

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

B E T W E E N:

ELA CAPITAL INC.

Applicant

and

11157353 CANADA CORPORATION

Respondent

**APPLICATION UNDER s. 243 OF THE BANKRUPTCY AND
INSOLVENCY ACT (CANADA) AND s. 101 OF THE COURTS
OF JUSTICE ACT (ONTARIO)**

**MOTION RECORD OF THE PROPOSED RECEIVER,
KSV RESTRUCTURING INC.
(RETURNABLE FEBRUARY 21, 2023)**

February 17, 2023

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**APPLICATION UNDER s. 243 OF THE BANKRUPTCY AND
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B	Receiver's Borrowings Term Sheet

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KSV Restructuring Inc.
as Proposed Receiver and Manager of
11157353 Canada Corporation**

February 17, 2023

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

BETWEEN:

ELA CAPITAL INC.

Applicant

- and -

11157353 CANADA CORPORATION

Respondent

**PRE-FILING REPORT OF KSV RESTRUCTURING INC.
AS PROPOSED RECEIVER**

February 17, 2023

1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") as proposed receiver and manager (the "Proposed Receiver") of the property, assets and undertaking (collectively, the "Property") of 11157353 Canada Corporation (the "Company"). The definition of "Property" under the proposed Receivership Order excludes cannabis assets and business, but includes the issued and outstanding shares of Materia Ventures Malta Ltd., ("Materia Malta" and such shares the "Materia Malta Shares"), Materia Deutschland GmbH ("Materia Germany" and such shares the "Materia Germany Shares") and Handpicked CBP Limited and Kara Wellness Limited (jointly, "Materia UK" and such shares the "Materia UK Shares" and together with the Materia Malta Shares and the Materia Germany Shares, the "Shares").
2. Ela Capital Inc. ("Ela"), the Company's largest secured lender, has brought an application before the Ontario Superior Court of Justice (Commercial List) (the "Court") for an order (the "Receivership Order"), among other things, appointing KSV as receiver and manager (in such capacity, the "Receiver") of the Company. KSV has consented to act as Receiver, should the Court grant the Receivership Order.
3. The primary purpose of the receivership proceedings is to create a stabilized environment to enable the Receiver to conduct: (i) a stalking horse sale process for the Materia Germany Shares; and (ii) a sale process for the Materia UK Shares and the Materia Malta Shares (the "Sale Process").

4. On January 23, 2023, KSV¹ was engaged by Ela to prepare for these receivership proceedings. In the short time KSV has been engaged, it has obtained significant knowledge of the Company's business and the operations of its subsidiaries, which will assist it in carrying out its duties as Receiver. Given the exclusion of cannabis-related assets and business from the possession and control of the receiver, if appointed, the Proposed Receiver will require the assistance of the Company's sole employee, as is further described below.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) summarize the terms of the proposed Sale Process;
 - c) summarize the terms of a share purchase agreement dated February 14, 2023 (the "Stalking Horse SPA") between the Receiver, as seller, and ReFlourish Capital Ltd., as purchaser (the "Stalking Horse Bidder"), constituting the "stalking horse" bid for the Materia Germany Shares in the Sale Process;
 - d) summarize the terms of a key employee retention plan (the "KERP") for the Company's Managing Director and sole employee (the "Manager") and discuss the reasons that the Proposed Receiver believes it is appropriate that certain terms of the KERP should be filed with the Court on a confidential basis;
 - e) summarize the terms under which the Receiver proposes to borrow under Receiver's Certificates (the "Receiver's Borrowings");
 - f) provide the Proposed Receiver's views on the following:
 - i. the Receivership Order; and
 - ii. an ancillary order, which:
 - approves the Sale Process;
 - authorizes the Receiver (if appointed) to execute and implement the Stalking Horse SPA;
 - approves the KERP and a corresponding charge over the Property to secure the amounts payable to the Manager under the KERP (the "KERP Charge"); and
 - seals the terms of the KERP until 30 days after the completion of the Sale Process or further order of the Court.

¹ KSV's affiliate, KSV Advisory Inc., was engaged for the advisory mandates. KSV is a subsidiary of KSV Advisory Inc.

1.2 Restrictions

1. In preparing this Report, the Proposed Receiver has relied upon the Company's unaudited financial information, the Company's books and records, and discussions with Ela's representatives and its legal counsel, Reconstruct LLP.
2. The Proposed Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the Company's financial and other information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
3. The Proposed Receiver expresses no opinion or other form of assurance with respect to the financial and other information presented in this Report or relied upon by the Proposed Receiver in preparing this Report. Other than the Court, any party wishing to place reliance on the Company's financial information should perform its own due 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. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

2.0 Background

1. The Affidavit of Ben Trefler, Head of Investments of Ela, sworn February 15, 2023 (the "Affidavit") provides, among other things, the Company's background, including the reasons for the commencement of these receivership proceedings. The information in this Report does not repeat all the information in the Affidavit.
2. The Company serves as a holding company for the Shares.
3. The Company is one of the multiple companies worldwide that conducts business under the name "Materia". The Company employs one individual, the Manager, who oversees the operations of the subsidiaries. In addition to being a holding company, the Company funded the operations of Materia Germany and Materia Malta using funds raised by its shareholders and lenders.
4. Vijay Sappani is a director of the Company.
5. KSV has been advised that there are no current financial statements for the Company. KSV understands that the only assets the Company holds are the Shares and that the major liabilities of the Company are the three secured loans discussed in Section Three below.

2.1 Materia UK

1. Materia UK has no active operations. Materia UK owns certain technology infrastructure, including an e-commerce website, as well as a customer list and has banking arrangements with Barclays, which the Proposed Receiver understands is valuable given that it is difficult to access first-tier banking in the United Kingdom.

2.2 Materia Malta

1. Materia Malta owns and operates a fully licensed medical cannabis import, manufacturing and export facility located in Malta. The Malta factory is certified in accordance with the European Union (“EU”) Good Manufacturing Practice (“GMP”) certification. Materia Malta employs 4 individuals and has 5 contractors.
2. Materia Malta imports flowers and converts them into EU-GMP-certified cannabis. Materia Malta then sells those products to Materia Germany.

2.3 Materia Germany

1. Materia Germany owns and operates a fully licensed, EU-GMP-certified cannabis import, labelling, packaging and distribution facility located in Germany. Materia Germany employs one individual and three contractors.

3.0 Creditors

3.1 Secured Creditors

3.1.1 Ela

1. Ela currently owns approximately 25% of the Company’s common shares.
2. In addition to its equity investment, Ela made several secured loans to the Company during 2021 and 2022. The total amount owing to Ela under these loans is approximately \$3,251,214. Interest and costs continue to accrue.
3. Mr. Sappani is Ela’s sole director and officer.
4. Ela’s facilities are fully described in the Affidavit, as are the events of default which caused ELA, on January 25, 2023, to issue a Notice of Intention to Enforce Security pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (the “244 Notice”). The history of events leading to the issuance of the 244 Notice has not been repeated herein.

3.1.2 Other Secured Lenders

1. The Company has a secured loan in the principal amount of \$1 million owing to Kanabo Group Plc. (“Kanabo”). Interest and costs continue to accrue. KSV understands that the Kanabo loans and Ela loans rank *pari passu*.
2. The Company also has secured loans in the amount of €309,089 owing to the Stalking Horse Bidder. These loans were originally made by Alastair Crawford (“Crawford”), a principal of the Stalking Horse Bidder.
3. In connection with the loans, the Company granted a security interest in the Materia Germany Shares pursuant to a share pledge agreement governed by German law (the “German Security”).
4. On February 14, 2023, Crawford assigned his security interest in the Materia Germany Shares to the Stalking Horse Bidder.

3.1.3 Security Review

1. All of the obligations owing to Ela and Kanabo are secured by substantially all of the Property pursuant to various security documents, including general security agreements entered into by the Company (the “Security Documents”). Should the Receivership Order be issued, KSV intends to instruct its counsel to conduct a review of the Security Documents and issue an opinion to the Receiver on the security.
2. The Proposed Receiver understands that the Material Germany Shares are uncertificated securities. Accordingly, the Proposed Receiver understands from its Canadian counsel that pursuant to the provisions of the PPSA, German law governs the validity, perfection and priority of security interests in the Material German Shares. Because the Stalking Horse Bidder intends to make a credit bid comprising of its secured debt, the Proposed Receiver retained German counsel to review the validity of the German Security. The Proposed Receiver’s German counsel confirmed that the German Security is a valid, binding and enforceable security interest against the Material Germany Shares under German law. The Proposed Receiver expects to receive its German counsel’s finalized opinion in the near term.

3.2 Unsecured Creditors

1. Based on the Company’s books and records, as of January 31, 2023, the Company’s accounts payable totaled approximately CAD\$320,000.

4.0 Sale Process

4.1 Prior Sale Processes

1. As discussed in detail in the Affidavit, the Company has conducted several recent sale processes, including:
 - a) in 2021, the Company retained ATB Capital Markets Inc. (“ATB”), an investment banking firm, to conduct a sale process which lasted approximately four months. The sale process did not result in any sale transactions, but did result in the loans from Kanabo;
 - b) following the initial sale process, the Company engaged ATB to conduct a sale process for the Company’s Canadian subsidiaries (the “Canadian Subsidiaries”). The sale process resulted in a transaction for the assets of the Canadian Subsidiaries, which transaction was completed through an insolvency process; and
 - c) in 2022, the Company commenced an additional sale process, which involved five brokers soliciting interest in the Shares. In October 2022, Crawford and the Company executed a term sheet for a sale transaction which led to Crawford’s loans to the Company. Crawford did not close the transaction contemplated under the term sheet, but, in January 2023, the parties resumed negotiations which resulted in the Stalking Horse SPA.

4.2 Sale Process

1. Subject to Court approval, the Receiver will be responsible for the marketing and sale of the Shares.
2. The key aspects of the proposed Sale Process are summarized below; however, interested parties are strongly encouraged to review the full terms of the Sale Process document (the "Sale Process Document"). A copy of the Sale Process Document is attached as Appendix "A".
3. A summary of the key dates in the proposed Sale Process is as follows:

Milestone	Key Dates
Distribution of Teaser Letter	As soon as practical following issuance of Sale Process Order
Confidential data site to be established	As soon as practical following issuance of Sale Process Order
Bid Deadline	30 days after granting of sale process (i.e., March 21, 2023, if Sale Process Order granted)
Auction for German Shares (if any)	ASAP following Bid Deadline
Approval and Vesting Order hearing	ASAP following selection of successful bid

4. The deadlines set out above may be extended by the Receiver for up to a maximum of one week in the aggregate without the approval of the Court or the Stalking Horse Bidder.

4.2.1 Marketing Process

1. In connection with the Sale Process commencement, the Receiver will:
 - a) prepare: (i) a teaser letter (the "Teaser Letter") describing the opportunity; (ii) a non-disclosure and confidentiality agreement with the Receiver (an "NDA"); and (iii) a confidential information memorandum ("CIM");
 - b) gather and review all due diligence materials to be provided to interested parties and establish a secure, electronic data room (the "Data Room"), which will be maintained by the Receiver throughout the Sale Process; and
 - c) prepare a list of potential interested parties, including: (i) parties that have approached the Company or the Receiver indicating an interest in the opportunity; and (ii) local and international strategic and financial parties who the Receiver believes may be interested in purchasing all or part of the assets.
2. As soon as reasonably possible after the commencement of the Sale Process, the Receiver will:
 - a) arrange for a notice of the Sale Process to be published in such newspaper(s), publication(s) or journal(s) as the Receiver considers appropriate; and
 - b) send the Teaser Letter and NDA to all potential bidders and to any other party who responds to the Notice as soon as reasonably practicable.

4.2.2 Participation Requirements

1. If it is determined by the Receiver that a potential bidder: (i) has a *bona fide* interest in pursuing a Transaction, and (ii) has delivered an executed NDA, then such party will be deemed to be a “Qualified Bidder”. The Stalking Horse Purchaser will be deemed to be a Qualified Bidder with respect to the Germany Shares for the purposes of this Sale Process.
2. The Receiver will grant each Qualified Bidder access to the Data Room and CIM, as soon as reasonably practicable.
3. No Potential Bidder nor Qualified Bidder, nor the Stalking Horse Bidder will be permitted to receive the details of any bids submitted or the details or existence of any confidential discussions or correspondence among the Company, the Receiver and any bidder in connection with the Sale Process, except to the extent the Receiver, at its sole discretion, determines is reasonable or in preparation for the Auction (as defined below).

4.2.3 Binding APAs

1. A Qualified Bidder that desires to make a bid for the Germany Shares will deliver written copies of its bid, in the form of the Stalking Horse SPA, together with a blackline outlining all changes made to the Stalking Horse SPA (the “Binding APA for the Germany Shares”).
2. A Qualified Bidder that desires to make a bid for the Malta Shares or UK Shares shall deliver written copies of its bid in the form of a share purchase agreement (the “Binding APA”).
3. The Receiver will consider (i) a bid for all of the Company’s assets (an “En Bloc Bid”) or (ii) separate bids to acquire some but not all of the Company’s assets (“Piecemeal Bids”). Subject to Court approval, the Receiver has the right to accept an *En Bloc* Bid if the total consideration is greater than separate Piecemeal Bids.
4. A Binding APA must comply with several terms noted in the Sale Process, including the following:
 - a) it is received by the Receiver prior to the Bid Deadline;
 - b) with respect to the Germany Shares, it includes a purchase price of at least €400,000 (or equivalent in Canadian dollars) in cash due on closing of the Transaction plus (i) a minimum incremental amount of CAD\$6,000 in excess of the aggregate purchase price contemplated by the Stalking Horse Bid; and (ii) CAD\$45,000, comprising the aggregate amount of the Bid Protections (as defined below);
 - c) it is irrevocable and open for acceptance until the closing of the Successful Bid (as defined below);
 - d) it will be unconditional and not subject to further due diligence; and
 - e) it provides a deposit in the amount of not less than 15% of the purchase price offered by the Qualified Bidder (the “Deposit”).

4.2.4 Selection of Successful Germany Share Bid

1. With respect to the Germany Shares, the Receiver will identify the best offer for the Germany Shares (the “Successful Germany Share Bid”).
2. If no Binding APA for the Germany Shares (other than the Stalking Horse Bid) is received by the Bid Deadline, the Stalking Horse Bid shall be deemed the Successful Germany Share Bid.
3. If the Receiver receives one or more Binding APAs for the Germany Shares, it may, in the Receiver’s sole discretion, proceed with an auction to select the Successful Germany Share Bid (an “Auction”).
4. If an Auction is commenced, the Receiver will implement Auction procedures that will be made available to all Auction Bidders if and when the Auction is implemented.
5. The Receiver shall consult with Ela, prior to the determination of a Successful Germany Share Bid by the Receiver, provided Ela Capital has not and confirms it has no intention to make a bid for any assets.

4.2.5 Selection of Successful UK Share Bid and Malta Share Bid

1. With respect to the UK Shares and the Malta Shares: (i) the Receiver may identify the highest or otherwise best offer or combination of offers for the UK Shares (the “Successful UK Share Bid”); (ii) the Receiver may identify the highest or otherwise best offer or combination of offers for the Malta Shares (the “Successful Malta Share Bid”); or (iii) if the Receiver determines that two or more Binding APAs for the UK Shares and/or the Malta Shares are close in value, the Receiver may decide to negotiate with the applicable Qualified Bidders in order for the Qualified Bidders to submit improved bids for the UK Shares or the Malta Shares.
2. The Receiver shall consult with Ela prior to the determination of a Successful UK Share Bid and the Successful Malta Share Bid by the Receiver, provided Ela has not and confirms it has no intention to make a bid for any Assets.

4.2.6 Backup Bid(s)

1. After selecting the Successful Bid(s), the Receiver may, at its sole discretion, choose the second highest or otherwise best offer or combination of offers for the assets to act as the backup bid (the “Backup Bid”) in circumstances where the Transaction(s) contemplated by the Successful Bid(s) does not close.

5.0 Stalking Horse Offer²

1. As indicated above, the Company owes the Stalking Horse Purchaser approximately €309,000. During the receivership proceedings, the Purchaser intends to lend the Receiver an additional €200,000 to be secured under a Receiver’s Certificate (collectively, the “Debt”). As discussed below, the stalking horse bid for the Germany Shares is a credit bid by the Purchaser of €400,000 of the Debt.

² Defined terms in this section of the Report have the meanings provided to them in the APA.

2. A summary of the SPA is as follows:

- a) **Purchaser:** ReFlourish Capital Limited
- b) **Purchased Shares:** 100% of the issued and outstanding share capital of Materia Germany;
- c) **Purchase Price:** €400,000.

The Purchaser shall satisfy the Purchase Price by providing a credit and corresponding reduction in the Debt in the amount of the Purchase Price as follows:

- (i) a credit to Materia and corresponding reduction in the total amount of the Materia Debt; and
 - (ii) a credit to the Receiver and corresponding reduction in the Receiver Debt in an amount equal to the balance of the Purchase Price.
- d) **No Cash Payment on Closing:** provided that the Purchaser has advanced to the Receiver all advances required to be made by the Purchaser on Closing, the Purchaser shall not be required to fund any amounts owing under the KERP Charge, the Receiver's Borrowings Charge or the Receiver's Charge; provided, however, in the event that cash from operations and proceeds received from the closing of the sale(s) of the other assets of Materia is insufficient to satisfy amounts owing under the Receiver's Charge, the Purchaser will fund, in cash on Closing, amounts owing under the Receiver's Charge that are documented and reasonably incurred by the Receiver to consummate the Transaction.
- e) **Representation and Warranties:** Consistent with the terms of a standard insolvency transaction, i.e., on an "as is, where is" basis, with limited representations and warranties.
- f) **Interim Period:** During the Interim Period, the Receiver will advise the Purchaser promptly if it becomes aware of or receives notice of any Material Adverse Change with respect to the Purchased Entity or the Business.
- g) **Outside Date:** April 30, 2023
- h) **Material Conditions:** The only material conditions precedent are that: (i) the Purchaser shall be the Successful Germany Share Bid; (ii) there not have been any Material Adverse Change; and (iii) all authorizations, approvals, consents, filings with or notice to, any Governmental Authority, court or other Person required in connection with the execution, delivery or performance of this Agreement by the Receiver hereunder or the purchase of the Purchased Shares shall have been obtained.

5.1 Bid Protections

1. If the Stalking Horse Bidder is not the successful bidder at the culmination of the Sale Process, it is proposed that the Stalking Horse Bidder should be entitled to payment of: (i) an expense reimbursement fee in the maximum amount of CAD\$25,000 (inclusive of HST, if any) (the "Expense Reimbursement Fee"); and (b) a break fee in the amount of CAD\$20,000 (inclusive of HST, if any) (the "Break Fee", and together with the Expense Reimbursement Fee, the "Bid Protections"). The purpose of the Bid Protections is to provide the Stalking Horse Bidder with a means to receive compensation for its costs, expenses and opportunity cost in connection with the Stalking Horse SPA, if it is not the successful bidder.
2. The Bid Protections were a point of discussion between the parties. Break fees in the context of sale processes are generally around 2.5%-5% of the purchase price, and the Bid Protections in this case represent, combined, approximately 7.85% of the Purchase Price.
3. The Proposed Receiver reviewed the quantum of the Bid Protections against other Canadian restructuring matters involving stalking horse transactions with break fees and expense reimbursement fees. Bid protections, as a percentage, tend to increase in relation to the purchase price in smaller sized transactions. For instance, in a similar transaction involving a purchase price of approximately USD\$250,000, this Court approved bid protections totaling USD\$50,000, or 20% of the cash portion of the purchase price (Court File No. 33-2466100).
4. Although the Bid Protections, when viewed strictly as a percentage of the purchase price, are higher than typical bid protections in stalking horse sale transactions, the Proposed Receiver recognizes the relatively smaller size of the transaction for the Materia Germany Shares. The Proposed Receiver is of the view that the Bid Protections are reasonable in this context and will not discourage bidders from participating in the Sale Process. The Proposed Receiver also considered the funding being provided by the Stalking Horse Bidder to fund the Sale Process for assets for which it is not a bidder, which benefits all stakeholders. The Bid Protections were heavily negotiated among the parties, including the Proposed Receiver. The Bid Protections are a requirement of the Stalking Horse Bidder.

5.2 Sale Process Recommendation

1. The Proposed Receiver believes the Sale Process and the Stalking Horse Agreement are appropriate for the following reasons:
 - a) the Sale Process provides for further marketing of the Shares while leveraging the efforts already made;
 - b) stalking horse sale processes are a recognized mechanism in restructuring proceedings to maximize recoveries, while creating stability for the business;
 - c) the bidding procedures provide an opportunity to complete a transaction with greater value than the Stalking Horse SPA, which benefits all stakeholders;
 - d) it is in the best interests of the Company's stakeholders that the Stalking Horse SPA be preserved in order to have the opportunity to maximize value and to protect downside risk in the event that a superior offer is not submitted;

- e) the duration of the Sale Process is sufficient in KSV's view to allow interested parties to perform diligence and submit offers, given the extensive past marketing efforts. The Proposed Receiver also notes the limited resources available to fund an extended sale process;
- f) Ela is supportive of the SISP, the Stalking Horse SPA and the Bid Protections; and
- g) the Bid Protections are reasonable in the circumstances and will not discourage interested parties from submitting offers in the Sale Process.

6.0 KERP

1. Ela is seeking Court approval of the KERP and the KERP Charge in favour of the Manager.
2. The Manager is the only employee of the Company. The Manager's role is to oversee the operations of Materia Germany and Materia Malta. The Manager is critical to maintaining the operations during the receivership proceedings: under the proposed Receivership Order, the receiver will expressly not be in possession or control of any cannabis assets or business. Accordingly, the Proposed Receiver will require the assistance of the Manager to ensure cannabis operations in Germany and Malta continue in the ordinary course without disruption.
3. Due to limited liquidity, the Manager has not been paid for several months. A component of the KERP is to immediately pay the Manager his deferred wages. The balance of the KERP will only be paid subject to a successful transaction.
4. The Proposed Receiver has reviewed the terms of the KERP and believes they are reasonable in light of the critically necessary assistance the Manager will provide to the Proposed Receiver (if appointed). The proposed KERP term sheet (the "KERP Term Sheet") is provided in Confidential Appendix "1" to the Affidavit.
5. The Proposed Receiver believes the KERP is appropriate for the following reasons:
 - a) the continued involvement and cooperation of the Manager will assist to complete the Sale Process and obtain the highest value for the Shares;
 - b) in the Proposed Receiver's view, the amounts payable under the KERP are reasonable;
 - c) the involvement of the Manager will assist to reduce professional costs;
 - d) the Proposed Receiver understands that the Manager will resign without the benefit of the KERP; and
 - e) ELA, the principal secured creditor of the Company, is supportive of the payment of the KERP and has agreed to permit these payments to be made ahead of its secured loan, thereby reducing its own recovery. In that respect, the KERP Charge will only be subordinate to the Receiver's Charge and the Receiver's Borrowing Charge.

7.0 Sealing

1. The KERP Term Sheet contains confidential personal information. The Manager is concerned that if his compensation is part of the public records, it would affect his negotiation position with future employers.
2. The Proposed Receiver is not aware of any party that will be prejudiced if the KERP Term Sheet is sealed. Accordingly, the Proposed Receiver believes that sealing the KERP Term Sheet is appropriate in the circumstances.

8.0 Proposed Receiver's Borrowings

1. The Proposed Receiver will be provided with access to a non-revolving credit facility in a maximum amount of €400,000 (the "Credit Facility"), pursuant to a certain binding term sheet entered into with ReFlourish and Ela (a "Lender", or the "Lenders") (the "Term Sheet"). A copy of the Term Sheet is attached as Appendix "B".
2. Key terms of the Term Sheet are as follows:
 - a) Commitment Fee: 2% of the total amount of the credit facility;
 - b) ReFlourish and Ela shall commit €200,000 each;
 - c) ReFlourish and Ela shall advance €133,000 and €120,000, respectively, as an initial advance prior to the date of the Receivership Order, in trust, by wire transfer;
 - d) Subsequent advances shall be advanced by ReFlourish and Ela to the Proposed Receiver in equal amounts by wire transfer;
 - e) The Credit Facility shall be used to fund (i) the Proposed Receiver's fees and expenses (including the fees and disbursements of the Receiver's counsel); (ii) amounts payable under the KERP (except for any success fee); (iii) the operational needs of the Company; and (iv) the reasonable fees and disbursements of the Purchaser's counsel and Ela's counsel;
 - f) Amounts drawn and outstanding under the Credit Facility will bear interest of 12% per annum. Interest shall be capitalized monthly for the preceding month and calculated daily;
 - g) All outstanding principal and interest under the Credit Facility is due and payable on the date on which any of the following is the first to occur (the "Termination Date"): (i) a Lender submits written demand for repayment; (ii) two months following the date of the Receivership Order; or (iii) the date of sale of all or portion of any assets, undertakings or properties of the Company;
 - h) All amounts payable under the Credit Facility shall be secured by the Receiver's Borrowings Charge on all assets, undertakings and properties of the Company. The Receiver's Borrowings Charge shall rank in priority to the KERP Charge, but subordinate to the Receiver's Charge; and

- i) The Receiver's Borrowings Charge shall also secure all reasonable fees and expenses incurred by the Lenders, such as legal fees and disbursements, incurred in connection with the Credit Facility, the Term Sheet, and/or the enforcement of the Lenders' rights under the Term Sheet, the Receivership Order and the Receiver's Borrowings Charge, to be paid on Termination Day.
3. The Receiver's Borrowings will provide the Receiver with the liquidity to fund these proceedings. The terms of the facility are consistent with other cannabis restructurings in which KSV is involved.

9.0 Receivership Order

1. The Proposed Receiver has reviewed the terms of the proposed Receivership Order. The draft order is substantially similar to the model receivership order of this Court. The notable changes to the model order are described below.
2. The proposed Receivership Order expressly excludes cannabis-related assets and business from the possession and control of the Proposed Receiver (if appointed). This is a requirement of the Proposed Receiver given the different legal regimes governing cannabis throughout the world. This Court has approved similar language in other cannabis-related receiverships.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS PROPOSED COURT-APPOINTED RECEIVER
OF THE PROPERTY, ASSETS AND UNDERTAKING OF
11157353 CANADA CORPORATION**

Appendix “A”

Sale Process

Overview

1. On February 21, 2023, pursuant to an order (the “**Receivership Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), KSV Restructuring Inc. was appointed as receiver and receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties, excluding the Excluded Assets and Excluded Business (as defined in the Receivership Order) (the “**Property**”) of 11157353 Canada Corp. (the “**Company**”) which is principally comprised of 100% of the issued and outstanding share capital in Materia Deutschland GmbH (the “**Germany Shares**”), 100% of the issued and outstanding share capital in Materia Ventures Malta Ltd. (the “**Malta Shares**”), and 100% of the issued and outstanding share capital in Kara Wellness Limited and Handpicked CBD Limited (the “**UK Shares**”, together with the Germany Shares and Malta Shares, the “**Assets**”).

2. Pursuant to the Receivership Order, the Receiver is authorized to market any or all of the Property of the Company, which marketing may involve advertising or soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver may deem appropriate (the “**Sale Process**”).

3. On February 21, 2023, the Court issued an Order (the “**Sale Process Order**”) that, among other things:

- (a) approved the Sale Process as described herein; and
- (b) approved and accepted the Share Purchase Agreement between the Receiver and Reflourish Capital Limited (“**Reflourish**” and the “**Stalking Horse Bid**”) for the purpose of conducting a “stalking horse” solicitation process in respect of the Germany Shares, in accordance with the Sales Process.

Purpose

4. The purpose of this Sale Process is to seek offers for the purchase of: (i) the Germany Shares for an amount and on terms which are superior to the transaction contemplated by the Stalking Horse Bid; (ii) the Malta Shares; and (iii) the UK Shares.

5. The Sale Process, and any orders of the Court made in the proceeding relating to the Sale Process, shall exclusively govern the process for soliciting and selecting bids for the sale of the Assets (each, a “**Transaction**”).

Timeline

6. The following table sets out the key milestones and deadlines under the Sale Process:

Milestone	Deadline
Sale Process Commencement	As soon as practicable following the granting of the Sale Process Order
Publication of Notice of the Sale Process and delivery of the Teaser Letter and NDA to Potential Bidders, and upon execution of the NDA, provide Potential Bidders with access to the CIM and Data Room	As soon as practicable following the granting of the Sale Process Order
Bid Deadline	30 days after the granting of the Sale Process Order (the “ Bid Deadline ”)
Selection of the Successful Bid(s), including, if necessary, holding the Auction	As soon as reasonably practical following the Bid Deadline
Approval Hearing with the Court	As soon as reasonably practical following the Selection of the Successful Bid (s)
Closing of the Transaction under the Successful Bid(s)	No later than 5 days following the Court granting the Approval and Vesting Order (the “ Closing Date ”)

7. The deadlines set out in paragraph 6 above may be extended by the Receiver, acting reasonably, for up to a maximum of one week in the aggregate without the approval of the Court or the Stalking Horse Bidder. Any such extensions will be communicated to all bidders in writing.

8. Unless otherwise indicated herein, any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day (a “**Business Day**” is any day, other than a Saturday or Sunday, on which banks are ordinarily open for business in Toronto, Ontario).

Pre-Marketing Stage

9. As soon as reasonably practicable (the “**Sale Process Commencement**”), the Receiver will:

- (a) prepare: (i) a process summary (the “**Teaser Letter**”) describing the opportunity, outlining the process under the Sale Process and inviting recipients of the Teaser

Letter to express their interest pursuant to the terms of the Sale Process; (ii) a non-disclosure and confidentiality agreement with the Receiver (an “**NDA**”); and (iii) a confidential information memorandum (“**CIM**”). The Teaser Letter will specifically stipulate that the Receiver makes no representations or warranties as to the accuracy or completeness of the information contained in the Teaser Letter, the Data Room (as defined below), or made available pursuant to the Sale Process or otherwise, except to the extent expressly contemplated in any definitive sale agreement with a Successful Bidder (as defined below) ultimately executed and delivered by the Receiver;

- (b) gather and review all due diligence materials, it determines to be relevant, to be provided to interested parties and establish a secure, electronic data room (the “**Data Room**”), which will be maintained and administered by the Receiver throughout the Sale Process; and
- (c) prepare a list of potential interested parties (each a “**Potential Bidder**”), including:
 - (i) parties that have approached the Company or the Receiver indicating an interest in the opportunity; and
 - (ii) local and international strategic and financial parties who the Receiver believes may be interested in purchasing all or part of the Assets.

Marketing Stage

- 10. As soon as reasonably possible after the Sale Process Commencement, the Receiver shall:
 - (a) arrange for a notice of the Sale Process (and such other relevant information as the Receiver considers appropriate) (the “**Notice**”) to be published in such newspaper(s), publication(s) or journal(s) as the Receiver considers appropriate; and
 - (b) send the Teaser Letter and NDA to all Potential Bidders and to any other party who responds to the Notice as soon as reasonably practicable.

Free of Any and all Claims and Interests

11. Depending on the structure of the Transaction proposed by a Qualified Bidder (as defined herein), the Assets of the Company shall be transferred free and clear of all liens and claims, subject to any permitted encumbrances, pursuant to an approval and vesting order issued by the Court approving the Transaction (the “**Approval and Vesting Order**”). For greater certainty, all security interests, liens, claims and encumbrances will be discharged from the Assets and will attach to the net proceeds from a Transaction(s) following the granting of the Approval and Vesting Order.

“As Is, Where Is”

12. Any purchase of the Assets will be on an “as is, where is” basis without representations or warranties of any kind, nature or description by the Receiver or Company or any of their respective directors, officers, partners, employees, agents, advisors, representatives or estates,

except to the extent as may be set forth in a Binding APA (as defined herein) and approved by the Court.

13. By submitting a bid, each Potential Bidder (as defined herein) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Company and the Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and information in respect of the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties or guarantees, express, implied, statutory or otherwise, regarding the Company or its Assets or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Binding APA and approved by the Court.

Participation Requirements

14. Each Potential Bidder must deliver to the Receiver, an executed NDA, in the form provided by the Receiver, prior to the distribution of any confidential information by the Receiver.

15. If it is determined by the Receiver that a Potential Bidder: (i) has a *bona fide* interest in pursuing a Transaction (based on financial ability to consummate a transaction, industry experience, and other factors); and (ii) has delivered an executed NDA, then such Potential Bidder will be deemed to be a **“Qualified Bidder”**.

16. Reflourish shall be deemed to be a Qualified Bidder in respect to the Germany Shares for the purposes of this Sale Process.

17. The Receiver will grant each Qualified Bidder access to the Data Room and CIM, as soon as reasonably practicable, which will provide, among other things, information considered relevant to the Sale Process, including in the case of a Qualified Bidder that desires to make a bid for the Germany Shares, the Stalking Horse Bid.

18. No Potential Bidder or Qualified Bidder, nor the Stalking Horse Bidder shall be permitted to receive the details of any bids or Binding APAs submitted or the details or existence of any confidential discussions or correspondence among the Company, the Receiver and any bidder in connection with the Sale Process, except to the extent the Receiver, at its sole discretion, determines is reasonable or in preparation for the Auction (as defined below).

Due Diligence

19. The Receiver, subject to competitive and other business considerations, may give each Qualified Bidder such access to due diligence materials and information relating to the Company as the Receiver deems appropriate. Due diligence access may include access to the Data Room, on-site inspections and other matters which a Qualified Bidder may reasonably request and to which the Receiver may agree. Neither the Receiver, nor any of its representatives will be obligated to furnish any information relating to the Company to any person. The Receiver and Company make no representation or warranty, express or implied, as to the information provided through this due diligence process or otherwise, except as may be set forth in a Binding APA.

Binding APAs

20. A Qualified Bidder that desires to make a bid for the Germany Shares shall deliver written copies of its bid, in the form of the Stalking Horse Bid, together with a blackline outlining all changes made to the Stalking Horse Bid (the “**Binding APA for the Germany Shares**”).
21. A Qualified Bidder that desires to make a bid for the Malta Shares shall deliver written copies of its bid in the form of a share purchase agreement (the “**Binding APA for the Malta Shares**”).
22. A Qualified Bidder that desires to make a bid for the UK Shares shall deliver written copies of its bid in the form of a share purchase agreement (together with the Binding APA for the Germany Shares and the Binding APA for the Malta Shares, a “**Binding APA**”).
23. The Receiver will consider (i) a bid for all of the Company’s Assets (an “**En Bloc Bid**”) or (ii) separate bids to acquire some but not all of the Company’s Assets (“**Piecemeal Bids**”). Subject to Court approval, the Receiver has the right to accept an En Bloc Bid if the total consideration is greater than separate Piecemeal Bids.
24. A Binding APA (for any of the Assets) must be submitted to the Receiver as follows: Attn: Noah Goldstein [ngoldstein@ksvadvisory.com] and Eli Brenner [ebrenner@ksvadvisory.com], so as to be received by no later than the Bid Deadline.
25. A Binding APA must comply with all of the following:
- (a) it is received by the Receiver prior to the Bid Deadline;
 - (b) the bid (either individually or in combination with another bid that makes up one Binding APA) is an offer:
 - (i) to purchase the Germany Shares on terms consistent with the form of the Stalking Horse Bid, together with all completed schedules thereto, and on conditions acceptable to the Receiver;
 - (ii) to purchase the Malta Shares on terms reflected in a share purchase agreement, together with all completed schedules thereto, and on conditions acceptable to the Receiver; and
 - (iii) to purchase the UK Shares on terms reflected in a share purchase agreement, together with all completed schedules thereto, and on conditions acceptable to the Receiver;
 - (c) it is duly authorized and executed, and includes a purchase price for the Assets (collectively, the “**Purchase Price**”):
 - (i) with respect to the Germany Shares, €400,000 (or the equivalent in Canadian Dollars) in cash due on closing of the Transaction plus (i) a minimum incremental amount of \$6,000 Canadian Dollars in excess of the

aggregate purchase price contemplated by the Stalking Horse Bid; (ii) a reimbursement of Reflourish's reasonable fees and disbursements relating to the preparation and execution of the Stalking Horse Bid in the maximum amount of \$25,000 Canadian Dollars; and (iii) a break fee in the amount of \$20,000 Canadian Dollars (inclusive of HST, if any);

- (ii) with respect to the Malta Shares, an amount in cash due on closing of the Transaction; and
 - (iii) with respect to the UK Shares, an amount in cash due on closing of the Transaction.
- (d) includes a letter of acknowledgment stating that the Qualified Bidder's offer is irrevocable and open for acceptance until the closing of the Successful Bid (as defined herein);
 - (e) it is accompanied by written evidence of a firm, irrevocable commitment for financing or other evidence satisfactory to the Receiver, in its sole discretion, of the ability of the Qualified Bidder to consummate the proposed Transaction, and that will allow the Receiver to make a determination as to the Qualified Bidder's financial and other capabilities to consummate the proposed sale and pay the Purchase Price;
 - (f) it will be unconditional (other than customary or other conditions acceptable to the Receiver in its sole discretion) and not subject to further due diligence;
 - (g) it fully discloses the identity of each person or entity (including all beneficial owners of such entity) that will be bidding for, or otherwise sponsoring, financing, participating or benefiting from such bid;
 - (h) it includes an acknowledgement and representation of the Qualified Bidder that:
 - (i) it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its bid; (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets 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 Assets, the Company or the completeness or accuracy of any information provided by the Receiver or any other party in connection therewith;
 - (i) it includes evidence, in form and substance reasonably satisfactory to the Receiver, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of the Binding APA submitted by the Qualified Bidder;
 - (j) provides a deposit in the amount of not less than 15% of the Purchase Price offered by the Qualified Bidder (the "**Deposit**"); and

(k) the bid contemplates closing the Transaction by or on the Closing Date.

26. The Receiver may determine, at its sole discretion, whether to entertain bids for the Germany Shares, the Malta Shares, and/or the UK Shares that do not conform to one or more of the requirements for a Binding APA specified herein.

27. Notwithstanding anything herein, the offer represented by the Stalking Horse Bid with respect to the Germany Shares shall be deemed to be a Binding APA for the Germany Shares.

Evaluation of Binding APA

28. Each Binding APA will be considered and reviewed by the Receiver based upon several factors including, without limitation, the Purchase Price and the net value provided by such bid, the financial ability of the Qualified Bidder to close the Transaction, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed and certainty of the closing of the Transaction, the value of the transaction, the Assets included or excluded from the bid, the transition services required from the Receiver (if any), any related transaction costs, the likelihood and timing of consummating such transactions, and such other matters as the Receiver may determine.

29. Each Qualified Bidder shall comply with all reasonable requests for additional information by the Receiver regarding the Qualified Bidder or the Binding APA. Failure of a Qualified Bidder to comply with such requests for additional information will be a basis for the Receiver to reject a Binding APA.

Selection of Successful Germany Share Bid

30. With respect to the Germany Shares the Receiver may identify the highest or otherwise best offer for the Germany Shares (the “**Successful Germany Share Bid**”).

31. If no Binding APA for the Germany Shares (other than the Stalking Horse Bid) is received by the Bid Deadline, the Stalking Horse Bid shall be deemed the Successful Germany Share Bid.

32. If the Receiver receives one or more Binding APAs for the Germany Shares, it may, in the Receiver’s sole discretion, proceed with an auction to select the Successful Germany Share Bid (an “**Auction**”) on notice to each Qualified Bidder that submits a Binding APA for the Germany Shares and is invited to attend the Auction by the Receiver having regard to the terms of its Binding APA for the Germany Shares (each, an “**Auction Bidder**”). For greater certainty, Reflourish shall constitute an Auction Bidder in all circumstances in which an Auction is conducted for the Germany Shares.

33. If an Auction is commenced, the Receiver will implement Auction procedures that will be made available to all Auction Bidders if and when the Auction is implemented.

34. The Receiver shall consult with ELA Capital Inc, as applicant in these proceedings (“**Ela Capital**”), prior to the determination of a Successful Germany Share Bid by the Receiver, provided Ela Capital has not and confirms it has no intention to make a bid for any Assets.

Selection of Successful UK Share Bid and Malta Share Bid

35. With respect to the UK Shares and the Malta Shares: (i) the Receiver may identify the highest or otherwise best offer or combination of offers for the UK Shares (the “**Successful UK Share Bid**”); (ii) the Receiver may identify the highest or otherwise best offer or combination of offers for the Malta Shares (the “**Successful Malta Share Bid**”); or (iii) if the Receiver determines that two or more Binding APAs for the UK Shares and the Malta Shares are close in value, at the discretion of the Receiver, the Receiver may decide to negotiate with the applicable Qualified Bidders in order for the Qualified Bidders to submit an improved bids for the UK Shares or the Malta Shares, and as a result of such negotiations and the Receiver may identify a Successful UK Share Bid and Successful Malta Share Bid.

36. The Receiver shall consult with Ela Capital prior to the determination of a Successful UK Share Bid and the Successful Malta Share Bid by the Receiver, provided Ela Capital has not and confirms it has no intention to make a bid for any Assets.

37. The Receiver shall have no obligation to select a Successful UK Share Bid or a Successful Malta Share Bid and it reserves the right to reject any or all Binding APAs.

Backup Bid(s)

38. After selecting the Successful Bid(s), the Receiver may, at its sole discretion, chose the second highest or otherwise best offer or combination of offers for the Assets to act as the backup bid (the “**Backup Bid**”) in circumstances where the Transaction(s) contemplated by the Successful Bid(s) does not close.

Treatment of Deposits

39. In the event a Binding APA is not selected as a Successful Malta Share Bid, a Successful Germany Share Bid, or a Successful UK Share Bid (each a “**Successful Bid**”), the Deposit (without interest) shall be returned to the Qualified Bidder as soon as reasonably practicable after the closing of the Successful Bid.

40. A Binding APA may not be withdrawn, modified or amended without the written consent of the Receiver prior to the closing of the Successful Bid. Any such withdrawal, modification or amendment made without the written consent of the Receiver prior to the closing of the Successful Bid shall result in the forfeiture of such Qualified Bidder’s Deposit as liquidated damages and not as a penalty.

41. If a Qualified Bidder who made a Successful Bid breaches its obligations under the terms of the Sale Process or Binding APA, its deposit shall be forfeited as liquidated damages and not as a penalty.

Sale Approval Hearing

42. The sale of the Assets to any Successful Bidder is expressly conditional on the approval of the Successful Bid by the Court pursuant to an Approval and Vesting Order.

43. The motion for an order of the Court approving any Successful Bid (the “**Sale Approval Hearing**”) shall be brought by the Receiver. The Sale Approval Hearing shall be heard on a date determined by the Receiver and subject to the Court’s availability.

44. All of the Binding APAs for the Germany Shares other than any Successful Germany Share Bid, if any, shall be deemed rejected by the Receiver immediately after the closing of the Successful Germany Share Bid.

45. All of the Binding APAs for the Malta Shares other than any Successful Malta Share Bid, if any, shall be deemed rejected by the Receiver immediately after the closing of the Successful Malta Share Bid.

46. All of the Binding APAs for the UK Shares other than any Successful UK Share Bid, if any, shall be deemed rejected by the Receiver immediately after the closing of the Successful UK Share Bid.

Reservation of Rights

47. The Receiver may: (a) determine which Binding APA, if any, is the highest or otherwise best offer; and (b) notwithstanding anything contained herein, at any time before the issuance and entry of an Approval and Vesting Order, reject any bid that it determines is (i) inadequate or insufficient; or (ii) not in conformity with the requirements of this Sale Process or any order of the Court.

48. This Sale Process does not, and shall not be interpreted to, create any contractual or other legal relationship between the Receiver and any other party, other than as specifically set forth in definitive agreements that may be executed.

49. The Receiver shall have the right to adopt such rules, not inconsistent with the Sale Process described herein, that, in its reasonable discretion, will promote the goals of the Sale Process.

50. The Receiver may make any modification to the Sale Process that it considers appropriate in the circumstances and, if determined necessary or desirable in the Receiver’s sole discretion, it will seek Court approval of such modification on notice to the service list in the receivership proceeding. For greater certainty, any extension of time by the Receiver pursuant to paragraph 6 herein will not be considered “material”.

Approvals

51. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the Receivership Order or any other statute or as otherwise required at law in order to implement a Successful Bid.

Limitation of Liability

52. The Receiver and the Company shall not have any liability whatsoever to any person or party, including without limitation to any Potential Bidder, Qualified Bidder, a bidder who

submits a Successful Bid or any creditor or other stakeholder, for any act or omission related to this Sale Process, save gross negligence or willful misconduct. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Receiver for any reason, matter or thing whatsoever, save gross negligence or willful misconduct.

53. Other than as specifically set forth in a definitive agreement between the Receiver and a Successful Bidder, the Sale Process does not, and will not be interpreted to, create any contractual or other legal relationship among the Company, the Receiver, a Potential Bidder, a Qualified Bidder, a Successful Bidder, or any other party.

54. The Receiver and the Company shall not be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the completion of any Transaction completed under the Sale Process. Any such claim shall be the sole liability of the bidder who completes a Transaction under the Sale Process.

55. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with their participation in the Sale Process, including submission of any bids, due diligence activities, completion of a Successful Bid, preparation for and attendance at the Sale Approval Hearing and any negotiations or actions whether or not they lead to the consummation of a Transaction.

Supervision of the Sale Process

56. The Receiver will have responsibility for managing all communication with all Potential Bidders. This shall include facilitating the delivery of all communications, providing the Teaser Letter, coordinating the execution of NDAs, and managing the process of answering enquiries. Under no circumstances should a representative of the Company be contacted directly or indirectly in respect of the Sale Process, including diligence requests, without the prior written consent of the Receiver. Any such unauthorized contact or communication could result in exclusion from the Sale Process, in the Receiver's sole discretion.

57. The Company and its principals, employees and professional advisors shall cooperate fully with the Receiver and provide documents and information requested as part of the Sale Process to the Receiver in a prompt fashion.

Jurisdiction

58. All bidders (including Qualified Bidders) shall be deemed to have consented to the exclusive jurisdiction of the Ontario Superior Court of Justice (Commercial List) and waived any right to a jury trial in connection with any disputes relating to the Sale Process, including the qualification of bids, the construction and enforcement of the Sale Process, the selection of any Successful Bids and closing of any Transactions, as applicable.

Appendix “B”

SUMMARY OF TERMS AND CONDITIONS

CREDIT FACILITY for KSV RESTRUCTURING INC., in its capacity as Court-appointed receiver of 11157353 CANADA CORP

February 21, 2023

The Lenders (as defined herein) hereby commit to provide the Credit Facility to the Receiver upon the terms and subject to the conditions set forth in this binding term sheet (this “**Term Sheet**”). Capitalized terms used herein without express definition will have the same meanings as are assigned to them in Schedule “A”. Any word defined in or importing the singular number has the same meaning when used in the plural number, and *vice versa*.

Lenders:	ReFlourish Capital Limited (“ ReFlourish ”) and Ela Capital Inc. (“ Ela ” and together with ReFlourish, the “ Lenders ”).
Receiver:	KSV Restructuring Inc. (the “ Receiver ”), in its capacity as Court-appointed receiver of 11157353 Canada Corp. (the “ Company ”), and not in its personal or corporate capacity.
Receiver’s Certificates:	In the event of any conflict between this Term Sheet and the Receiver’s Certificates, the Receiver’s Certificates shall prevail.
Currency:	Unless otherwise noted, the currency of the Credit Facility shall be euros.
Credit Facility:	<p>Non-revolving facility in the maximum amount of €400,000 (the “Credit Facility”).</p> <p>The commitments of each Lender are as follows:</p> <p>(a) ReFlourish - €200,000; and</p> <p>(b) Ela - €200,000.</p>
Advances:	<p>Advances under the Credit Facility (“Advances”) shall be made as follows:</p> <p>(a) initial Advance (the “Initial Advance”) in the following amounts to be advanced to the Receiver by wire transfer, in trust, prior to the date of the Receivership Order:</p> <p>(i) Ela – €120,000; and</p> <p>(ii) ReFlourish - €133,000;</p>

	<p>(b) subsequent Advances under the Credit Facility (“Subsequent Advances”) shall be advanced by each Lender in equal amounts to the Receiver by wire transfer, with Ela advancing €13,000 as a final Advance under this Term Sheet.</p>
Use of Proceeds:	<p>The Credit Facility shall be used to fund, (a) the Receiver’s fees and expenses, including the fees and disbursements of the Receiver’s counsel, (b) amounts payable under the KERP (with the exception of any success fee), (c) the operational needs of the Company; and (d) the reasonable fees and disbursements of counsel to Ela and ReFlourish.</p>
Interest Rate:	<p>Amounts drawn and outstanding under the Credit Facility will bear interest at a rate per annum equal to 12%.</p> <p>Interest on the principal amount outstanding under the Credit Facility shall be capitalized monthly in arrears and payable on the Termination Date (defined below).</p> <p>Unless otherwise provided for herein, interest on any amount due hereunder shall be calculated daily and not in advance on the basis of a 365-day year. For the purposes of the <i>Interest Act</i> (Canada) in the case of a leap year, the annual interest rate corresponding to the interest calculated on the basis of a 365-day year is equal to the interest rate thus calculated multiplied by 366 and divided by 365. Any principal, interest, or any other amount remaining unpaid at maturity, shall bear interest at the rate provided for herein, being understood that the said interest rate on arrears shall not exceed the maximum rate provided by law.</p>
Commitment Fee:	<p>A fee of 2% of the total amount of the Credit Facility, payable to each Lender on a <i>pro rata</i> basis, shall be fully earned upon issuance of the Receivership Order and paid on the Termination Date.</p>
Repayment:	<p>All outstanding principal and interest under the Credit Facility, and all other amounts payable hereunder, shall become due and payable on the date which is the earliest to occur of the following (the “Termination Date”):</p> <ul style="list-style-type: none"> (a) written demand for repayment issued by Majority Lenders; (b) two months from the date of the Receivership Order; and (c) the date of a sale of all or a portion of the Collateral.

<p>Borrowings Charge:</p>	<p>The Credit Facility and all amounts payable hereunder shall be secured by a super-priority Court-ordered charge (the “Receiver’s Borrowings Charge”) on all of the assets, undertakings and properties of the Company (the “Collateral”) and evidenced by Receiver’s Certificates issued by the Receiver to each of the Lenders pursuant to the Receivership Order.</p> <p>Each Lender’s security interest, as evidenced by the Receiver’s Certificates, shall rank <i>pari passu</i>, unless otherwise agreed to by the Lenders.</p> <p>The Receiver’s Borrowings Charge shall rank in priority to the KERP Charge, but shall be subordinate to the Receiver’s Charge.</p> <p>The KERP Charge shall rank subordinate to the security interest of ReFlourish over the shares of Materia Deutschland GmbH granted pursuant to the pledge agreement, dated November 24, 2022.</p>
<p>German Shares Credit Bid:</p>	<p>Notwithstanding anything to the contrary contained herein, Ela hereby waives and releases its rights under the Receiver’s Borrowings Charge solely as against the German Shares upon the closing of the transaction contemplated by the German Shares Stalking Horse Agreement.</p> <p>Notwithstanding anything to the contrary contained herein, upon the closing of the German Shares Stalking Horse Agreement, ReFlourish hereby waives and releases its right to repayment of the portion of Receiver’s Debt (as defined in the German Shares Stalking Horse Agreement) credit bid on the closing of the transaction contemplated by the German Shares Stalking Horse Agreement.</p>
<p>Conditions Precedent to First Advance:</p>	<p>The obligation of the Lenders to make the Credit Facility available to the Receiver and to fund the Initial Advances under the Credit Facility is subject to and conditional upon satisfaction (or waiver by the Lenders) of the following conditions precedent:</p> <ul style="list-style-type: none"> (a) the issuance of the Receivership Order and the Sale Process Order, each in form and substance satisfactory to the Lenders; and (b) delivery of Receiver’s Certificates, substantially in the form as attached hereto as Schedule “B”, in the amount of each Initial Advance to each of the Lenders.

<p>Conditions Precedent to each Subsequent Advance under the Credit Facility:</p>	<p>The following conditions precedent shall be satisfied, or waived by the Lenders, prior to each Subsequent Advance under the Credit Facility:</p> <ul style="list-style-type: none"> (a) delivery to the Lenders of an advance request at least three (3) Business Days prior to the date of the Advance, which request shall include a current statement of receipts and disbursements; and (b) delivery of Receiver's Certificates, substantially in the form as attached hereto as Schedule "B", in the amount of each Subsequent Advance to each of the Lenders.
<p>Assignment upon failure to pay Subsequent Advance:</p>	<p>In the event that, prior to the Termination Date, Ela or ReFlourish fails to make any Subsequent Advance pursuant to this Term Sheet that it is unable to remediate by funding from a third party under a new Receiver's Certificate (which funding shall be subject to the terms of the Term Sheet), the other party (i.e. Ela or ReFlourish respectively) will fund the shortfall (the "Shortfall") on the same terms as set out herein.</p> <p>In the event that Ela or ReFlourish funds the Shortfall of the other party, the party funding the Shortfall will receive an assignment of the other party's right, title and interest in and under this Term Sheet and Receiver's Certificates, including in respect of repayment of the Credit Facility, in the amount of the Shortfall (the "Assignment"). The Assignment shall occur automatically without the need for any notice, documentation or other formal assignment.</p>
<p>Recoverable Expenses:</p>	<p>All reasonable fees and expenses incurred by the Lenders, including, without limitation, legal fees and disbursements, incurred in connection with the Credit Facility, the Term Sheet, and/or the enforcement of the Lenders' rights under the Term Sheet, the Receivership Order and the Receiver's Borrowings Charge (collectively, the "Recoverable Expenses"), shall be secured by the Receiver's Borrowings Charge and paid on demand.</p>
<p>Covenants of the Receiver:</p>	<p>The Receiver covenants and agrees with the Lenders that it:</p> <ul style="list-style-type: none"> (a) will pay all sums of money when due under the terms of the Term Sheet and the Receiver's Certificates, provided that the Receiver's obligation to make repayment is limited to the cash proceeds, if any, received from the sale of the Collateral;

	<p>(b) will immediately advise the Lenders if it becomes aware of a Material Adverse Change;</p> <p>(c) will not, without the prior written consent of all of the Lenders or approval of the Court, (i) incur any borrowings or other indebtedness, obligations or liabilities, other than the Credit Facility, or (ii) issue any Receiver's Certificates or grant any security over the Collateral for any borrowings or indebtedness, other than the Credit Facility;</p> <p>(d) will not, without the prior written consent of the Lenders, use the proceeds of Advances under the Credit Facility for any purpose other than as set out in the Term Sheet;</p> <p>(e) will promptly upon receipt, give the Lenders a copy of any notice of motion, pleading or application to vary, supplement, revoke, terminate or discharge the Receivership Order or Sale Process Order; and</p> <p>(f) will provide weekly updates on the status of the Sale Process to each of the Lenders and upon request by any of the Lenders.</p>
Remedies and Enforcement:	<p>Upon the Termination Date, no further Advances shall be made and, upon four (4) Business Days written notice to the Receiver, the Lenders shall have the right to seek leave of the Court to:</p> <p>(a) enforce the Receiver's Borrowings Charge and realize on the Collateral and any other property secured by the Receiver's Borrowings Charge;</p> <p>(b) apply to the Court for the replacement of the Receiver or for a bankruptcy order against the Company and for the appointment of a trustee in bankruptcy of the Company; and</p> <p>(c) exercise all such other rights and remedies available to the Lenders pursuant to this Term Sheet, the Receivership Order, the Receiver's Certificates and/or any other order of the Court or applicable law.</p> <p>No failure or delay on the part of the Lenders in exercising any of their rights and remedies shall be deemed to be a waiver of any kind.</p>
Amendment:	<p>Unless otherwise specified herein, this Term Sheet may not be amended or waived except by an instrument in writing signed by each of the Lenders and the Receiver.</p>

Successors and Assigns; Enurement:	This Term Sheet shall be binding upon and enure to the benefit of the Lenders and the Receiver and their respective successors and permitted assigns.
Assignment:	The Receiver may not assign any of its rights or obligations under this Term Sheet or the Receiver's Certificates to any Person, without the prior written consent of the Lenders. The Lenders may with the consent of the Receiver, which consent shall not be unreasonably withheld, assign, sell or participate their rights or obligations or any part thereof with respect to this Term Sheet, the Receiver's Certificates or any related documentation at any time, without the prior written consent of the other Lender.
Governing Law:	This Term Sheet shall be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the Lenders and the Receiver irrevocably attorn to the exclusive jurisdiction of the courts of Ontario.
Execution in Counterparts:	This Term Sheet may be executed in counterparts, whether by original copy or electronic means (including DocuSign), each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument.
Further Assurances:	The Receiver will promptly on demand by the Lenders, do such acts and things and execute and deliver such documents as the Lenders may reasonably request to give effect to any other provisions set out hereunder.

[Signature Page Follows]

Lender:

ELA CAPITAL INC.

Per: _____

Per: _____

Lender:

REFLOURISH CAPITAL LIMITED

Per: _____
Name: Robert Petch
Title: Director

Receiver:

KSV RESTRUCTURING INC., in its capacity
as Court-appointed receiver of 11157353 Canada
Corp., and not in its personal or corporate
capacity

Per: _____

Per: _____

**SCHEDULE A
DEFINED TERMS**

“Business Day”	means any day that is not a Saturday or Sunday or a day recognized as a statutory holiday in the Province of Ontario, Canada. If a required payment falls on a non-business day, then such payment shall be made on the next Business Day.
“Court”	means the Ontario Superior Court of Justice (Commercial List).
“German Shares”	100% of the issued and outstanding shares in the share capital of Materia Deutschland GmbH.
“German Shares Stalking Horse Agreement”	means the share purchase agreement, to be entered into by the Receiver and ReFlourish in respect of the purchase and sale of the German Shares.
“KERP”	has the meaning set out in the Sale Process Order.
“KERP Charge”	has the meaning set out in the Sale Process Order.
“Majority Lenders”	means a Lender or Lenders that have advanced, in the aggregate, more than 50% of total Advances.
“Material Adverse Change”	means any event, circumstance or change that could be expected to result, individually or in the aggregate, in a material adverse effect, in any respect, on (a) the legality, validity or enforceability of the Term Sheet, the Receiver’s Borrowings Charge or the Receiver’s Certificates or any of the security interests provided for thereunder, (b) the right or ability of the Receiver to perform any of its obligations under any of the Term Sheet, the Receivership Order, or the Sale Process Order, (c) the financial condition, assets, business or prospects of the Company or any of the Subsidiaries, (d) any Material Permit, (e) the ability of the Company or any of the Subsidiaries to retain, utilize, exploit or comply with its obligations under any Material Permit, or (f) the rights or remedies of the Lenders under the Term Sheet, the Receiver’s Borrowings Charge or the Receiver’s Certificates; provided that the commencement and continuation of the Receivership Proceedings will not constitute a Material Adverse Change.
“Material Permits”	means all licences, including cannabis licences, issued by any governmental authority to the Company or any of the Subsidiaries.
“Person”	means an individual, a corporation, a limited partnership, a general partnership, a trust, a joint stock company, a joint venture, an

	association, a syndicate, a bank, a trust company, a governmental authority and any other legal or business entity.
“Receivership Order”	means an order of the Court appointing the Receiver as receiver of all of the assets, undertakings and properties of the Company, in form and substance satisfactory to the Lenders and their counsel.
“Receiver’s Certificates”	has the meaning set out in the Receivership Order.
“Receiver’s Charge”	has the meaning set out in the Receivership Order.
“Receivership Proceedings”	means the receivership proceedings to be commenced in respect of the Company pursuant to the Receivership Order.
“Sale Process”	means the sale process in respect of the assets, undertakings and properties of the Company approved pursuant to the Sale Process Order.
“Sale Process Order”	means an order of the Court approving the sale process in respect of the assets, undertakings and properties of the Company, in form and substance satisfactory to the Lenders and their counsel.
“Subsidiaries”	means Materia Deutschland GmbH, Materia Ventures Malta Ltd., Kara Wellness Limited and Handpicked CBD Limited and any other entity owned or controlled by the Company.

**SCHEDULE B
FORM OF RECEIVER'S CERTIFICATE**

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ELA CAPITAL INC.

Applicant

- and -

11157353 CANADA CORP.

Respondent

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of 11157353 Canada Corp. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof, excluding the Excluded Assets and Excluded Business (each as defined in the Order) (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 21st day of February, 2023 (the “**Order**”) made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$_____, being part of the total principal sum of \$575,000 Canadian Dollars (or the equivalent amount in another currency in accordance with the applicable exchange rate) which the Receiver is authorized to borrow under and pursuant to the Order.

The principal sum evidenced by this certificate is payable on demand by the Lender, subject to the terms of the Summary of Terms and Conditions, dated [DATE], entered into by the Receiver, the

Lender and [NAME], with interest thereon calculated and capitalized monthly in arrears after the date hereof at a rate per annum equal to 12 per cent.

Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

All sums payable in respect of principal and interest under this certificate are payable as directed by the Lender.

Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2023.

KSV Restructuring Inc., solely in its capacity
as Receiver of the Property, and not in its
personal or corporate capacity

Per: _____

Name:

Title:

ELA CAPITAL INC.

and

11157353 CANADA CORPORATION

Court File No. CV-23-00694886-00CL

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at
Toronto

MOTION RECORD

MILLER THOMSON LLP

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Lawyers for the Proposed Receiver,
KSV Restructuring Inc.