsidiary and any other Person that purports to effect or cause a

termination or cessation of any rights of the Non-Applicant Subsidiary, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Non-Applicant Subsidiary Default Events, is hereby stayed and restrained during the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

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

17A **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the Non-Applicant Subsidiaries, or affecting the Non-Applicant Subsidiaries’ Property and Business, as a result of a Non-Applicant Subsidiary Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Non-Applicant Subsidiaries to carry on any business which the Non-Applicant Subsidiaries are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

18A **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any other party as a result of a Non-Applicant Subsidiary Default Event, except with the written consent of the Applicant and the Monitor, or leave of this Court.

18B. **THIS COURT ORDERS** that, notwithstanding paragraphs 15 to 18A or any other provisions of this Order, upon the occurrence of an event of default under the CIBC operating facility other than a default which may arise as a result of, or otherwise relate to, the insolvency of the Applicant, the commencement of the Applicant's proceedings under the CCAA or any relief granted in these proceedings occurring after the date hereof, CIBC shall immediately upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the CIBC operating facility and any and all security granted thereunder, including without limitation, set off and/or consolidate any amounts owing by CIBC to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to CIBC under the operating facility, to make demand, accelerate payment and give other notices, provided however, that CIBC may not take any further steps to enforce its security without leave of this Court, including without limitation, applying for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and the foregoing rights and remedies of CIBC shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility

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

19A **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with one or more Non-Applicant Subsidiaries or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any Non-Applicant Subsidiaries, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Non-Applicant Subsidiaries as a result of a Non-Applicant Subsidiary Default Event, and that the Non-Applicant Subsidiaries shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Non-Applicant Subsidiaries in accordance with normal payment practices of the Non-Applicant Subsidiaries or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant or any Non-Applicant

Subsidiary. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$100,000, as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 48 and 50 herein.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

APPOINTMENT OF MONITOR

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

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

- (a) monitor the Discovery Air Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as defined herein) and its counsel and CIBC and its counsel on a periodic basis of financial and other information as agreed to between the Applicant and the DIP Lender that may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender or CIBC, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel and CIBC and its counsel on a periodic basis, as agreed to by the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) conduct, supervise and carry out any sales process(es) with respect to the Property and the Business;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (j) commence applications for recognition of these proceedings outside of Canada in its capacity as foreign representative without further Order of this Court; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

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

28. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property or the Non-Applicant Subsidiaries' Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure

imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property or the Non-Applicant Subsidiaries' Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements incurred prior to or following the date hereof, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis or at such other intervals as the Applicant and the Monitor may agree.

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

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as

security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 48 and 50 hereof.

34. **THIS COURT ORDERS** that KSV in its capacity as Monitor in these proceedings be and hereby is authorized to act as a foreign representative of the Applicant and of these proceedings for the purpose of having these proceedings recognized outside of Canada.

INTERCOMPANY FINANCING

35. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant may advance funds to its Non-Applicant Subsidiaries after the date of this Order, whether through operation of the Cash Management System, an intercompany loan, including, without limitation, loans made pursuant to the DIP Term Sheet, or otherwise (“**Intercompany Advances**”). The Applicant’s accounts and records shall constitute, in the absence of manifest error, *prima facie* evidence of the balance of the Intercompany Advances.

36. **THIS COURT ORDERS** that the Intercompany Advances to each Non-Applicant Subsidiary shall be secured by a charge in favour of the Applicant (each, an “**Intercompany Charge**”) over the applicable Non-Applicant Subsidiary’s Property to the extent of each of their respective indebtedness to the Applicant for Intercompany Advances. The Intercompany Charges shall have the priority set out in paragraph 50 hereof.

DIP FINANCING

37. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from CEP IV Co-Investment Limited Partnership (the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures and the Intercompany Advances, provided that borrowings under such credit facility shall not exceed \$12.6 million unless permitted by further Order of this Court.

38. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the DIP Lender dated as of March 21, 2018 (the “**DIP Term Sheet**”), filed.

39. **THIS COURT ORDERS** that the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents, including, without limitation, in connection with the Intercompany Advances (collectively and including the DIP Term Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

40. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 48 and 50 hereof. Without limiting the generality of the foregoing, the Applicant’s obligations under the DIP Term Sheet and the Intercompany Advances shall also be secured by the assignment by the Applicant to the DIP Lender of the Intercompany Charges and the repayment obligations of the Non-Applicant Subsidiaries to the Applicant in respect of the Intercompany Advances, each of which are hereby assigned.

41. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge, the Intercompany Charges or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents, the DIP Lender’s Charge or the Intercompany Charges, the DIP Lender shall immediately

upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the DIP Term Sheet, Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to the DIP Lender under the DIP Term Sheet, the Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

42. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan or any proposal filed by the Applicant under the BIA, with respect to any advances made under the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Applicants' Key Employee Retention Plan ("**KERP**"), as described in the Bernards Affidavit is hereby approved.

44. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to enter into the KERP with KERP Employees (as defined in the Bernards Affidavit).

45. **THIS COURT ORDERS** that the amounts payable to the Key Employees pursuant to the KERP are hereby secured by a charge (the "**KERP Charge**") on the Property, in favour of

the Key Employees. The KERP Charge shall have the priority set out in paragraphs 48 and 50 hereof

46. **THIS COURT ORDERS** that the aggregate amount secured by the KERP Charge granted to secure the Applicants' obligations under the KERP shall be in an amount of no more than CDN\$1.65 million.

47. **THIS COURT ORDERS** that Confidential **Exhibit "K"** to the Bernards Affidavit be and is hereby sealed pending further order of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

48. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the KERP Charge and the DIP Lender's Charge, as among them, against the Property shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – Directors' Charge (to the maximum amount of \$100,000);

Third – KERP Charge (to the maximum amount of \$1.65 million); and

Fourth – DIP Lender's Charge.

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the KERP Charge, the DIP Lender's Charge or the Intercompany Charges (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that:

- a) each of the Administration Charge, the Directors' Charge and the KERP Charge (all as constituted and defined herein) shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") of the Applicant in favour

of any Person other than (i) any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or similar provincial legislation or (ii) any statutory super priority deemed trusts and liens for unremitted employee source deductions;

- b) the DIP Lender's Charge shall rank immediately in priority to Clairvest's Encumbrances granted by or against the Applicant or the Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the DIP Lender's Charge shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances; and
- c) the Intercompany Charges shall rank immediately in priority to Clairvest's Encumbrances granted by or against any Non-Applicant Subsidiary or the Non-Applicant Subsidiaries' Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the Intercompany Charges shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances with respect to the Non-Applicant Subsidiaries' Property.

51. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant and the Non-Applicant Subsidiaries shall not grant any Encumbrances over any Property or Non-Applicants Subsidiaries' Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge, the KERP Charge, the DIP Lender's Charge or the Intercompany Charges, unless the Applicant also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge, the beneficiaries of the KERP Charge, and the Administration Charge, or further Order of this Court.

52. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the DIP Term Sheet, the Definitive Documents, the DIP Lender's Charge and the Intercompany Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for

bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant or the Non-Applicant Subsidiaries, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant or the Non-Applicant Subsidiaries of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant or the Non-Applicant Subsidiaries pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the interests of the Applicant or of the Non-Applicant Subsidiaries in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the

names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

55. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<http://www.ksvadvisory.com/insolvency-cases/discovery-air/>’.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant’s creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

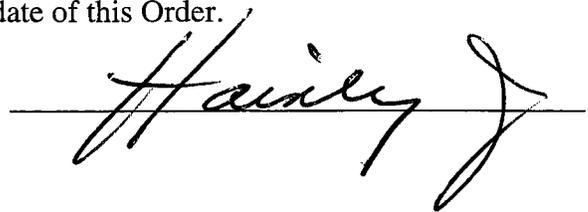
58. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

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

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

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

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

A handwritten signature in cursive script, appearing to read "Hainey J.", is written over a horizontal line.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 21 2018

PER / PAR:

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Schedule "A" – Non- Applicant Subsidiaries

1. Great Slave Helicopters Ltd.
2. Air Tindi Ltd.
3. Discovery Mining Services Ltd.
4. Discovery Air Technical Services Inc.

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

Court File No.:

CV-18-594380-COCL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DISCOVERY AIR INC. (the "APPLICANT")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

INITIAL ORDER

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Appendix “B”



**Report of
KSV Kofman Inc.
as Proposed CCAA Monitor of
Discovery Air Inc.**

March 21, 2018

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COURT FILE NO.: CV-18-594380-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF DISCOVERY AIR INC.**

REPORT OF KSV KOFMAN INC. AS PROPOSED MONITOR

March 21, 2018

1.0 Introduction

1. KSV Kofman Inc. ("KSV") understands that Discovery Air Inc. (the "Company") intends to make an application to the Ontario Superior Court of Justice (Commercial List) (the "Court") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for an initial order (the "Initial Order") granting the Company protection under the CCAA and appointing KSV as the CCAA monitor in these proceedings ("Monitor"). KSV has consented to act as Monitor.
2. The principal purpose of these restructuring proceedings is to create a stabilized environment to conduct a sale solicitation process ("SSP") for the Company's wholly-owned operating subsidiaries, Great Slave Helicopters Ltd. ("GSH"), Air Tindi Ltd. ("ATL") and Discovery Mining Services Ltd. ("DMS"). The SSP will also market for sale the Company's residual interest in Top Aces Holdings Inc. ("TA Holdings"), through which the Company holds an interest in Top Aces Inc. ("Top Aces"), formerly Discovery Air Defence Services Inc. Approval of the SSP is anticipated to be sought within two weeks of the issuance of the Initial Order, if issued by the Court.
3. The Affidavit of Paul Bernards, the Company's Chief Financial Officer, sworn March 21, 2018 and filed in support of the Company's application for CCAA protection (the "Affidavit"), provides, *inter alia*, the Company's background, including the reasons for the commencement of these proceedings.
4. KSV is filing this report ("Report") as the proposed Monitor.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide KSV's qualifications to act as Monitor;
 - b) provide background information about the Company;
 - c) report on the Company's cash flow projection for the period March 19, 2018 to June 30, 2018 ("Cash Flow Forecast");
 - d) summarize the terms of a debtor-in-possession loan facility ("DIP Facility") in the maximum principal amount of \$12.6 million to be made available to the Company by CEP IV Co-Investment Limited Partnership (the "DIP Lender"), an affiliate of Clairvest Group Inc. (together with its affiliates, "Clairvest") pursuant to a DIP term sheet dated March 21, 2018 (the "DIP Term Sheet");
 - e) discuss the rationale for:
 - extending the stay of proceedings over GSH, ATL, DMS and an inactive wholly-owned subsidiary, Discovery Air Technical Services Inc. ("DATS") (together with GSH, ATL and DMS, the "Non-Applicant Subsidiaries"), and each of their officers and directors, for the limited purpose of preventing creditor actions against the Non-Applicant Subsidiaries due to the Company's insolvency or its filing for CCAA protection;
 - a \$750,000 charge on all of the Company's property to secure the fees and disbursements of the Company's counsel, the Monitor and its counsel in these proceedings (the "Administration Charge");
 - a \$100,000 charge in favour of the directors and officers of the Company (the "D&O Charge");
 - a \$1.65 million charge (the "KERP Charge") in favour of the beneficiaries of the Company's proposed key employee retention plan ("KERP") and the Company's request to seal the confidential exhibit to the Affidavit which includes the identity and personal compensation information of the employees entitled to the KERP;
 - a charge in favour of the DIP Lender to secure advances under the DIP Facility (the "DIP Lender's Charge");
 - a charge in favour of the Company over the property, assets and undertaking of each of the Non-Applicant Subsidiaries for any intercompany advances which may be made by the Company to the Non-Applicant Subsidiaries ("Intercompany Advances") during these proceedings (each an "Intercompany Charge", and all of them collectively the "Intercompany Charges");
 - the proposed priority in the proposed Initial Order of the Administration Charge, D&O Charge, KERP Charge, DIP Lender's Charge and Intercompany Charges; and

- f) recommend that this Court grant the relief sought by the Company in its CCAA application materials.

1.2 Restrictions

1. In preparing this Report, KSV has relied upon the Company's audited and unaudited financial information, including certain of its books and records, and discussions with the Company's management, the Company's counsel and representatives of Clairvest and its counsel. KSV has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
2. KSV expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by KSV in preparing this Report. Any party wishing to place reliance on the Company's financial information should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.
3. An examination of the Cash Flow Forecast as outlined in the Chartered Professional Accountant Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon the Company's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. KSV expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.

1.3 Currency

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

1.4 KSV's Qualifications to Act as Monitor

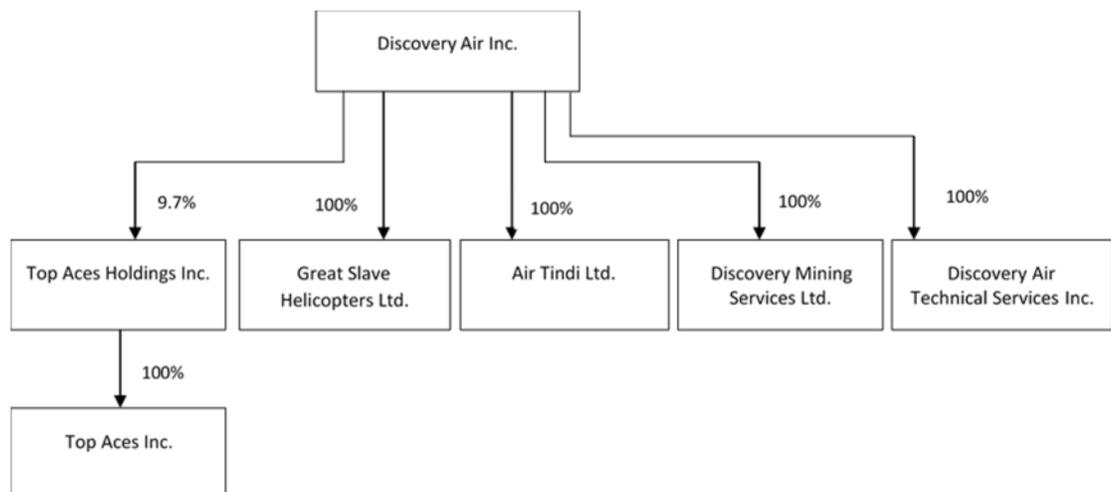
1. KSV is qualified to act as Monitor in these proceedings:
 - a) KSV is a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada). KSV is not subject to any of the restrictions to act as monitor set out in Section 11.7(2) of the CCAA; and
 - b) KSV has extensive experience acting as a monitor under the CCAA in a wide variety of industries, including experience in the aviation and specialized aviation services industries¹.
2. KSV has consented to act as Monitor in these proceedings should the Court grant the Initial Order. A copy of KSV's consent to act as Monitor is attached as Appendix "A".

¹ Completed in its predecessor entities, being the Toronto restructuring practice of RSM Richter Inc. and Duff & Phelps Canada Restructuring Inc.

3. KSV was engaged by Clairvest on November 28, 2016 with respect to the Company. Although engaged in late 2016, KSV’s mandate has had several long inactive periods, with its mandate being most active in the last several weeks. Since the date of its engagement, KSV has been consulted periodically when liquidity or operating issues arose that could require the Company to file for CCAA protection. To date, KSV’s mandate has focused on the structure of these proceedings, reviewing and commenting on application materials, assisting the Company to prepare its Cash Flow Forecast, drafting communication documents to be used in the context of a filing and preparing sale process materials for the SSP (which is proposed to be conducted by the Monitor, as discussed further below).
4. In acting as Monitor in these proposed proceedings, and in any Court-supervised insolvency mandate, KSV acts as an independent officer of the Court and is cognizant to carry out its duties and obligations accordingly. In carrying out its mandate pursuant to the engagement noted in paragraph 3 above, KSV was mindful of the possibility of its potential appointment as a Court officer. KSV’s engagement letter states that its advisory engagement will terminate immediately prior to its appointment as a Court officer in any formal insolvency proceeding involving the Company and explains its duties and obligations in performing such role.

2.0 Company Background

1. The Company is a holding company that provides management services to the Non-Applicant Subsidiaries and Top Aces, including strategy, corporate finance, accounting, legal, aviation insurance, human resources and information technology². The Company was founded in 2004 and is headquartered in Toronto, Ontario. (Throughout this Report, the Company and the Non-Applicant Subsidiaries are collectively referred to as the “Group”).
2. The Group provides specialty aviation and logistics support services across Canada and in select locations internationally, including the US, Bolivia and Chile. A condensed corporate chart of the Group, including the Company’s residual interest in TA Holdings, is provided below.



² Some of these services have recently been transferred to the Non-Applicant Subsidiaries, as relevant for their specific operations, and to Top Aces.

3. A summary of the operations of the Non-Applicant Subsidiaries is provided below:
 - a) GSH is one of Canada's largest onshore helicopter operators. It operates from its two main bases located in Yellowknife, Northwest Territories and Calgary, Alberta, as well as from sub-bases throughout Canada and in select locations in South America. GSH provides mineral and oil and gas exploration support, forest fire suppression, support to government agencies and other services, including environmental surveying, utilities/pipeline patrol, power line construction and telecommunications support.
 - b) ATL is a commercial fixed wing charter company with its main base in Yellowknife, Northwest Territories. ATL operates a diversified fleet of fixed wing aircraft and provides scheduled and charter passenger and cargo services, as well as medevac equipped aircraft services, primarily in Northern Canada. Its customers include government agencies, multinational diamond mining companies, various junior mining, exploration companies and the general public on scheduled and chartered flights.
 - c) DMS provides fully scalable remote exploration camps and expediting, logistics and staking services to gold, base metal, uranium and diamond exploration companies operating in the Northwest Territories, Nunavut, Yukon, Northern Saskatchewan and Northern Ontario. DMS provides and manages custom-designed, all-weather exploration camps and assists with its customers' logistical needs.
 - d) DATS is an inactive wholly-owned subsidiary. DATS is included in these proceedings as a Non-Applicant Subsidiary as it is the tenant of leased premises in Etobicoke, Ontario which serve as the Company's head office. It is also a guarantor of various secured obligations described in this Report.
4. The Company presently has seven employees. Three of the Company's employees are senior officers of the Group. The remaining employees also serve in key finance and legal functions and provide support to the senior officers and to the Group generally. The Company's employees are not unionized and none of the Company or the Non-Applicant Subsidiaries maintain a pension plan.
5. Prior to May 26, 2017, the Company's Class A common shares were publicly traded on the Toronto Stock Exchange ("TSX") under the symbol DA.A. On May 26, 2017, Clairvest along with certain management shareholders of the Company, which together owned 91% of the Company's shares at the time, acquired the remaining 9% of the Company's Class A common shares through a going-private transaction (the "GPT"). The GPT was approved by the Court on May 24, 2017 and closed on May 26, 2017.
6. Following the GPT, the Company's shares were de-listed from the TSX. The Company continues to be a reporting issuer in respect of unsecured listed convertible debentures which it issued in May, 2011 in the face amount of \$34.5 million (the "Unsecured Listed Debentures"). The Unsecured Listed Debentures are listed on the TSX under the symbol DA.DB.A. As at January 31, 2018, approximately \$34.7 million was outstanding under the Unsecured Listed Debentures, inclusive of interest. The Unsecured Listed Debentures mature on June 30, 2018.

7. As detailed in the Affidavit, on numerous occasions since Clairvest's initial financing in 2011, the Company has faced liquidity issues, including as recently as late 2017, which have been resolved through financing transactions with Clairvest. Notwithstanding those transactions, the Company continues to face urgent liquidity needs as a result of, *inter alia*:
 - a) an anticipated margin shortfall under its operating line of credit with Canadian Imperial Bank of Commerce ("CIBC") that is presently forecasted to arise during the week of March 19, 2018 and to continue to increase thereafter. Additionally, this facility matures on April 30, 2018³;
 - b) the maturity on April 15, 2018 of its obligations (approximately \$5.1 million) owing to Roynat Inc. ("Roynat") under a secured aircraft financing facility;
 - c) the maturity on May 5, 2018 of its secured obligations (approximately \$72.7 million) owing to Clairvest under its secured debentures; and
 - d) the maturity on June 30, 2018 of its obligations owing under the Unsecured Listed Debentures (approximately \$34.5 million and \$1.4 million of principal and interest, respectively).
8. As set out in the Affidavit, the Company is unable to meet or refinance these obligations and Clairvest has advised that it is no longer prepared to provide further funding absent a resolution of the financial challenges facing the Company.
9. Further detailed information concerning the Company and its background is provided in the Affidavit. In order to avoid duplication, that discussion has not been repeated in this Report.

2.1 Financial Overview

1. The Company has incurred significant losses over its last three fiscal years resulting from, among other things, a slowdown in the resource sector and a change in regulatory policies in 2017 that caused the grounding of certain Top Aces aircraft on two separate occasions, at which time Top Aces was wholly owned by the Company.
2. A summary of the Company's consolidated financial results for its fiscal years ending January 31, 2016, 2017 and 2018 is provided in the table below. The table also includes a summary of the Shareholders' Deficit, which has increased on a year-over-year basis, reflecting the ongoing negative performance of the Non-Applicant Subsidiaries.

³ On December 15, 2017, the Company announced that the maturity date of its CIBC facility had been extended to January 31, 2019 subject to acceleration in certain circumstances. Given the current circumstances, the maturity date of the CIBC facility is effectively April 30, 2018.

(C\$000s; consolidated)	January 31, 2016 (audited)	January 31, 2017 (audited)	January 31, 2018 (unaudited) ⁴
Revenue	182,181	171,055	143,117
Income from equity investments	1,553	798	858
Expenses	(157,082)	(150,085)	(136,740)
EBITDA	26,652	21,768	7,235
Depreciation and amortization	(21,273)	(19,748)	(17,379)
Finance costs	(19,676)	(20,431)	(21,506)
Other (gains) and losses	(3,350)	(2,682)	(6,010)
Income tax recovery	2,820	3,018	8,704
Income (loss) from discontinued operations, net of tax	(1,184)	27	-
Total comprehensive loss	(16,011)	(18,048)	(28,956)
Retained Earnings/(Deficit)	(37,838)	(55,886)	(80,222)

3. The above table reflects that, *inter alia*:
- the Company has incurred losses over the last three fiscal years totalling approximately \$63 million, with those losses increasing on a year-over-year basis;
 - revenue has declined over the period; and
 - EBITDA was insufficient to cover the Company's debt service costs (principal and interest) and to fund its capital expenditures, which are consistently significant.
4. The Company's deteriorating financial performance has necessitated numerous transactions and/or amendments with multiple lenders, including Clairvest, to its secured credit facilities (and the credit facilities of the Non-Applicant Subsidiaries), to extend maturity dates and to address various defaults, as more fully detailed in the Affidavit.

⁴ As a result of transactions more fully detailed in the Affidavit, effective December 14, 2017, the Company has a 9.7% interest in Top Aces. Accordingly, Top Aces is recorded as an investment in its year-end financial statements; however, the fiscal 2018 financial results presented above include Top Aces' results for the period February 1, 2017 to December 14, 2017. The fiscal 2016 and 2017 statements include Top Aces' results for those periods.

3.0 Creditors

3.1 Secured Creditors

1. The following table summarizes the Group's secured obligations, including amounts owing to each creditor as of January 31, 2018⁵, based on the Company's books and records.

Creditor	Principal Debt Outstanding	Maturity Date
Clairvest	\$72.7 million	May 5, 2018
CIBC	\$14.8 million	April 30, 2018
ECN Aviation Inc. ("Element")	\$8.6 million	April 1, 2020
Roynat	\$5.1 million	April 15, 2018
Textron Financial Corporation ("Textron")	\$13.1 million	April 1, 2023

2. The details of each of these facilities are provided in the Affidavit.
3. The Company intends to continue to service principal and interest on these facilities during these proceedings; however, the Initial Order provides a stay in respect of the obligation to repay the amounts due on the maturing facilities.

3.1.1 Security Opinion

1. KSV retained Goodmans LLP ("Goodmans") prior to these proceedings to act as its legal counsel in the event the Initial Order is granted and KSV is appointed as the Monitor. At KSV's request, Goodmans provided an opinion on Clairvest's security which, subject to the assumptions and qualifications contained therein, concluded that: (a) the security granted to Clairvest by the Company and the Non-Applicant Subsidiaries⁶, as registered under the *Ontario Personal Property Security Act* ("PPSA"), creates a valid and perfected security interest in the personal property collateral of each of the Company and the Non-Applicant Subsidiaries which is situated in Ontario; and (b) Clairvest has a perfected, first-ranking security interest in the shares of GSH, ATL, DMS and TA Holdings owned by the Company. Goodmans has also advised that, while they have not rendered or sought opinions in other Provinces or Territories, searches under applicable personal property security regimes in each Province (other than Quebec) and Territory have been performed and that Clairvest has registrations in each such Province or Territory. A copy of the security opinion will be made available to the Court should the Court wish to review it.
2. To date, Goodmans has only been asked to perform a review of the Clairvest security since the proposed proceedings contemplate: (a) the SSP, in which Clairvest entities will rely on its security for the purpose of submitting stalking horse offers for the Company's shares of GSH, ATL, DSM and TA Holdings, as further detailed below; and (b) interim financing being provided by a Clairvest entity with related charges to rank prior to the Clairvest security in each instance.

⁵ Other than CIBC, which reflects the Company's indebtedness as at March 16, 2018 and includes amounts owing under outstanding letters of credit totalling approximately \$4.2 million.

⁶ As DATS is an inactive corporation, Goodmans was instructed not to undertake a review of security granted by DATS.

3.2 Unsecured Creditors

1. The Company's principal unsecured creditors are holders of the Unsecured Listed Debentures. The Unsecured Listed Debentures were issued in the principal amount of \$34.5 million pursuant to an indenture dated May 12, 2011, as amended. The Unsecured Listed Debentures mature on June 30, 2018 and accrue interest at a rate of 8.375% per annum, payable on a semi-annual basis.
2. KSV understands that the Company will not be able to meet its obligations in respect of the Unsecured Listed Debentures when they mature on June 30, 2018. On that date, principal and interest in the amounts of approximately \$34.5 million and \$1.4 million, respectively, will become due and payable. At this time, the Company is current on its Unsecured Listed Debenture obligations, including funding in December, 2017, its most recent semi-annual interest payment of approximately \$1.4 million.
3. Based on the Company's books and records as at January 31, 2018, accounts payable and accrued liabilities, excluding the Unsecured Listed Debentures and intercompany obligations, totalled approximately \$2 million.

4.0 Cash Flow Forecast

1. The Company prepared the consolidated Cash Flow Forecast, which covers the period March 19, 2018 to June 30, 2018. The Cash Flow Forecast and the Company's statutory report on the cash flow pursuant to Section 10(2)(b) of the CCAA is attached as Appendix "B".
2. The Cash Flow Forecast reflects that borrowings under the DIP Facility are projected to peak at approximately \$11.9 million during the week ended June 3, 2018. The Cash Flow Forecast also reflects that the Company is projected to require approximately \$6.9 million under the DIP Facility until the expiry of the initial stay period on April 20, 2018. Funding is required for the Company and the Non-Applicant Subsidiaries to continue to operate in the normal course, including to meet their respective payroll and other operating expenses. The Cash Flow Forecast has been prepared on the basis that the Company remains in margin under the CIBC facility during these proceedings.
3. Based on KSV's review of the Cash Flow Forecast, the cash flow assumptions appear reasonable. KSV's statutory report on the Cash Flow Forecast is attached as Appendix "C".

5.0 DIP Facility⁷ and Intercompany Funding

1. The terms of the DIP Facility are detailed in the DIP Term Sheet. A copy of the DIP Term Sheet is attached to the Affidavit. The significant terms of the DIP Facility are summarized below.
 - a) Borrower: the Company, which, if approved by the Court, would make advances to the Non-Applicant Subsidiaries, as required, as “Intercompany Advances” to be secured by the Intercompany Charges in favour of the Company over the business and assets of the applicable Non-Applicant Subsidiary.
 - b) Lender: CEP IV Co-Investment Limited Partnership
 - c) Loan Amount: \$12.6 million
 - d) Maturity date: unless otherwise agreed by the parties, the earlier of: (i) the occurrence of any Event of Default that is continuing and has not been cured or waived in writing by the DIP Lender; (ii) the closing of one or more sale transaction(s) for all or substantially all of the Company’s assets; and (iii) December 21, 2018.
 - e) Interest rate: 10% per annum. Upon the occurrence of an Event of Default, the interest rate will increase to 14% per annum.
 - f) Fees and expenses: there are no commitment or other fees included in the DIP Term Sheet other than the Company covering the DIP Lender’s reasonable out-of-pocket expenses, including all reasonable legal expenses, incurred by the DIP Lender in connection with these proceedings.
 - g) DIP Lender’s Charge: all obligations of the Company under the DIP Facility are to be secured by a Court-ordered charge over the Company’s property, assets and undertaking. The charge is to rank in priority only to Clairvest’s existing security pursuant to its secured debentures but subordinate to all existing security which ranks in priority to Clairvest’s existing security.
 - h) Intercompany Charges: pursuant to the Initial Order, Intercompany Advances from the Company to each Non-Applicant Subsidiary are to be secured by an Intercompany Charge on the assets, property and undertaking of such Non-Applicant Subsidiary which will in each case rank behind any existing secured obligations of the Non-Applicant Subsidiaries that currently rank in priority to the security held by Clairvest in the assets of that Non-Applicant Subsidiary.
 - i) Reporting: reporting obligations include the provision of weekly “rolling” cash flow projections and a weekly budget-to-actual variance analysis.

⁷ Terms not defined in this section have the meaning provided to them in the DIP Term Sheet.

- j) Conditions: key Conditions include:
 - i. the entry of the Initial Order and the granting of the DIP Lender's Charge;
 - ii. execution and delivery of intercompany loan documents between the Company and each of the Non-Applicant Subsidiaries, in each case on terms acceptable to the DIP Lender; and
 - iii. assignments of such intercompany loan documents by the Company to the DIP Lender.

- k) Events of Default: The following is a summary of the material Events of Default:
 - i. the issuance of a Court Order terminating the CCAA proceedings or lifting the stay in the CCAA proceedings to permit the enforcement of any security, or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Company or the Non-Applicant Subsidiaries;
 - ii. the issuance of any Court Order: (i) staying, reversing, vacating or otherwise modifying the DIP Lender's Charge; or (ii) that adversely impacts or could reasonably be expected to adversely impact the rights and interests of the DIP Lender; provided, however, that any such order that provides for payment in full forthwith of all of the obligations of the Company under the DIP Facility shall not constitute an Event of Default;
 - iii. any update to the DIP Agreement Cash Flow Projection indicating that the Company would require additional funding above the Maximum Amount to meet its obligations at any time during the period of the DIP Agreement Cash Flow Projection; and
 - iv. a Court Order is made, a liability arises or an event occurs, including any change in the business, assets, or conditions, financial or otherwise, of the Company or the Non-Applicant Subsidiaries that has or will have a Material Adverse Effect.

5.1 Recommendation

1. KSV considered the following factors when reviewing the reasonableness of the DIP Facility, as well as those set out in Section 11.2 of the CCAA:
 - a) KSV understands that the DIP Lender is not willing to provide the required interim financing other than on the terms and conditions set out in the DIP Term Sheet;
 - b) without the DIP Facility, the Company will be unable to fund its business and the continued operations of the Non-Applicant Subsidiaries will be at risk, including payroll, fuel costs, maintenance and other capital expenditures and general operating expenses. Accordingly, absent funding under the DIP Facility, the operations of the Company would be discontinued;

- c) KSV compared the terms of the DIP Facility to other DIP facilities approved by Canadian courts in CCAA proceedings commenced in 2017 and 2018. The comparison is attached as Appendix “D”. Based on KSV’s analysis, the cost of the proposed DIP Facility is lower than other recent DIP financings approved by this and other Canadian courts;
 - d) substantially all of the other DIP facilities approved by Canadian courts provide a corresponding super-priority DIP charge over all other creditors. In these proceedings, the DIP Lender’s Charge is contemplated to respect the existing secured lender priorities of the Group and rank in priority to creditors who presently rank subordinate to Clairvest’s existing security interests;
 - e) given the complexity of the Group’s debt structure and the structure of these proceedings, KSV is of the view that the Company would not be able to identify a lender who would be willing to provide a DIP facility which respects the existing priorities of the secured creditors of the Group;
 - f) KSV believes that approval of the DIP Facility is in the best interests of the Group’s stakeholders and will enhance the prospects of maximizing value in the circumstances. The DIP Facility is projected to be sufficient to fund the normal course operations of the Group through the completion of these proceedings while the SSP is carried out. KSV does not believe that creditors will be prejudiced from approval of the DIP Facility – to the contrary, they will benefit from it as it will allow the business to continue to operate, which will enhance value versus the alternative, which is the discontinuation of operations and the potential liquidation of its assets; and
 - g) KSV has considered the proposed Intercompany Charges. As set out in the Cash Flow Forecast, the primary use of the advances under these charges is to fund the ordinary course payments of the Non-Applicant Subsidiaries during these proceedings. Given that the Non-Applicant Subsidiaries are not CCAA debtors, they intend to continue to pay their obligations as they come due. The Intercompany Charges respect the existing secured lender priorities of the Group. Accordingly, for the reasons noted in the preceding paragraph, KSV is of the view that the Intercompany Charges benefit these proceedings and do not prejudice any creditors.
2. Based on the foregoing, KSV believes that the terms of the DIP Facility are reasonable in the circumstances.

6.0 Stay of Proceedings

1. The Company is the sole applicant in these proceedings; however, the Company is seeking to extend a limited stay of proceedings to the Non-Applicant Subsidiaries and their officers and directors in order to: (a) enhance stability during the restructuring process; and (b) avoid the risk that the insolvency of the Company and the commencement of these proceedings are relied upon as the basis to commence adversarial proceedings, terminate contracts or to take other adverse actions which could disrupt the operations and impair the value of the Non-Applicant Subsidiaries.

2. KSV understands that the Non-Applicant Subsidiaries are parties to hundreds of contracts pursuant to which termination provisions may be triggered as a result of a CCAA filing by the Company. Certain of these contracts are required for the Non-Applicant Subsidiaries to carry on business in the ordinary course. Perhaps most importantly, the Non-Applicant Subsidiaries' secured creditors have complex financing arrangements that include the Company, and it is not practical to stay those obligations at the Company level without also staying those obligations and related cross-defaults and other rights at the Non-Applicant Subsidiaries level. The Company plans to service principal and interest costs arising in respect of its secured debt during the CCAA proceedings (other than to Clairvest), but to stay any maturing principal obligations and any defaults, cross-defaults and similar rights that would permit acceleration and/or enforcement.
3. As a result of the risks identified above, KSV believes that extending the stay of proceedings to the Non-Applicant Subsidiaries and their officers and directors is in the best interests of the Company, its stakeholders and the success of these proceedings.

7.0 Court Ordered Charges

7.1 Administration Charge

1. The Company is seeking an Administration Charge in an amount not to exceed \$750,000 to secure the fees and expenses of the Monitor, its counsel and the Company's counsel.
2. The Administration Charge is a customary provision in an Initial Order in a CCAA proceeding - it is required by certain of the professionals engaged to assist a debtor company and to protect them in the event that the Company is unable to pay their fees and costs during the CCAA process.
3. The Company worked with KSV to estimate the proposed amount of the Administration Charge.
4. KSV believes that the Administration Charge is reasonable and appropriate in the circumstances given the complexities of the Company's proceedings and the services to be provided by professionals involved in these proceedings.

7.2 DIP Lender's Charge

1. The Company is seeking a charge for the DIP Lender to secure its advances under the DIP Facility. KSV is of the view that the DIP Lender's Charge is required and it is appropriate that this relief be sought at the outset of these proceedings as: (i) the Group is in immediate need of liquidity; (ii) the terms of the DIP Facility are reasonable for the reasons set out in Section 5.1 of this Report; (iii) the DIP Lender is not prepared to provide DIP financing without the benefit of the DIP Lender's Charge; and (iv) it is not contemplated that the DIP Lender's Charge will rank in priority to any creditors that presently rank in priority to Clairvest.

7.3 Intercompany Charge

1. The Company's cash management system is described in the Affidavit. Given the centralization of the cash management system, including its revolving line of credit with CIBC, to the extent that the Non-Applicant Subsidiaries require funding, it is to be advanced by the Company. The Initial Order contemplates that the Company will continue to make Intercompany Advances during these proceedings to the Non-Applicant Subsidiaries to fund their businesses.
2. The proposed Initial Order contemplates that the Intercompany Advances will be secured by Intercompany Charges over the assets of each of the Non-Applicant Subsidiaries to the extent of the Intercompany Advances made to each such Non-Applicant Subsidiary. In accordance with the terms of the DIP Term Sheet, the Company's rights under the Intercompany Charges will be assigned to the DIP Lender as security for the Company's obligations under the DIP Facility.
3. KSV is of the view that the Intercompany Charges are reasonable both for the reasons set out in paragraph 5.1(g) above and on the same basis as the DIP Lender's Charge, including that the Intercompany Charges do not upset the priorities of the existing secured lenders in the Group, other than Clairvest, which requires the structure of this facility. Clairvest has consented to the structure of this facility.

7.4 D&O Charge

1. KSV understands that the Company is current on all pre-filing obligations for which directors may be personally liable, including payroll obligations and sales taxes. The Cash Flow Forecast contemplates that all such amounts will continue to be paid in the ordinary course and the Company is projected to have sufficient liquidity to do so provided the DIP Facility is approved. The proposed D&O Charge provides protection for the directors and officers in the event that the Company fails to pay certain obligations which may give rise to liability for directors and officers.
2. In these proceedings, the main risk of directors' and officers' exposure is unpaid payroll and vacation pay. Payroll presently totals approximately \$70,000 per pay period (every two weeks). The D&O Charge of \$100,000 is intended to cover one payroll cycle, including source deductions and vacation pay.
3. KSV is of the view that the D&O Charge is reasonable in the circumstances and that the continued involvement of the directors and officers is beneficial to the Company and these proceedings.

7.5 KERP Charge

1. The KERP was developed by the Company and its advisors, in consultation with KSV. It is intended to enhance the prospect that key employees, including the Company's officers, provide their assistance during these proceedings. The Company is seeking approval of a KERP and the creation of a related charge in the amount of \$1.65 million to secure the payments due under the KERP. If approved, the KERP will cover six employees, each of whom is considered to be integral to the successful completion of these proceedings, including the sale process contemplated by these proceedings.

2. KSV is of the view that the KERP amounts are reasonable and that the KERP Charge will provide security for individuals entitled to the KERP. This will add stability to the business and the SSP during these proceedings.
3. KSV is of the view that it is appropriate for the Company to seek this relief at the outset of the proceedings in order to provide certainty to employees and reduce the risk that they resign. The involvement of these individuals in the process will benefit all stakeholders as it will increase the likelihood that the businesses can continue in the long term.
4. The Company is requesting an order sealing the confidential exhibit to the Affidavit which contains personal information for the employees entitled to participate in the KERP. KSV believes it is appropriate to seal this exhibit as this type of information is typically sealed in order to avoid disruption to the debtor company and to protect the privacy of the beneficiaries of the KERP. KSV does not believe that any stakeholder will be prejudiced if the KERP information is sealed.
5. In connection with the KERP, Top Aces has agreed to reimburse the Company for approximately 40% of the KERP amount as the KERP employees also continue to provide certain support functions to Top Aces.

7.6 Priority of Charges

1. The Company is seeking approval of the Court-ordered charges set out below:
 - a) First, the Administration Charge;
 - b) Second, the D&O Charge; and
 - c) Third, the KERP Charge.
2. The Initial Order provides that: (a) the Administration Charge, the D&O Charge and the KERP Charge will rank in priority to all other security interests and encumbrances; and (b) the DIP Lender's Charge and the Intercompany Charges (with respect solely to the property of the Non-Applicant Subsidiaries) will have the same priority as the existing Clairvest secured debt (i.e. subordinate to secured lenders with prior ranking security vis-à-vis Clairvest, being CIBC on accounts receivable and certain inventory and capitalized parts and Roynat, Element and Textron on specific aircraft and certain engines and other assets).
3. The Initial Order contemplates a comeback motion, which will provide stakeholders with an opportunity to address any concerns with the proposed priorities of the Court-ordered charges.

8.0 Potential US Recognition Proceeding

1. The Affidavit discusses the possibility that the Company may require protection in the United States under Chapter 15 of Title 11 of the *United States Code*. Should a US proceeding be commenced, the Initial Order provides that KSV (as Monitor, if appointed) is authorized to act as the Company's "foreign representative".

2. At this time, no proceedings are contemplated in any foreign jurisdiction, including the US. However, in the event of any urgent developments in the US, it is helpful that the Monitor has the authority to act immediately with respect to recognition proceedings, without needing to re-attend before the Court to seek such authority.

9.0 Creditor Notification

1. The proposed Initial Order requires the Monitor to:
 - a) publish without delay a notice in the national edition of *The Globe and Mail* newspaper containing the information prescribed under the CCAA; and
 - b) within five days of the issuance of the Initial Order to:
 - i. make the Initial Order publicly available in the manner prescribed under the CCAA;
 - ii. send, in the prescribed manner, a notice to every known creditor who has a claim against the Company of more than \$1,000 advising that the order is publicly available; and
 - iii. prepare a list, showing the names and addresses of those creditors (other than employees), and the estimated amounts of those claims, and make it publicly available in the prescribed manner.
2. If appointed Monitor, KSV will also post the Initial Order and all motion materials on its website in accordance with the *E-Service Protocol*.

10.0 Relief to be Sought at the Comeback Motion

1. The Company, Clairvest and KSV have developed the SSP, for which Court approval is expected to be sought at the next motion in these proceedings on notice to the Service List. It is contemplated that the SSP motion will be heard within two weeks of the date of the Initial Order, if issued.
2. It is contemplated that the SSP will include “stalking horse” bids submitted by entities incorporated by Clairvest for the Company’s equity interests in GSH, ATL, DMS and its residual interest in TA Holdings. The stalking horse bids will assist to provide certainty to stakeholders that the operating businesses of the Group will continue on a going-concern basis. The attributes of the SSP will be addressed further in the Court materials to be filed in the context of the SSP approval motion, including a Monitor’s report.
3. Subject to Court approval, it is contemplated that the SSP will be carried out by the Monitor.

11.0 Conclusion and Recommendation

1. Based on the foregoing, KSV respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (1)(f) of this Report.

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc".

**KSV KOFMAN INC.
IN ITS CAPACITY AS PROPOSED MONITOR OF
DISCOVERY AIR INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “C”

SALE SOLICITATION PROCESS

Introduction

On March 21, 2018, Discovery Air Inc. (the “**Debtor**”) commenced a proceeding (the “**CCAA Proceeding**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). Pursuant to the initial order issued by the Court in the CCAA Proceeding (the “**Initial Order**”), KSV Kofman Inc. was appointed as monitor (the “**Monitor**”) in the CCAA Proceeding.

The following Schedules are incorporated into this SSP: (a) Schedule “A” – References and Definitions; (b) Schedule “B” – Form of Acknowledgment of Sale Solicitation Process; (c) Schedule “C” – Addresses for Notice; and (d) Schedule “D” – Auction Procedures.

On April 4, 2018, the Debtor brought a motion before the Court, for, among other things, an order (the “**SSP Order**”) approving:

- (a) the Top Aces Stalking Horse Agreement pursuant to which the Top Aces Stalking Horse Bidder has agreed to: (i) purchase: (A) the Top Aces Holdco Shares; (B) certain assets owned by the Debtor and used in the Top Aces business and/or shared between the Top Aces business and the businesses of GSH, ATL and DMS; and (C) intercompany debt owing by Top Aces and/or Top Aces Holdco to the Debtor, if any (collectively, “**Top Aces Property**”); and (ii) assume or otherwise satisfy certain liabilities and/or extinguish certain indebtedness, if any;
- (b) the following Stalking Horse Agreements between the Debtor and the Northern Stalking Horse Bidder:
 - (i) the GSH Stalking Horse Agreement pursuant to which the Northern Stalking Horse Bidder has agreed to: (i) purchase: (A) the GSH Shares; (B) certain assets owned by the Debtor and used in the GSH business as more particularly described in the GSH Stalking Horse Agreement; and (C) certain intercompany debt owing by GSH to the Debtor (collectively, the “**GSH Property**”); and (ii) assume or otherwise satisfy certain liabilities and/or extinguish certain indebtedness of the Debtor;
 - (ii) the ATL Stalking Horse Agreement pursuant to which the Northern Stalking Horse Bidder has agreed to: (i) purchase: (A) the ATL Shares; (B) certain assets owned by the Debtor and used in the ATL business as more particularly described in the ATL Stalking Horse Agreement; and (C) certain intercompany debt owing by ATL to the Debtor (collectively, the “**ATL Property**”); and (ii) assume or otherwise satisfy certain liabilities and/or extinguish certain indebtedness owing by the Debtor;

- (iii) the DMS Stalking Horse Agreement pursuant to which the Northern Stalking Horse Bidder has agreed to: (i) purchase: (A) the DMS Shares; and (B) certain assets owned by the Debtor and used in the DMS business as more particularly described in the DMS Stalking Horse Agreement (together with the DMS Shares, the “**DMS Property**”); and (ii) assume or otherwise satisfy certain liabilities and/or extinguish certain indebtedness owing by the Debtor; and
- (c) this SSP.

On April [4], 2018, the Court granted the SSP Order. The Monitor will conduct the SSP in accordance with the SSP Order and this SSP.

Under the SSP, all qualified interested parties will be provided with an opportunity to participate in the SSP on the terms set out herein.

Commencement of the SSP and Identifying Bidders

1. The purpose of the SSP is to conduct certain processes to provide interested parties with opportunities to submit competing offers on an “as is, where is” basis to purchase: (a) the Top Aces Property; (b) the GSH Property or all or substantially all of the assets of GSH; (c) the ATL Property or all or substantially all of the assets of ATL; and (d) the DMS Property or all or substantially all of the assets of DMS (each, an “**Opportunity**”). The SSP shall apply to each of the Opportunities and the related processes and transactions, including without limitation, the Top Aces Transaction, Great Slave Transaction, Air Tindi Transaction and Discovery Mining Transaction.
2. Any sales pursuant to this SSP will be without surviving representations or warranties of any kind, nature, or description by the Monitor, the Companies or any of their respective directors, officers, agents, advisors or other representatives unless otherwise agreed in a definitive agreement.
3. All of the Debtor’s right, title and interest in and to any of the Property or other assets to be sold pursuant to any Transactions will be sold free and clear of the pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon as set out in the Court order approving such sale unless specifically permitted to continue pursuant to the terms of the Accepted Bid.

Timeline

4. The following table sets out the key milestones and deadlines under the SSP, which may be extended or amended by the Monitor in its discretion by up to two weeks without Court approval:

Milestone	Deadline (Top Aces SSP)	Deadline (GSH SSP)	Deadline (ATL SSP)	Deadline (DMS SSP)
Commencement SSP	April 4, 2018	April 4, 2018	April 4, 2018	April 4, 2018
Bid Deadline	May 21, 2018	June 4, 2018	June 4, 2018	June 4, 2018
Auction	May 31, 2018	June 14, 2018	June 14, 2018	June 14, 2018
Closing Date Deadline	July 31, 2018	July 31, 2018	July 31, 2018	July 31, 2018

Solicitation of Interest: Notice of the SSP

5. The Debtor will issue a press release providing notice of the SSP and any such other relevant information as the Debtor and Monitor consider appropriate (a “**Notice**”) with Canada Newswire for designated dissemination in Canada and such other jurisdictions as the Monitor, in consultation with the Debtor, considers appropriate.
6. The Monitor shall be entitled, but not obligated, to arrange for a Notice to be published in *The Globe and Mail* (National Edition), and any other newspaper or industry journal as the Monitor considers appropriate, if any, if it believes that such advertisement would be useful in the circumstances.
7. The Monitor, with the assistance of the Companies and their Representatives, has prepared:
- a list of potential financial bidders who may be interested in a Top Aces Transaction and a list of potential financial and strategic bidders who may be interested in any or all of the Northern Transactions (collectively, “**Potential Bidders**”);
 - Teaser Letters describing the Opportunities, outlining the processes under the Top Aces SSP and Northern SSP, respectively, and inviting recipients of the Teaser Letters to express their interest pursuant to the applicable SSP;
 - a form of NDA; and
 - CIMs describing the Opportunities, which will be made available by the Monitor to Bidders (as defined below).
8. The Monitor, with the assistance of the Companies and their Representatives, has established Data Rooms in respect of the SSPs, which Data Rooms may continue to be updated from time to time during the SSP.

9. The Monitor and its Representatives may consult with, or seek the assistance or cooperation of, the Companies with respect to any matter relating to this SSP and the conduct thereof, including, without limitation, the activities described in paragraphs 6 to 8 above. The Companies and their Representatives shall cooperate fully with the Monitor and its Representatives and provide such assistance as is reasonably requested by the Monitor in connection with the SSP.
10. The Monitor will send the applicable Teaser Letter(s) and applicable form or forms of NDA to all applicable Potential Bidders as soon as reasonably practicable after the granting of the SSP Order and to any other party who requests a copy of a Teaser Letter and NDA or who is identified by the Debtor or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Delivery of CIMs

11. Any party who wishes to participate in one or more of the SSPs (an “**Interested Party**”), including any Potential Bidder, must provide to the Monitor:
 - (a) a NDA executed by it, and a letter setting forth the identity of the Interested Party, the contact information for such Interested Party and full disclosure of the direct and indirect principals of the Interested Party;
 - (b) an acknowledgment of the applicable SSP or SSPs in which the Interested Party wishes to participate, in the form attached hereto as Schedule “B”; and
 - (c) such form of financial disclosure and credit quality support or enhancement that allows the Monitor to make a reasonable determination as to the Interested Party’s financial and other capabilities to consummate a Sale Proposal.
12. If it is determined by the Monitor, in its reasonable business judgment, that an Interested Party: (i) has delivered the documents contemplated in paragraph 11 above; and (ii) has the financial capability based on the availability of financing, experience and other considerations, to be able to consummate a sale pursuant to the SSP or SSPs in which the Interested Party is interested, then such Interested Party will be deemed to be a “**Bidder**”. For greater certainty, the Monitor may, in its reasonable business judgment, determine that an Interested Party may be deemed a Bidder in one SSP but not another.
13. The Monitor will provide each Bidder with a copy of the applicable CIM(s) and access to any corresponding Data Rooms. Bidders and Qualified Bidders (as defined below) must rely solely on their own independent review, investigation and/or inspection of all information and of the Property in connection with their participation in any of the SSPs and any transaction they enter into with the Debtor. The Companies, the Monitor and their respective directors, officers, agents and advisors make no representation or warranty whatsoever as to the information (including, without limitation, with respect to its accuracy or completeness) (i) contained in any of the CIMs or the Data Rooms; (ii) provided through the due diligence process or otherwise made available pursuant to any of the SSPs; or (iii) otherwise made available to a Potential Bidder, Interested Party, Bidder or Qualified Bidder, except to the extent expressly contemplated in any definitive documentation duly

executed and delivered by the Successful Bidder (as defined below) duly executed by the applicable Company and approved by the Court.

14. At any time during the SSP, the Monitor may, in its reasonable business judgment, eliminate a Bidder from any of the SSPs, in which case such party will no longer be a Bidder for the purposes of such SSP, provided however, this provision does not apply to either of the Stalking Horse Bidders. For greater certainty, the Monitor may, in its reasonable business judgment, eliminate a Bidder participating in multiple SSPs from one SSP but not other SSPs.
15. None of the Companies nor any of their Representatives or affiliates shall meet or communicate with a Potential Bidder, Interested Party, Bidder or Qualified Bidder (including the Stalking Horse Bidders in respect of the Stalking Horse Bids) regarding any Transaction or Opportunity without (a) first informing and obtaining the consent of the Monitor, and (b) allowing the Monitor the right and opportunity to participate in such meeting, management presentation or communication. In the event a disagreement arises between the Companies and the Monitor with respect to any matters related directly or indirectly to this SSP, the Monitor, unless otherwise ordered by the Court, shall have the sole authority to make a final decision with respect to such matters.
16. Neither the Companies nor their Representatives or affiliates shall communicate the identities of any Interested Parties or information in respect of any bids or transaction documents to representatives of either of the Stalking Horse Bidders, whether in that capacity or any other capacity, unless and until the identities of the Qualified Bidders are exchanged with all other Qualified Bidders at Auction. For greater certainty, the foregoing provision is not intended to prevent or restrict the Companies or their Representatives from meeting or communicating with either of the Stalking Horse Bidders or any party related thereto regarding matters that do not relate to the SSP.
17. The Monitor, with the Companies' assistance, shall afford each Bidder such access to applicable due diligence materials and information pertaining to the applicable SSP or SSPs as the Monitor deems appropriate in its reasonable business judgment. Due diligence access may include management presentations, access to the Data Room(s), on-site inspections, and other matters which a Bidder may reasonably request and which the Monitor deems appropriate. The Monitor will designate one or more representatives to coordinate all reasonable requests for additional information and due diligence access from each Bidder and the manner in which such requests must be communicated. Neither the Debtor nor the Monitor will be obligated to furnish any information relating to the Property to any person other than to Bidders. For the avoidance of doubt, selected due diligence materials may be withheld from certain Bidders if the Monitor determines such information to represent proprietary or sensitive competitive information.

Formal Offers and Determination of Qualified Bids

18. Bidders will be able to refer to template Purchase Agreements (which will be based on the Stalking Horse Agreements) placed in the Data Rooms.

19. Bidders that wish to make a formal offer within one or more of the SSPs (a “**Sale Proposal**”) must submit such Sale Proposal to the Monitor so as to be received by the Monitor not later than 5:00 PM (Toronto Time) on (a) May 21, 2018 with respect to the Top Aces SSP, and (b) June 4, 2018 with respect to the Northern SSP (the “**Bid Deadline**”). All Sale Proposals in respect of the applicable transactions must be in the form of a duly authorized and executed Purchase Agreement with any changes disclosed in a comparison against the template Purchase Agreement, if applicable, and delivered by email and/or hard copy to each of the persons specified in Schedule “C” hereto. Bidders who wish to submit a Sale Proposal for the assets of any or all of GSH, ATL and/or DMS may submit any such Sale Proposal in a separate form of asset purchase agreement reflecting terms consistent with an insolvency transaction, including without surviving representations and warranties. For greater certainty, Bidders must submit a separate Purchase Agreement or asset purchase agreement for each SSP in which the Bidder is making a Sale Proposal.
20. The Monitor, in consultation with the Debtor, may modify the Bid Deadline with respect to some or all of the SSPs. Any such modification shall be communicated to all Bidders for the applicable SSP in writing and posted on the Monitor’s Website.
21. In order to be considered a “**Final Bid**”, a Sale Proposal shall include the following terms (collectively, the “**Final Bid Criteria**”):
 - (a) Subject to subsection (b) below, that the bid is binding and irrevocable until the earlier of (i) 30 days after the Bid Deadline and (ii) approval by the Court of the Accepted Bid (the “**Bid Termination Date**”);
 - (b) include an acknowledgement that if such Final Bid is selected by the Monitor as the Backup Bid at the Auction, such Final Bid shall remain binding, irrevocable and open for acceptance by the Debtor until the closing of the transaction with the Successful Bidder;
 - (c) include a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor) or such other form of deposit as is acceptable to the Monitor, payable to the Monitor, in trust, in an amount equal to 15% (the “**Deposit**”) of the purchase price contemplated by the Bidder’s Final Bid;
 - (d) provide contact information (including an email address) for the Bidder and disclose the identity of each entity (including its ultimate shareholders and/or sponsors) that will be bidding for the Property or otherwise participating in a Final Bid and the complete terms of any such participation;
 - (e) include written evidence of a firm, irrevocable commitment for financing or other evidence of an ability to consummate the proposed transaction or transactions comprising the Final Bid, that will allow the Monitor to make a determination as to the Bidder’s financial and other capabilities to consummate the proposed transaction;

- (f) include acknowledgments and representations of the Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Property, the Companies or otherwise prior to making its bid; (ii) it has relied solely upon its own independent review, investigation and/or inspection of the Property (including, without limitation, any documents in connection therewith) in making its bid; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Property or the Companies or the completeness of any information provided in connection therewith, except as expressly contemplated in any definitive documentation duly executed by the Successful Bidder and the applicable Company and approved by the Court;
- (g) include written evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Final Bid;
- (h) provides value to the creditors and other stakeholders of the Companies (having regard to the relative priority of creditor claims) that is equal to or greater than the value of the applicable Stalking Horse Agreement;
- (i) describes the specific Property to be acquired by the Bidder;
- (j) details of any liabilities to be assumed by the Bidder;
- (k) not be subject to further due diligence;
- (l) not be subject to financing;
- (m) include a description of any regulatory or other third-party approvals required for the Bidder to consummate the proposed transaction, and the time period within which the Bidder expects to receive such regulatory and/or third-party approvals, and those actions the Bidder will take to ensure receipt of such approvals as promptly as possible;
- (n) include a description of any desired arrangements with respect to transition services that may be required from any of the Companies in connection with the sale transaction;
- (o) not be subject to any conditions precedent except those that are customary in a transaction of this nature;
- (p) not be conditional upon approval by the Court of any bid protection, such as a break-up fee, termination fee, expense reimbursement or similar type of payment;

- (q) be received by the Bid Deadline; and
 - (r) contemplate closing the transaction set out therein on or before July 31, 2018 (the “**Closing Date Deadline**”).
22. The Monitor may, if it deems appropriate or desirable in the circumstances, modify or amend the Final Bid Criteria.
 23. Following the Bid Deadline, the Monitor will determine if each Sale Proposal delivered to the Monitor meets the Final Bid Criteria, provided that each Sale Proposal may be negotiated among the Monitor and the applicable Bidder and may be amended, modified or varied to improve such Sale Proposal as a result of such negotiations. The Monitor shall be under no obligation to negotiate identical terms with, or extend identical terms to, each Bidder.
 24. The Monitor may make any modification to the SSP it considers appropriate in the circumstance and, where it considers such modification to be material, it may seek Court approval of such modification on notice to parties in the CCAA Proceeding. For greater certainty, the extension of any deadline by up to two weeks shall not be considered material.
 25. If a Sale Proposal meets the Final Bid Criteria, as determined by the Monitor in its sole discretion, such Final Bid will be deemed to be a “**Qualified Bid**” and the Bidder in respect of each such Qualified Bid shall be a “**Qualified Bidder**” in respect of the applicable SSP. The Monitor may waive strict compliance with any one or more of the Final Bid Criteria and deem such non-compliant Sale Proposal to be a Qualified Bid, provided that doing so shall not constitute a waiver by the Monitor of the Final Bid Criteria or an obligation on the part of the Monitor to designate any other Sale Proposal as a Qualified Bid.

Selection of Successful Bidders

26. Within five (5) Business Days of the applicable Bid Deadline, or at such later time as the Monitor may deem appropriate, the Monitor will advise each Bidder if its Sale Proposal is a Qualified Bid (the “**Notification Date**”) with respect to the applicable SSP.
27. Each Stalking Horse Bidder is, and is deemed to be, a Qualified Bidder in respect of the applicable SSP and each Stalking Horse Agreement is, and is deemed to be, a Qualified Bid for all purposes in connection with the applicable SSP.
28. If one or more Qualified Bids (in addition to the Stalking Horse Agreement) for a particular SSP is received by the Bid Deadline, all Qualified Bidders for such SSP (including the applicable Stalking Horse Bidder) shall proceed to an Auction to be held on the applicable auction date (set out in the Auction Procedures below), which shall proceed according to the Auction Procedures to identify the Successful Bidder. The Monitor, in consultation with the Debtor, may postpone or delay the commencement of an Auction with respect to either or both of the SSPs in accordance with the Auction Procedures.

29. If no Qualified Bid for a SSP other than the applicable Stalking Horse Agreement is received by the Bid Deadline, an Auction for such SSP will not be held and that Stalking Horse Bidder will be declared to be the Successful Bidder with respect to the applicable Transaction. The “**Accepted Bid**” for a SSP will be either (i) the applicable Stalking Horse Agreement if no other Qualified Bid for such SSP is received by the Bid Deadline or so designated by the Monitor; or (ii) in the event of an Auction, the superior bid as determined by the Monitor pursuant to the Auction Procedures. The party that submitted the Accepted Bid for a SSP is referred to herein as the “**Successful Bidder**” with respect to such SSP.
30. Within seven (7) Business Days of the selection of an Accepted Bid for a Transaction (or as soon as reasonably possible thereafter), the Debtor shall file an Approval Motion. All of the Qualified Bids for the particular Transaction and SSP other than the Accepted Bid and the Backup Bid shall be deemed rejected by the Monitor on and as of the date of approval of the applicable Accepted Bid by the Court.
31. All Deposits received by the Monitor in connection with the SSP will be retained by the Monitor in trust in one or more separate bank accounts. Any Deposit held by the Monitor with respect to the Accepted Bid (plus accrued interest, if any) will be non-refundable (other than as may be provided for in the Purchase Agreement that constitutes the Accepted Bid) and will be applied to the purchase price to be paid by the Successful Bidder upon closing of the transaction under the Accepted Bid. The Deposits (plus applicable interest, if any) of Bidders not selected as Qualified Bidders will be returned to such Bidders within three (3) Business Days of the Notification Date. The Deposits (plus applicable interest, if any) of Qualified Bidders (other than the Backup Bidder) not selected as the Successful Bidder will be returned to such parties within three (3) Business Days of the Bid Termination Date. The Deposit of the Backup Bidder, if any, will be returned to such Backup Bidder upon the Closing of the Transaction with the Successful Bidder, together with applicable interest, if any.
32. If the Successful Bidder for any Transaction fails to close the transaction contemplated by the Accepted Bid by the Closing Date Deadline or such other date as may otherwise be mutually agreed upon among one or more of the Companies, the Monitor and the Successful Bidder, the Monitor shall be authorized but not required to: (a) direct any Company that is a party to such Accepted Bid to exercise such rights and remedies as are available to the applicable Company under the Accepted Bid including, if applicable, deeming that the Successful Bidder has breached its obligations pursuant to the Accepted Bid and that the Successful Bidder has forfeited its Deposit to the applicable Company; (b) designate the Backup Bidder as the Successful Bidder and direct the applicable Company to close the Transaction under the Backup Bid; or (c) take such other steps as it deems advisable, including seeking further advice and directions from the Court. The Companies reserve their right to seek all available remedies, including damages or specific performance, in respect of any defaulting Successful Bidder (including any Backup Bidder designated as a Successful Bidder).

Confidentiality and Access to Information

33. Each Potential Bidder, Interested Party, Bidder or Qualified Bidder (including the Stalking Horse Bidder) shall not be permitted to receive any confidential or competitive information that is not made generally available to all participants in the SSP, including the number or identity of Potential Bidders, Bidders, Qualified Bidders, and Qualified Bids; the details of any bids, Sale Proposals or Final Bids submitted; or the details or existence of any confidential discussions or correspondence among the Companies, the Monitor and any Bidder in connection with the SSP.
34. In addition, the Monitor may consult with any other parties with a material interest (as determined in the Monitor's sole discretion) in the CCAA Proceeding regarding the status and material information and developments relating to the SSP to the extent considered appropriate by the Monitor and taking into account, among other things, whether such party is a Bidder, Qualified Bidder, or other participant or prospective participant in the SSP; provided that such parties may be required to enter into confidentiality arrangements satisfactory to the Monitor. For greater certainty, the Stalking Horse Bidders or their Representatives or affiliates shall not be entitled to any information regarding the status of the SSP unless such information is provided to all Qualified Bidders in the process.

Supervision of the SSP

35. The Monitor will oversee, in all respects, the conduct of the SSP and, without limitation, the Monitor will participate in the SSP in the manner set out herein and in the SSP Order. All discussions or inquiries to the Companies regarding the SSP shall be directed to the Monitor. Under no circumstances should Representatives of the Companies be contacted directly or indirectly in respect of the SSP, including diligence requests, without the prior written consent of the Monitor. Any such unauthorized contact or communication could result in exclusion from the SSP. For greater certainty, the foregoing provision is not intended to prevent or restrict the Companies or their affiliates and Representatives from meeting or communicating with any Stalking Horse Bidder, in a capacity other than as a Stalking Horse Bidder, or any party related thereto regarding matters that do not relate to the SSP.
36. Other than as specifically set forth in the Stalking Horse Agreements or in a definitive agreement between the applicable Company and a Successful Bidder, the SSP does not, and will not be interpreted to, create any contractual or other legal relationship among the Companies, the Monitor, any Potential Bidder, Interested Party, Bidder, Qualified Bidder, the Successful Bidder, or any other party.
37. Subject to the terms of the Initial Order or other Court order and any entitlement of the Stalking Horse Bidder to a Stalking Horse Expense Reimbursement, participants in the SSP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Final Bid, participation in the SSP, Auction, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

SCHEDULE “A”- REFERENCES AND DEFINITIONS

In this document, unless the context otherwise required, words importing the singular include the plural and vice versa. Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Initial Order. Except where otherwise expressly provided, all dollar reference amounts are to Canadian dollars.

The terms below shall have the following meaning given to them:

- (a) “**Accepted Bid**” has the meaning given to it in paragraph 29;
- (b) “**Air Tindi Transaction**” means the transaction contemplated by the ATL Stalking Horse Agreement or any other transaction under the ATL Stalking Horse Agreement or any superior bid pursuant to the process set out herein;
- (c) “**Approval Motion**” means the Debtor’s motion or motions to be filed with the Court seeking one or more orders to approve the Accepted Bids;
- (d) “**ATL**” means Air Tindi Ltd.;
- (e) “**ATL Property**” has the meaning given to it in the Introduction;
- (f) “**ATL Shares**” means 1870 issued and outstanding Class A common shares in the capital of ATL, being 100% of the issued and outstanding shares of ATL;
- (g) “**ATL SSP**” means the sale and solicitation process to solicit bids for the ATL Property as set out herein;
- (h) “**ATL Stalking Horse Agreement**” means the stalking horse agreement between the Debtor and the Northern Stalking Horse Bidder dated as of March 21, 2018, as the same may be amended, modified, improved or changed pursuant to the terms of this SSP, for the purchase and sale of the ATL Property;
- (i) “**Auction**” means an auction conducted pursuant to this SSP pursuant to the Auction Procedures;
- (j) “**Auction Location**” has the meaning given to it in paragraph 1 of the Auction Procedures;
- (k) “**Auction Procedures**” mean the auction procedures set out in Schedule “D” hereto;
- (l) “**Backup Bid**” has the meaning given to it in paragraph 13 of the Auction Procedures;

- (m) “**Backup Bidder**” has the meaning given to it in paragraph 13 of the Auction Procedures;
- (n) “**Bid Deadline**” has the meaning given to it in paragraph 19;
- (o) “**Bid Termination Date**” has the meaning given to it in paragraph 21(a);
- (p) “**Bidder**” has the meaning given to it in paragraph 12;
- (q) “**Business Day**” means any day, other than Saturday or Sunday, on which the principal commercial banks in Toronto are open for commercial banking business during normal banking hours;
- (r) “**CCAA**” has the meaning given to it in the Introduction;
- (s) “**CCAA Proceeding**” has the meaning given to it in the Introduction;
- (t) “**Clairvest**” means Clairvest Group Inc. and all of its affiliates including certain funds managed by Clairvest Group Inc. and Mr. G. John Krediet;
- (u) “**Closing Date Deadline**” has the meaning given to it in paragraph 21(r);
- (v) “**CIM**” means a confidential information memorandum to be prepared in connection with the SSP with respect to such Company’s Property and business;
- (w) “**Companies**” means the Debtor, Top Aces, Top Aces Holdco, GSH, ATL and DMS, and “**Company**” means any of them;
- (x) “**Court**” has the meaning given to it in the Introduction;
- (y) “**Credit Bid**” means a bid that provides for all or part of the consideration to be paid to be satisfied by way of a credit bid of secured indebtedness of the Debtor;
- (z) “**Data Rooms**” means the electronic data rooms to be established in connection with the SSP;
- (aa) “**Deposit**” has the meaning given to it in paragraph 21(c);
- (bb) “**Debtor**” has the meaning given to it in the Introduction;
- (cc) “**Discovery Mining Transaction**” means the transaction contemplated by the DMS Stalking Horse Agreement or any other transaction under the DMS Stalking Horse Agreement or any superior bid pursuant to the process set out herein;
- (dd) “**DMS**” means Discovery Mining Services Ltd.

- (ee) “**DMS Property**” has the meaning given to it in the Introduction;
- (ff) “**DMS Shares**” means 22,883,047 issued and outstanding Class A common shares in the capital of DMS, being 100% of the issued and outstanding shares of DMS;
- (gg) “**DMS SSP**” means the sale and solicitation process to solicit bids for the DMS Property as set out herein;
- (hh) “**DMS Stalking Horse Agreement**” means the stalking horse agreement between the Debtor and the Northern Stalking Horse Bidder dated as of March 21, 2018 as the same may be amended, modified, improved or changed pursuant to the terms of this SSP for the purchase and sale of the DMS Property;
- (ii) “**Final Bid**” has the meaning given to it in paragraph 19;
- (jj) “**Final Bid Criteria**” has the meaning given to it in paragraph 20;
- (kk) “**Great Slave Transaction**” means the transaction contemplated by the GSH Stalking Horse Agreement or any other transaction under the GSH Stalking Horse Agreement or any superior bid pursuant to the process set out herein;
- (ll) “**GSH**” means Great Slave Helicopters Ltd.;
- (mm) “**GSH Property**” has the meaning given to it in the Introduction;
- (nn) “**GSH Shares**” means (i) 157,891,795 issued and outstanding Class A common shares; (ii) 1,111 issued and outstanding Class D common shares; (iii) 40,000,000 issued and outstanding Class E common shares; (iv) 7,624 issued and outstanding Class F Preferred shares; (v) 11,072 issued and outstanding Class G Preferred shares; and (vi) 14,400 issued and outstanding Class H Preferred shares, in each case of the capital of GSH, being 100% of the issued and outstanding shares of GSH;
- (oo) “**GSH SSP**” means the sale and solicitation process to solicit bids for the GSH Property as set out herein;
- (pp) “**GSH Stalking Horse Agreement**” means the stalking horse agreement between the Debtor and the Northern Stalking Horse Bidder dated as of March 21, 2018 as the same may be amended, modified, improved or changed pursuant to the terms of this SSP for the purchase and sale of the GSH Property;
- (qq) “**Initial Order**” has the meaning given to it in the Introduction;
- (rr) “**Interested Party**” has the meaning given to it in paragraph 11;
- (ss) “**Potential Bidders**” has the meaning given to it in paragraph 6;

- (tt) “**Leading Bid**” has the meaning given to it in paragraph 11 of the Auction Procedures;
- (uu) “**Monitor**” has the meaning given to it in the Introduction;
- (vv) “**Monitor’s Website**” means the Monitor’s website at www.ksvadvisory.com/insolvency-cases/discovery-air.
- (ww) “**NDA**” a non-disclosure agreement to be used in connection with the solicitation of bids in this SSP;
- (xx) “**Northern SSP**” means collectively the GSH SSP, ATL SSP and DMS SSP;
- (yy) “**Northern Transactions**” means the Great Slave Transaction, Air Tindi Transaction and Discovery Mining Transaction;
- (zz) “**Northern Stalking Horse Bidder**” means 10671541 Canada Inc.;
- (aaa) “**Northern Stalking Horse Agreements**” means the GSH Stalking Horse Agreement, ATL Stalking Horse Agreement and DMS Stalking Horse Agreement;
- (bbb) “**Notice**” has the meaning given to it in paragraph 6;
- (ccc) “**Notification Date**” has the meaning given to it in paragraph 26;
- (ddd) “**Opportunity**” has the meaning given to it in paragraph 1;
- (eee) “**Overbid**” has the meaning given to it in paragraph 9 of the Auction Procedures;
- (fff) “**Property**” means the Top Aces Property, GSH Property, ATL Property and/or DMS Property as the context may require;
- (ggg) “**Purchase Agreements**” means the template forms of purchase agreements to be placed in the Data Rooms upon which Bidders are to make Sale Proposals;
- (hhh) “**Qualified Bid**” has the meaning given to it in paragraph 25;
- (iii) “**Qualified Bidder**” has the meaning given to it in paragraph 25;
- (jjj) “**Representatives**” means, with respect to a particular party, such party’s directors, officers, employees, partners, principals, advisors (including legal and financial advisors) and agents provided that with respect to the Companies, “Representatives” shall not include any individual who is an employee, director, officer, partner, principal or advisor to Clairvest.
- (kkk) “**Sale Proposal**” has the meaning given to it in paragraph 19;

- (lll) “**SSP**” means the sale and solicitation processes contemplated herein, including without limitation, the Top Aces SSP, GSH SSP, ATL SSP or DMS SSP, or any one of them as the context may require;
- (mmm) “**SSP Order**” has the meaning given to it in the Introduction;
- (nnn) “**Stalking Horse Agreements**” means, collectively, the Top Aces Stalking Horse Agreement and the Northern Stalking Horse Agreements.
- (ooo) “**Stalking Horse Bidder**” means the Top Aces Stalking Horse Bidder and the Northern Stalking Horse Bidder;
- (ppp) “**Starting Bid**” has the meaning given to it in paragraph 7 of the Auction Procedures;
- (qqq) “**Subsequent Bid**” has the meaning given to it in paragraph 4 of the Auction Procedures;
- (rrr) “**Successful Bidder**” has the meaning given to it in paragraph 29;
- (sss) “**Teaser Letter**” means the process summary letters to be prepared by the Monitor, in consultation with the Companies, in connection with the SSP;
- (ttt) “**Top Aces**” means Top Aces Inc. (formerly known as Discovery Air Defence Services Inc.);
- (uuu) “**Top Aces Holdco**” means Top Aces Holdings Inc.;
- (vvv) “**Top Aces Holdco Shares**” means 253.83602 issued and outstanding Class A common shares in the capital of Top Aces Holdco, being 100% of the issued and outstanding shares of Top Aces Holdco owned by the Debtor;
- (www) “**Top Aces Property**” has the meaning given to it in the Introduction;
- (xxx) “**Top Aces SSP**” means the sale and solicitation process to solicit bids for the Top Aces Property as set out herein;
- (yyy) “**Top Aces Stalking Horse Agreement**” means the stalking horse agreement between the Debtor and the Top Aces Stalking Horse Bidder dated as of March 21, 2018 as the same may be amended, modified, improved or changed pursuant to the terms of this SSP for the purchase and sale of the Top Aces Property;
- (zzz) “**Top Aces Stalking Horse Bidder**” means, collectively, CEP IV Co-Investment Limited Partnership, Clairvest Equity Partners IV Limited Partnership, Clairvest Equity Partnership IV-A Limited Partnership, DA Holdings Limited Partnership and G. John Krediet.

- (aaaa) **“Top Aces Transaction”** means the transaction contemplated by the Top Aces Stalking Horse Agreement or any other transaction under the Top Aces Stalking Horse Agreement or any superior bid pursuant to the process set out herein;
- (bbbb) **“Transactions”** means the Top Aces Transaction, Great Slave Transaction, Air Tindi Transaction and/or Discovery Mining Transaction.

SCHEDULE “B”

Acknowledgement of the Sale and Solicitation Process

TO: Discovery Air Inc.

AND TO: KSV Kofman Inc. in its capacity as monitor in the CCAA proceedings of Discovery Air Inc.

RE: Sale and Solicitation Process in respect of the following Transaction(s) [*check all that apply*]:

- Top Aces Transaction
 - Great Slave Transaction
 - Air Tindi Transaction
 - Discovery Mining Transaction
-

The undersigned hereby acknowledges receipt of the sale and solicitation process approved by the Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) dated April 4, 2018 (the “**SSP**”) and that compliance with the terms and provisions of the SSP is required in order to participate in the SSP and for any Final Bid (as defined in the SSP) to be considered by the Monitor.

This ____ day of _____, 2018.

[Insert Interested Party name]

Per:

Email Address:

SCHEDULE “C” – ADDRESSES FOR NOTICES

KSV Kofman Inc.

Court-Appointed Monitor in Discovery Air Inc.’s CCAA proceedings

150 King Street West
Suite 2308, Box 42
Toronto ON M5H 1J9

Attention: Bobby Kofman & David Sieradzki

Email: bkofman@ksvadvisory.com/ dsieradzki@ksvadvisory.com

-with copies to-

Goldman Sloan Nash & Haber LLP

Lawyers for the Debtor

1600-480 University Avenue
Toronto, ON M5G 1V2

Attention: Mario Forte and Jennifer Stam

Email: forte@gsnh.com/ stam@gsnh.com

Goodmans LLP

Lawyers for the Monitor

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto ON M5H 2S7

Attention: L. Joseph Latham and Bradley Wiffen

Email: jlatham@goodmans.ca / bwiffen@goodmans.ca

SCHEDULE “D” - AUCTION PROCEDURES

1. The Auctions, if any, shall be conducted by the Monitor, at the offices of Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON, M5H 2S7 or such other location as the Monitor may choose in advance of the commencement of an Auction (the “**Auction Location**”) commencing at 10:00 a.m. (Toronto time) on the following dates:

- Top Aces SSP: May 21, 2018
- Northern SSP: June 14, 2018

No later than 24 hours prior to the scheduled date of the Auction, the Monitor shall communicate any change in the Auction Location from the offices of Goodmans LLP to another location to all applicable Qualified Bidders in writing (including by e-mail) and post notice of such change in location at the offices of Goodmans LLP and on the Monitor’s Website.

2. To the extent that the Monitor is to conduct multiple Auctions, it may choose to conduct such Auctions concurrently or consecutively in its discretion. Any delay or postponement of the commencement of an Auction shall be communicated in accordance with paragraph 27 of the SSP.
3. Unless otherwise ordered by the Court or consented to in writing by the Monitor, only the authorized representatives and professional advisors of the Monitor, the Companies and the applicable Qualified Bidders (including, for certainty, the applicable Stalking Horse Bidder) invited to an Auction shall be eligible to attend an Auction and make any Subsequent Bid (as defined below) at an Auction. Administrative personnel, including without limitation, a court reporter or similar official, will also attend an Auction at the invitation of the Monitor.
4. At an Auction, all applicable Qualified Bidders (including, for certainty, a Stalking Horse Bidder) shall be permitted to increase their Qualified Bids in accordance with the procedures set forth herein (each, a “**Subsequent Bid**”). All Subsequent Bids presented during an Auction shall be made and received in one room on an open basis. All Qualified Bidders participating in an Auction shall be entitled to be present for all bidding with the understanding that the true identity of each participating Qualified Bidder shall be fully disclosed to all other Qualified Bidders and that all material terms of each Subsequent Bid presented during an Auction will be fully disclosed to all Qualified Bidders throughout an Auction.
5. In order to participate in an Auction and submit a Subsequent Bid(s), all Qualified Bidders must have at least one individual representative with authority to bind such Qualified Bidder present in person at the Auction Location during the Auction.

6. All proceedings at an Auction shall be transcribed by a person(s) designated by the Monitor.
7. At least two (2) days prior to an Auction, the Monitor will advise all Qualified Bidders for the applicable SSP which of the Qualified Bids (including a Stalking Horse Agreement) the Monitor has determined in its reasonable business judgment, after consultation with its advisors and the Companies, constitutes the superior Qualified Bid (the “**Starting Bid**”).
8. The Starting Bid will be deemed to be the first bid at the Auction and bidding at the Auction will continue, in one or more rounds of bidding, so long as during each round, at least one Subsequent Bid is submitted by a Qualified Bidder that, in the reasonable business judgement of the Monitor (i) improves upon the then Leading Bid (as herein defined) and (ii) meets the Overbid requirement.
9. The first round of bidding at an Auction in respect of the following processes and transactions shall commence in increments to be established by the Monitor and communicated to all Qualified Bidders no later than 2 days prior to the commencement of the applicable Auction (each an “**Overbid**”). The Monitor in its sole discretion shall be entitled to change the amount of the applicable Overbid at the commencement of or in subsequent rounds of bidding at the Auction.
10. Credit Bids will be permitted at an Auction, provided that the validity of such secured indebtedness has been confirmed by the Monitor in its sole satisfaction prior to commencement of such Auction. Bidding shall continue until such time as the superior bid in any Auction is determined by the Monitor, in its reasonable business judgment, after consultation with its advisors. The Monitor, in its sole discretion, shall have the right to modify the bidding increments at the commencement of any round of the Auction. Insofar as a Subsequent Bid (including any Subsequent Bid by a Stalking Horse Bidder) includes a Credit Bid or the assumption of liabilities, the Monitor shall determine the value of the consideration provided by such Subsequent Bid presented at the Auction, and in making such determination shall take into account the amount and priority of any Credit Bid and any liabilities to be assumed by a Qualified Bidder.
11. After the first round of bidding and between each subsequent round of bidding, the Monitor shall announce the Subsequent Bid that the Monitor has determined in its reasonable business judgment, after consultation with its advisors, to be the superior bid (the “**Leading Bid**”). At the commencement of the Auction, the Starting Bid shall be the Leading Bid. A round of bidding will conclude after each participating Qualified Bidder has had an opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.

12. If no Qualified Bidder submits a Subsequent Bid (as determined by the Monitor) after a period of 30 minutes following the Monitor's acceptance of a Subsequent Bid as the Leading Bid, and provided that the Monitor chooses not to adjourn the subject Auction, the Leading Bid shall be the Accepted Bid, whereupon such Auction will be concluded. The Monitor shall have the right, but not the obligation, to extend the time period to submit a Subsequent Bid.
13. If an Auction is conducted, the Monitor shall determine, in its reasonable business judgment after consultation with its advisors, the next best Qualified Bid after the Accepted Bid (the "**Backup Bid**"). The Qualified Bidder that has submitted the Backup Bid will be designated as the "**Backup Bidder**". The Backup Bidder shall be required to keep its last submitted Subsequent Bid, or if it has not made a Subsequent Bid, its Qualified Bid (the "**Backup Bid**") open and irrevocable until the closing of the transaction with the Successful Bidder pursuant to the terms of the SSP.
14. At or during an Auction, the Monitor, after consultation with its advisors, may employ and announce additional procedural rules that are fair and reasonable under the circumstances for conducting such Auction; provided, however, that such rules are (a) not inconsistent with the SSP or these Auction Procedures, the CCAA, the SSP Order, or any other order of the Court entered in connection with the SSP or Auction Procedures and (b) disclosed to each Qualified Bidder at or during the Auction.