

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

MOTION RECORD
(Returnable August 17, 2020)

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

George Benchetrit
Tel: (416) 218-1141
Fax: (416) 218-1841
Email: george@chaitons.com

**Lawyers for KSV Kofman Inc., in its
capacity as Proposal Trustee**

TO: SERVICE LIST

SERVICE LIST

CHAITONS LLP

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

George Benchetrit

Tel: (416) 218-1141
Email: george@chaitons.com

Lawyers for KSV Kofman Inc., Proposal Trustee

KSV KOFMAN INC.

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

Bobby Kofman

Tel: (416) 932-6262
Email: bkofman@ksvadvisory.com

Mitch Vininsky

Tel: (416) 932-6013
Email: mvininsky@ksvadvisory.com

Proposal Trustee

DLA PIPER

Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto, ON M5X 1E2

Edmond Lamek

Tel: 416 365 3444
Email: edmond.lamek@dlapiper.com

Danny Nunes

Tel: 416 365 3421
Email: danny.nunes@dlapiper.com

Lawyers for Viafoura Technologies Inc.

GOLDMAN SLOAN NASH & HABER LLP

1600-480 University Ave., Toronto
Toronto, ON M5G 1V2

Jennifer Stam

Tel: 416-597-5017
Email: stam@gsnh.com

Katie Parent

Email: parent@gsnh.com

Lawyers for Viafoura Inc.

BORDEN LADNER GERVAIS LLP

World Exchange Plaza,
100 Queen St., Suite 1300,
Ottawa, ON, Canada K1P 1J9

Karen Perron

Email: kperron@blg.com
Tel: 613-369-4795

Lawyers for National Bank of Canada

WEISZ FELL KOUR LLP

100 King Street W, Suite 5600
Toronto, Ontario, M5X1C9

Steven Weisz

Tel: 416-613-8281
Email: sweisz@wfkllaw.ca

Lawyers for Espresso Capital Ltd.

TORONTO-DOMINION BANK

TD Commercial Banking
TD Bank Tower, 66 Wellington Street West
Toronto Ontario M5K 1E9

Jeffrey Swan

Director, Financial Restructuring Group
Tel: 416.308.9215
Email: jeff.swan@td.com

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

INDEX

Tab	Document
1	Notice of Motion
A	Draft Order
2	Fourth Report of the Proposal Trustee dated August 7, 2020
A	Order dated March 23, 2020
B	Certificate of Filing a Proposal
C	List of Creditors
D	Report to Creditors
E	Tax Loss Variable Note
F	Voting Register
G	Meeting of Creditors Minutes
H	Fee Affidavit

TAB 1

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF VIAFOURA INC., OF THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

NOTICE OF MOTION

KSV Kofman Inc. (“**KSV**”), in its capacity as proposal trustee (“**Proposal Trustee**”) in connection with a Notice of Intention to Make a Proposal (“**NOI**”) filed on December 1, 2019 by 7235712 Canada Inc. (formerly, Viafoura Inc.) (the “**Company**”), and in its capacity as receiver appointed pursuant to the Order of this Court dated March 23, 2020 (the “**Receiver**”), will make a motion, to be held by Zoom videoconference, to a judge presiding over the Commercial List on Monday, August 17, 2020, at 1:00 p.m., or as soon after that time as the motion can be heard. Please refer to the conference details attached as **Schedule “A”** hereto in order to attend the motion and advise if you intend to join the hearing by emailing George Benchetrit at george@chaitons.com no later than 5:00 p.m. on August 13, 2020 with the following details: (i) the name of the legal counsel attending and his/her email address; (ii) the client’s name; and (iii) a summary of the position that the party in attendance intends to take on the motion.

THE PROPOSED METHOD OF HEARING: The motion is to be heard orally via videoconference.

THE MOTION IS FOR:

1. an order substantially in the form attached hereto as **Schedule “B”**, *inter alia*¹:
 - a) if necessary, abridging the time for and validating service of the Proposal Trustee’s motion materials, so that this motion is properly returnable on August 17, 2020, and dispensing with further service thereof;
 - b) approving the Proposal (as defined below);
 - c) approving the fees and disbursements of the Receiver; and
 - d) discharging the Receiver; and
2. such further and other relief that the Proposal Trustee may request and this Honourable Court may consider.

THE GROUNDS FOR THE MOTION ARE:**Approval of Proposal**

1. On May 14, 2020, the Company filed a proposal with the Official Receiver in accordance with Section 62(1) of the of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“**BIA**”).
2. On July 10, 2020, the Proposal Trustee provided by email and regular mail to the Company, to the Office of the Superintendent of Bankruptcy (Canada) (“**OSB**”) and to every known

¹ All capitalized terms not defined herein are used as defined below or in the Fourth Report of the Proposal Trustee dated August 7, 2020. (the “**Fourth Report**”).

creditor affected by the proposal, a Notice of Proposal to Creditors and other documents listed under Section 51(1) of the BIA, including the Proposal Trustee's report to creditors on the proposal (the "**Notice**") The Proposal Trustee also posted the Notice (with all attachments) on its website.

3. The meeting of creditors to consider and vote on the proposal was held on July 21, 2020 and adjourned to July 22, 2020 and then to July 23, 2020 (the "**Meeting**").
4. Following discussions before and during the Meeting between the Company and its two largest creditors, being National Bank Canada of Canada and Espresso Capital, the Company agreed to amend the proposal (as amended, the "**Proposal**").
5. The Proposal was accepted by the statutory majority of the Company's creditors voting on the Amended Proposal.
6. The Proposal Trustee recommends that the Court issue an order approving the Amended Proposal for the following reasons:
 - (a) it was approved by the statutory majority of creditors voting in person or by proxy at the Meeting; and
 - (b) acceptance and implementation of the Proposal provides an opportunity for further recoveries for the Company's creditors, who would otherwise suffer a material shortfall on their claims against the Company in a bankruptcy.

Discharge of Receiver

7. On March 23, 2020, KSV was appointed as Receiver of the Company's remaining assets following completion of the Transaction² for the purposes of facilitating the Company's obligations under the Stalking Horse Agreement, including under a transition services agreement dated March 23, 2020 between the Company and Viafoura Technologies Inc. ("VTI"), as assignee of Intericap, as successful bidder (the "TSA").
8. The Receiver's role was limited to administering the TSA and assisting VTI to deal with the Non-Assignable Interests (as defined under the TSA).
9. Upon implementation of the Proposal, if approved, the Company will become a wholly owned operating subsidiary of VTI and the Receiver's role will no longer be required as all issues requiring its assistance and supervision in these proceedings will have been addressed. Accordingly, the Receiver recommends that it be discharged.
10. The time and disbursements incurred by the Receiver are fair and reasonable considering the circumstances connected with this administration.

Other Grounds

11. Sections 58 of the *Bankruptcy and Insolvency Act* (R.S.C., 1985, c. B-3), as amended, and Rules 2.03, 3.02, 16.01 and 37 of the *Rules of Civil Procedure* (Ontario).
12. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

1. The Fourth Report, including the appendices thereto.
2. Such further and other material as counsel may advise and this Honourable Court may permit.

August 7, 2020

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

George Benchetrit
Tel: (416) 218-1141
Fax: (416) 218-1841
Email: george@chaitons.com

**Lawyers for KSV Kofman Inc., in its
capacity as Proposal Trustee**

TO: SERVICE LIST

Schedule “A”

Join Zoom Meeting

<https://us02web.zoom.us/j/4169172121?pwd=MINTei9tejZGbFNFN0tLcWpDUW5LZz09>

Meeting ID: 416 917 2121

Passcode: June2020

TAB A

Court File No. 31-2590812

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

THE HONOURABLE MADAM)	MONDAY, THE 17 TH
)	
JUSTICE CONWAY)	DAY OF AUGUST, 2020

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF VIAFOURA INC., OF THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

ORDER

THIS MOTION, made by KSV Kofman Inc. (“**KSV**”), in its capacity as proposal trustee (“**Proposal Trustee**”) in connection with a Notice of Intention to Make a Proposal (“**NOI**”) filed on December 1, 2019 by 7235712 Canada Inc. (formerly, Viafoura Inc.) (the “**Company**”), and in its capacity as receiver appointed pursuant to the Order of this Court dated March 23, 2020 (the “**Receiver**”), for an order: (a) approving the Proposal (as defined below); (b) approving the fees and disbursements of the Receiver; and (c) discharging the Receiver; was heard this day via Zoom videoconference.

ON READING the Fourth Report of KSV dated August 7, 2020 (the “**Fourth Report**”) and on hearing the submissions of counsel for the Proposal Trustee and Receiver, the Company and Viafoura Technologies Inc., no one appearing for any other person on the service list, although properly served as appears from the affidavit of ●sworn August ●, 2020, filed:

SERVICE

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

APPROVAL OF PROPOSAL

2. THIS COURT ORDERS that the Proposal, as accepted by the requisite majority of the Company's creditors and as attached hereto as **Schedule "A"**, be and is hereby approved and is effective in accordance with its terms.

PROPOSAL IMPLEMENTATIONS

3. THIS COURT ORDERS that each of the Company and the Proposal Trustee, as applicable, is hereby authorized and directed to take all steps and actions necessary or appropriate (as determined by the Company or the Proposal Trustee, as the case may be) to implement the Proposal and the transactions contemplated thereby, in accordance with and subject to the terms of the Proposal and, that such steps and actions are hereby approved.

4. THIS COURT ORDERS that, pursuant to Section 59(4) of the BIA, the Company's constating instrument is to be amended in accordance with the Articles of Reorganization attached as Schedule "A" to the Proposal, and that to give effect to such amendment, the Company is hereby authorized and directed to file the Articles of Reorganization, at such time and in such manner as contemplated by the Proposal and as required by applicable corporate laws.

DISCHARGE OF RECEIVER

5. THIS COURT ORDERS that the activities of the Receiver, as set out in the Fourth Report, are hereby approved.

6. THIS COURT ORDERS that the fees and disbursements of the Receiver, as set out in the Fourth Report, are hereby approved.

7. THIS COURT ORDERS that, effective upon the issuance of this Order, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Company, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as Receiver.

GENERAL

8. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable.

9. THIS COURT ORDERS AND REQUESTS the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province to act in aid of and to be complementary to this Court 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 as may be necessary or desirable to give effect to this Order or to assist the Company and the Proposal Trustee and their agents in carrying out the terms of this Order.

Schedule A – Proposal

TAB 2



**Fourth Report to Court of
KSV Kofman Inc. as Proposal
Trustee of 7235712 Canada Inc.
(formerly Viafoura Inc.)**

August 7, 2020

**First Report to Court of
KSV Kofman Inc. as Receiver of
7235712 Canada Inc.**

Contents		Page
1.0	Introduction.....	1
1.1	Purposes of this Report.....	2
1.2	Currency	3
1.3	Restrictions	3
2.0	Background	3
3.0	Creditors.....	4
4.0	The Proposal	4
4.1	Statutory Disclosure	5
4.2	The Meeting	5
4.3	Recommendation	6
5.0	Receiver’s Discharge	6
6.0	Conclusion and Recommendation	6

Appendices

Appendix	Tab
Receivership Order.....	A
Certificate of Filing a Proposal.....	B
List of Creditors.....	C
Report to Creditors	D
Amended Proposal including the Tax Loss Variable Note	E
Voting Register	F
Minutes of the Meeting of Creditors.....	G
Fee Affidavit.....	H

COURT FILE NO.: 31-2590812

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**FOURTH REPORT TO COURT OF
KSV KOFMAN INC. AS PROPOSAL TRUSTEE**

**FIRST REPORT TO COURT OF
KSV KOFMAN INC. AS RECEIVER**

AUGUST 7, 2020

1.0 Introduction

1. This report (“Report”) is filed by KSV Kofman Inc. (“KSV”) in its capacities as:
 - a) proposal trustee (“Proposal Trustee”) in connection with a Notice of Intention to Make a Proposal (“NOI”) filed on December 1, 2019 by 7235712 Canada Inc. (formerly Viafoura Inc.) (the “Company”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“BIA”); and
 - b) receiver (the “Receiver”), appointed pursuant to an Order of the Ontario Superior Court of Justice (“Court”) dated March 23, 2020 (the “Receivership Order”) of the Non-Assignable Interests, as defined in the Stalking Horse Agreement (as defined below). A copy of the Receivership Order is provided in Appendix “A”.
2. The principal purpose of the proposal proceedings was to create a stabilized environment to allow the Company the opportunity to complete a restructuring and to provide liquidity to the business so that it could continue to operate on a going-concern basis while the restructuring process was conducted.

3. On February 10, 2020, the Court made an Order (“Sale Process Approval Order”) which, among other things, approved:
 - a) a “stalking horse” sale process for the Company’s business and assets (the “Sale Process”); and
 - b) a stalking horse offer made by Intercap Equity Inc. (“Intercap”), a preferred shareholder of the Company, pursuant to an agreement of purchase and sale dated January 28, 2020 (the “Stalking Horse Agreement”), as the stalking horse bid in the Sale Process.
4. Pursuant to Orders of the Court made on March 23, 2020 (the “March 23rd Order”):
 - a) the transaction contemplated by the Stalking Horse Agreement was approved (the “Transaction”); and
 - b) KSV was appointed as Receiver of the Company’s remaining assets following completion of the Transaction for the purposes of facilitating the Company’s obligations under the Stalking Horse Agreement, including under a transition services agreement dated March 23, 2020 between the Company and Viafoura Technologies Inc. (“VTI”), as assignee of Intercap, as successful bidder (the “TSA”).
5. On May 14, 2020, the Company filed a proposal (the “Proposal”) with the Official Receiver in accordance with Section 62(1) of the BIA. A Certificate of Filing a Proposal (“Certificate”) was issued by the Office of the Superintendent of Bankruptcy (Canada) (“OSB”) on that date. A copy of the Certificate is provided in Appendix “B”.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) summarize the results of the meeting of creditors held on July 21, 2020 (which meeting was adjourned to July 22, 2020 and then to July 23, 2020) to consider and vote on the Proposal (the “Meeting”);
 - c) provide the statutory disclosure required under Sections 58(d) and 59(1) of the BIA;
 - d) summarize the fees and disbursements of the Receiver; and
 - e) recommend that this Honourable Court make an order:
 - approving the Proposal;
 - approving the fees and disbursements of the Receiver; and
 - discharging the Receiver.

1.2 Currency

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

1.3 Restrictions¹

1. In preparing this Report, KSV has relied upon unaudited financial information prepared by the Company's representatives, the books and records of the Company and discussions with representatives of the Company. 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 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 due diligence and any reliance placed by any party on the information presented herein shall not be sufficient for any purpose whatsoever. KSV accepts no reliance by any party based on the information in this Report.

2.0 Background

1. At the time it filed the NOI, the Company:
 - a) operated as a software developer focussed on assisting media, broadcast and entertainment brands to better build, manage and monetize their content, audience and data in real time;
 - b) had approximately 57 full-time employees, which was reduced during the proceedings to 32 employees due to terminations and resignations; and
 - c) carried on business from leased premises in downtown Toronto.
2. Upon commencement of the NOI, Intericap agreed to fund the Company and its restructuring proceedings pursuant to a Court-approved interim financing revolving credit facility with a maximum limit of up to \$1 million, which was subsequently increased to \$1.7 million.
3. Pursuant to the Sale Process Approval Order, the Proposal Trustee marketed the Company's business and assets for sale. The stalking horse offer by Intericap was the successful bid. It was approved by the Court on March 23, 2020.
4. On March 23, 2020, the Company completed the Transaction. The Transaction resulted in substantially all of the Company's business and assets being sold to VTI.

¹ References to KSV in this section are to its capacities as Proposal Trustee and Receiver.

5. As part of the Transaction, the Company entered into the TSA which, among other things, provides for the business, including contracts and employees, to be transitioned or terminated on an orderly basis.
6. On May 14, 2020, concurrent with filing the Proposal, the Company changed its name from Viafoura Inc. to its numbered company name, being 7235712 Canada Inc. The name change was approved pursuant to the March 23rd Order.
7. As discussed further below, upon implementation of the Proposal, if approved, VTI and the Company intend to amalgamate (“Amalco”) so that Company’s accumulated non-capital loss carry-forwards (“Tax Losses”) can be utilized by Amalco to reduce its future income taxes payable. The Company has advised that the book value of the Tax Losses is approximately \$10 million.
8. Additional information regarding the Company and its background is included in the reports to Court filed by the Proposal Trustee which have been posted at <https://www.ksvadvisory.com/insolvency-cases/case/7235712-Canada-Inc>.

3.0 Creditors

1. A summary of the Company’s creditors is provided below². A detailed list of creditors is attached as Appendix “C”.

Creditor	Amount (\$000)
National Bank Canada of Canada (“NBC)	2,298
Espresso Capital (“Espresso”)	951
Other	387
	3,636

2. The Proposal Trustee posted on its website a creditors’ package, including a Proof of Claim form, voting letter and the Proposal Trustee’s Report to Creditors dated July 10, 2020 (the “Report to Creditors”).

4.0 The Proposal

1. The terms of the Proposal were detailed in the Report to Creditors and are not repeated herein. A copy of the Report to Creditors, which includes the Proposal, the Certificate, a proof of claim form and proxy, a Notice of Proposal to Creditors (“Notice”), a Statement of Affairs summary and a list of creditors, is provided in Appendix “D”.
2. The overall purpose of the Proposal is to effect a restructuring of the Company’s share capital such that there is a potential for recoveries to Affected Creditors if Amalco becomes profitable and can utilize its Tax Losses, with the savings resulting from the use of the Tax Losses being shared between the creditors and Amalco.

² Represents amounts filed in proofs of claim, where applicable.

3. The Proposal provides for Amalco to issue a Tax Loss Variable Note up to a maximum principal amount of \$1.75 million (the “Maximum Principal Amount”) to the Affected Creditors, which could result in amounts payable to Affected Creditors of up to 51¢ on the dollar. As set out further below, VTI, as the Proposal sponsor, amended the Proposal such that, among other things, the Maximum Principal Amount was increased to the lesser of \$3.5 million or the amount of the proven claims.

4.1 Statutory Disclosure

1. On July 10, 2020, the Proposal Trustee provided the Notice by email and regular mail to the Company, the OSB and to every known creditor affected by the Proposal. The Proposal Trustee also posted the Notice (with all attachments) on its website.
2. In order to attend the Meeting and/or vote on the Proposal, creditors were required to submit a proof of claim to the Proposal Trustee.

4.2 The Meeting

1. The Meeting was convened on July 21, 2020 and adjourned to July 22, 2020 and then to July 23, 2020.
2. Following discussions before and during the Meeting between VTI and the two largest creditors, being NBC and Espresso, VTI agreed to amend the Proposal (the “Amended Proposal”) such that:
 - The 5-year period for utilization of the Tax Losses and sharing with the creditors would be extended to 8 years;
 - The maximum amount of the Tax Loss Variable Note would be increased from \$1.75 million to the lesser of \$3.5 million and the amount of the proven claims; and
 - All the early prepayment dates and formulas reflected in the Tax Loss Variable Note would be adjusted to be exercisable after the fourth year.
3. A copy of the Amended Proposal, which includes the amended Tax Loss Variable Note, is attached as Appendix “E”.
4. Eight creditors voted on the Amended Proposal. The Amended Proposal was accepted by 75% of the creditors voting on the Amended Proposal, representing 99% of the value of the claims of creditors voting on the Amended Proposal³. A copy of the voting register is attached as Appendix “F”.
5. A copy of the minutes of the Meeting, excluding the Amended Proposal, is attached as Appendix “G”.

³ Subsequent to the Meeting, the two creditors that had voted to reject the Proposal amended their votes to accept the Proposal. If the recasted votes are included, the Proposal was unanimously accepted by the creditors.

4.3 Recommendation

1. The Proposal Trustee recommends that the Court issue an order approving the Amended Proposal for the following reasons:
 - a) it was approved by the statutory majority of creditors voting in person or by proxy at the Meeting; and
 - b) acceptance and implementation of the Proposal provides an opportunity for further recoveries for the Company's creditors, who would otherwise suffer a material shortfall on their claims against the Company.

5.0 Receiver's Discharge

1. The Receiver's role was limited to administering the TSA and assisting VTI to deal with the Non-Assignable Interests. If the Court approves the Amended Proposal, the Company will amalgamate with VTI and the Receiver's role will no longer be required. Accordingly, the Receiver recommends that it be discharged.
2. The fees of the Receiver for the period March 23, 2020 to April 30, 2020 total \$3,368, excluding disbursements and HST. The Receiver's fee affidavit and accompanying invoices in respect of the fees and disbursements of the Receiver for this period are attached as Appendix "H" to this Report.
3. The average hourly rate for the Receiver for the referenced billing period was \$601.34.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee and the Receiver respectfully recommend that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(e) of this Report.

* * *

All of which is respectfully submitted,



**KSV KOFMAN INC.
IN ITS CAPACITIES AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL OF
7235712 CANADA INC. AND AS RECEIVER OF THE
NON-ASSIGNABLE INTERESTS (AS DEFINED IN THE STALKING HORSE SALE
AGREEMENT), AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

Court File No. 31-2590812
Estate File No. 31-2590812

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

THE HONOURABLE MR.)

MONDAY, THE 23rd DAY

JUSTICE MCEWEN)

OF MARCH, 2020



IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF VIAFOURA INC., OF THE CITY OF TORONTO, IN
THE PROVINCE OF ONTARIO

ORDER
(appointing Receiver)

THIS MOTION made by Intercap Equity Inc. (“**Intercap**”) for an Order pursuant to Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Kofman Inc. (“**KSV**”) as receiver (in such capacity, the “**Receiver**”) without security, of the Non-Assignable Interests (as defined in the asset purchase agreement dated January 22, 2020 between Intercap and Viafoura Inc. (the “**Debtor**”) (the “**Sale Agreement**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report of KSV, in its capacity as proposal trustee (the “**Trustee**”) of the Debtor, dated March 16, 2020 and on hearing the submissions of counsel for Intercap, the Debtor and the proposed Receiver, no one else appearing although duly served as appears from the affidavit of service of Danny M. Nunes sworn March 19, 2020, filed.

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to Section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Non-Assignable Interests as defined in the Sale Agreement, including all proceeds thereof (the “**Property**”), and that the aforementioned appointment shall only be effective upon the closing of the transaction contemplated in the Sale Agreement.

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- 3 -

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate, subject to approval of this Court;

- 4 -

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
 - (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
 - (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
 - (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
 - (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the

- 5 -

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's 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 Receiver's 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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act* (the "BIA"), and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (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 THE RECEIVER

11. **THIS COURT ORDERS** that 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 Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current

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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to

whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court, if requested by the Applicant, the Respondent or this Court.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the

Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. **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 ‘<<https://www.ksvadvisory.com/insolvency-cases/case/viafoura-inc>>’.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is 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 Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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

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

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

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

- 13 -

31. **THIS COURT ORDERS** that Intercap shall have the costs of this motion, up to and including entry and service of this Order, provided for by the terms of Intercap's security or, if not so provided by its security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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



- 14 -

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that KSV Kofman Inc., the receiver (in such capacity, the “**Receiver**”) of the Non-Assignable Interests (such terms as defined in the asset purchase agreement dated January 22, 2020 between Intercap Equity Inc. and Viafoura Inc. (the “**Debtor**”)), including all proceeds thereof (the “**Property**”), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 23rd day of March, 2020 (the “**Order**”) made in an action having Court file number 31-2590812, 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 \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. 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.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. 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

- 15 -

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. 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.

7. 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 _____, 20__.

KSV KOFMAN INC., solely in its capacity as
Receiver of the Property, and not in its personal
capacity

Per: _____
Name:
Title:

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A ROPOSAL
OF VIAFOURA INC., OF THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

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

PROCEEDING COMMENCED AT TORONTO

**ORDER
(APPOINTING RECEIVER)**

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond F.B. Lamek (LSO No. 33338U)
Tel: (416) 365-3444
Email: edmond.lamek@dlapiper.com

Danny M. Nunes (LSO No. 53802D)
Tel: (416) 365-3421
Email: danny.nunes@dlapiper.com

Lawyers for InterCap Equity Inc.

Appendix “B”



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2590812
Estate No. 31-2590812

In the Matter of the Proposal of:

7235712 Canada Inc.
Debtor

KSV KOFMAN INC.
Licensed Insolvency Trustee

Date of Proposal:	May 14, 2020	Security:	\$
Meeting of Creditors:	July 21, 2020, 10:00 Meeting to be conducted by Video Conf. https://zoom.us/j/99077860652?pwd=TFFhbTID:99077860652 Pass: 503871, Ontario Canada,		
Chair:	Trustee		

CERTIFICATE OF FILING OF A PROPOSAL - Section 62

-- AMENDED --

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that:

- a proposal in respect of the aforementioned debtor was filed under section 62 of the *Bankruptcy and Insolvency Act*.

The aforementioned trustee is required:

- to provide to me, without delay, security in the aforementioned amount; and
- to send to all creditors, at least ten days prior to the meeting, a notice of a meeting of creditors, which will be held at the aforementioned time and place.

Date: July 30, 2020, 17:06

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

Appendix “C”

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

List of creditors as at August 7, 2020

as submitted by 7235712 Canada Inc. (formerly Viafoura Inc.), without admission as to any liability or privilege herein shown

Creditors	Amount due (\$)
ActiveMind Legal	2,761.09
AP Bespoke Consulting Canada Ltd	1,546.69
Canada Revenue Agency	1.00
Cerebral Selling Inc.	27,120.00
Datadog	11,323.04
Dean Devlin	20,710.06
Demand Gen Content Marketing Services	3,203.00
Espresso Capital	951,371.38
FedDev Ontario	235,450.00
Idea Notion	4,208.00
Keepcon	3,972.30
Linkedin.com	2,796.61
Lisa Walker Creative	1,130.00
Michael Shewchenko Group	10,000.00
Ministry of Finance (EHT)	2,189.71
National Bank Loan	2,298,497.03
On The Way cafe Inc.	1,144.44
Osler, Hoskin & Harcourt LLP	20,057.50
Receiver General of Canada	1,168.00
SalesForce.com	986.25
TDSB - Canada-Ontario Job Grant	5,666.67
Themis Solutions Inc.	20,845.22
Twitter International Company	9,244.00
WPY NOW Creative Group	1,483.13
	<u>3,636,875.12</u>

*US dollar amounts were converted to C\$ at 1.38

**An amount of \$1.00 indicates that the amount due is undetermined or unknown.

Appendix “D”



Estate File No. 31-2590812

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO
CREDITOR PACKAGE**

July 10, 2020

To: Creditors of 7235712 Canada Inc. (formerly Viafoura Inc.) (the “Company”)

On May 14, 2020, the Company filed a proposal (“Proposal”) with the Office of the Superintendent of Bankruptcy (Canada). KSV Kofman Inc. is the Proposal Trustee (“Proposal Trustee”) of the Company.

You are receiving this package because you are either a creditor or a potential creditor of the Company. In this regard, enclosed please find the Trustee’s Report to Creditors (“Report”), which attaches:

- a) the Proposal (Appendix “A”);
- b) a Certificate of Filing of the Proposal (Appendix “B”);
- c) a Proof of Claim Form, Proxy and Voting Letter (Appendix “C”);
- d) a Notice of Proposal to Creditors (Appendix “D”);
- e) the Statement of Affairs summary (Appendix “E”); and
- f) a List of Creditors (Appendix “F”).

As detailed in the Report, to vote on a Proposal, a creditor of the Company must file a proof of claim with the Proposal Trustee prior to the meeting to consider the Proposal on July 21, 2020 at 10 a.m. Creditors can vote at the meeting by attending in person or by submitting a voting letter to the Proposal Trustee prior to the meeting. Creditors can also vote by way of proxy and can identify the Proposal Trustee as their proxy.

Should you have any questions on any of the enclosed materials, please contact the undersigned.

KSV KOFMAN INC.

**SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE PROPOSAL
OF 7235712 CANADA INC. (FORMERLY VIAFOURA INC.)
AND NOT IN ITS PERSONAL CAPACITY**



**Report to Creditors of
7235712 Canada Inc. (formerly Viafoura
Inc.) by KSV Kofman Inc. as Proposal
Trustee**

July 10, 2020

Contents		Page
1.0	Introduction.....	1
1.1	Meeting to Consider the Proposal	2
1.2	Purposes of this Report.....	2
1.3	Currency	3
1.4	Restrictions	3
2.0	Background	3
3.0	The Proposal	4
3.1	Purpose and Implications	4
3.2	Dividend Amount.....	6
3.3	Proposal Conditions	7
3.4	Other Proposal Terms	8
3.5	Acceptance and Approval of the Proposal.....	8
4.0	Preferences and Transfers at Undervalue	9
5.0	Estimated Distribution in the Event of a Bankruptcy.....	9
6.0	Conclusion and Recommendation	9

Appendices

Appendix	Tab
Proposal	A
Certificate	B
Proof of Claim Form, Proxy and Voting Letter.....	C
Notice of Proposal to Creditors	D
Statement of Affairs	E
List of Creditors	F

COURT FILE NO.: 31-2590182

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

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

PROPOSAL TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

JULY 10, 2020

1.0 Introduction

1. This report ("Report") has been prepared by KSV Kofman Inc. ("KSV") in its capacity as proposal trustee ("Proposal Trustee") in connection with a Notice of Intention to Make a Proposal ("NOI") filed on December 1, 2019 by 7235712 Canada Inc. (formerly Viafoura Inc. (the "Company")) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended ("BIA").
2. The principal purpose of the proposal proceedings was to create a stabilized environment to allow the Company the opportunity to complete a restructuring and to provide liquidity to the business so that it could continue to operate on a going-concern basis while the restructuring process was conducted.
3. On February 10, 2020, the Ontario Superior Court of Justice ("Court") made an Order ("Sale Process Approval Order") which, among other things, approved:
 - a) a "stalking horse" sale process for the Company's business and assets (the "Sale Process"); and
 - b) a stalking horse offer made by InterCap Equity Inc. ("InterCap"), a preferred shareholder of the Company, pursuant to an agreement of purchase and sale dated January 28, 2020 as the stalking horse bid in the Sale Process (the "Stalking Horse Agreement").

4. Pursuant to Orders of the Court made on March 23, 2020:
 - a) the transaction contemplated by the Stalking Horse Agreement was approved (the “Transaction”); and
 - b) KSV was appointed as receiver of the Company’s remaining assets following completion of the Transaction for the purposes of facilitating the Company’s obligations under the Stalking Horse Agreement, including a transition services agreement dated March 23, 2020 between the Company and Viafoura Technologies Inc. (“VTI”), as assignee of Intericap, in its capacity as the successful bidder (the “TSA”).
5. On May 14, 2020, the Company filed a proposal (the “Proposal”) with the Official Receiver in accordance with Section 62(1) of the BIA and a Certificate of Filing a Proposal (“Certificate”) was issued by the Office of the Superintendent of Bankruptcy (Canada) (“OSB”) on that date. Copies of the Proposal and the Certificate are attached as Appendices “A” and “B”, respectively.

1.1 Meeting to Consider the Proposal

1. The details of the creditors’ meeting to consider and vote on the Proposal to be held pursuant to Section 51(1) of the BIA (the “Meeting”) are as follows:

Date: July 21, 2020

Time: 10:00 a.m. (EST)

Location: to be convened virtually via Zoom:

<https://zoom.us/j/99077860652?pwd=TFFhbTVQYXBpVnJSb2VxYXhXQXR1dz09>

2. As described in greater detail below, to vote on the Proposal, a creditor of the Company must file a proof of claim with the Proposal Trustee prior to the Meeting. Creditors can vote at the Meeting by attending in person or by submitting voting letters to the Proposal Trustee prior to the Meeting. Creditors can also vote by way of proxy and can identify the Proposal Trustee as its proxy. A proof of claim form, proxy, voting letter and instruction letter are provided in Appendix “C”. Creditors should read the instruction letter to understand the voting procedures, including the procedure to register claims with the Proposal Trustee.
3. The Proposal Trustee’s Notice of Proposal to Creditors, a summary of the Company’s Statement of Affairs and a list of creditors are attached as Appendices “D”, “E” and “F”, respectively.

1.2 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 Proposal;
 - c) discuss the Company’s ability to fulfill the terms of the Proposal;

- d) provide the Proposal Trustee's opinion as to the reasonableness of the provision in the Proposal that sections 95 to 101 do not apply in respect of the Proposal, as required pursuant to Section 50 (10) (b) of the BIA;
- e) compare the result for creditors under the Proposal to the result if the Proposal is not accepted and the Company is deemed to have made an assignment in bankruptcy; and
- f) provide the Proposal Trustee's recommendation on the Proposal.

1.3 Currency

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

1.4 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Company's representatives, the books and records of the Company and discussions with representatives of the Company. The Proposal Trustee 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 Canada Handbook*.
2. The Proposal Trustee expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by the Proposal Trustee in preparing this Report. 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. The Proposal Trustee accepts no reliance to any party based on the information in this Report.

2.0 Background

1. The Company was incorporated under the *Canada Business Corporations Act* on September 2, 2009. The Company was founded by Shahram (Jesse) Moeinifar, the Company's Chief Executive Officer.
2. At the time it filed the NOI, the Company:
 - a) operated as a software developer focussed on helping media, broadcast and entertainment brands better build, manage and monetize their content, audience and data in real time;
 - b) had approximately 57 full-time employees, which was reduced during the proceedings to 32 employees due to terminations and resignations; and
 - c) carried on business from leased premises in downtown Toronto.

3. Upon commencement of the NOI, Intericap agreed to fund the Company pursuant to a Court-approved interim financing revolving credit facility with a maximum limit of up to \$1 million, which was subsequently increased to \$1.7 million.
4. Pursuant to the Sale Process Approval Order, the Proposal Trustee marketed the Company's business and assets for sale. The stalking horse offer by Intericap was the successful bid.
5. On March 23, 2020, the Company completed the Transaction. The Transaction resulted in substantially all of the Company's business and assets being sold to VTI.
6. As part of the Transaction, the Company entered into the TSA which, among other things, provides for the business, including contracts and employees, to be transitioned or terminated on an orderly basis.
7. On May 14, 2020, concurrent with its filing the Proposal, the Company changed its name from Viafoura Inc. to its numbered company name, being 7235712 Canada Inc.
8. Pursuant to a letter dated May 19, 2020, the Proposal Trustee advised the Company's creditors that the time for calling a meeting of creditors had been suspended pursuant to an omnibus Court Order made April 27, 2020 related to the Covid-19 pandemic and that further notice would be provided when such a meeting is scheduled. As the Suspension Period (as defined in that Order) expired on June 30, 2020, the Proposal Trustee has scheduled the Meeting to be convened on July 21, 2020.
9. Additional information regarding the Company and its background is included in the reports to Court filed by the Proposal Trustee which have been posted at <https://www.ksvadvisory.com/insolvency-cases/case/7235712-Canada-Inc>.

3.0 The Proposal¹

1. This section provides an overview of the terms of the Proposal. Review of this section is not a substitute for reading the Proposal. Creditors are strongly encouraged to read the Proposal in its entirety prior to voting on the Proposal. Creditors are encouraged to discuss the terms of the Proposal with their legal counsel. A copy of the Proposal is provided in Appendix "A".

3.1 Purpose and Implications

1. The Proposal is sponsored by VTI and is being made to the holders of Affected Claims against the Company (the "Affected Creditors").

¹ Defined terms in this section of the Report have the meanings provided to them in the Proposal.

2. The overall purpose of the Proposal is to effect a restructuring of the Company's share capital such that Affected Creditors will receive recoveries on their claims of up to \$1.75 million if the Company is profitable and can utilize its accumulated non-capital loss carry-forwards ("Tax Losses")², with the savings resulting from the deduction of the Tax Losses being shared equally between the Affected Creditors and Amalco (as defined below). The Company has advised that the book value of the tax losses is approximately \$10 million. Absent the Proposal, there will be no opportunity for recovery to the Company's unsecured creditors.
3. The Affected Creditors shall comprise the only class of creditors. The Company's secured creditors will be treated as unsecured creditors for purpose of the Proposal in respect of their shortfall claims. Following the closing of the Transaction, the Company has no remaining property charged by the security of its secured creditors.
4. Affected Creditors are parties having a Claim or a Director Claim, generally being amounts owed by the Company which existed or occurred on or before May 14, 2020.
5. The Priority Creditor Cash Amount is a cash amount necessary to pay and satisfy: (i) the Affected Claims of Preferred Creditors, including the Required Employee Amount, if any; and (ii) the Required Crown Amount, if any, to be delivered by VTI to the Proposal Trustee within five (5) Business Days of the Preferred Claim Determination Date.
6. In the event that the statutory majority of Affected Creditors votes to accept the Proposal and it is approved by the Court:
 - a) the Ordinary Creditors will receive an unsecured contingent promissory note issued by VTI (the "Tax Loss Variable Note") in full satisfaction of and in exchange for all of their Affected Claims;
 - b) a Tax Loss Variable Note up to a maximum principal amount of \$1.75 million (the "Maximum Principal Amount") shall be issued within ten (10) Business Days of the Ordinary Claim Determination Date, being the date on which the validity of all Proofs of Claim filed by Ordinary Creditors has been finally determined in accordance with the BIA;
 - c) the Company's Existing Shares will be cancelled;
 - d) new shares will be issued by the Company to VTI pursuant to the Articles of Reorganization; and
 - e) the Priority Creditor Cash Amount will be paid by VTI to the Proposal Trustee in satisfaction of, and for distribution by the Trustee on account of, the Proven Claims of Preferred Creditors (including the Required Employee Amount), if any, and the Required Crown Amount, if any.

² The tax losses would be reduced by the debt forgiven as part of the Proposal.

- f) Upon implementation of the Proposal, VTI and the Company intend to amalgamate into one entity (“Amalco”) in order that the Tax Losses can be utilized by Amalco to reduce the future income taxes payable by Amalco, in which case funds would become available for making the payments due under the Tax Loss Variable Note.

3.2 Dividend Amount

1. As at the date the Proposal was filed, Affected Creditors were owed approximately \$3.4 million. Of that amount, two creditors represent 89% of the total: National Bank of Canada (\$2.2 million) and Espresso Capital (\$864,000). Amounts payable to Affected Creditors under the Proposal may be up to 51¢ on the dollar if the Maximum Principal Amount is achieved.
2. Pursuant to Section 147 of the BIA, payments under the Proposal are subject to the statutory levy of 5% payable to the OSB, up to a maximum of \$62,500.
3. Payments under the Tax Loss Variable Notes will only be made under the Proposal if Amalco is able to utilize the Tax Losses. The structure and formulas giving rise to the dividends are set out in the Tax Loss Variable Note and are summarized below:
 - a) payments are to represent the cash amount equal to 50% of the Tax Savings Cash Proceeds, being the Canadian federal and provincial income tax that would be payable by Amalco for the fiscal years ended 2021 to 2025 absent the deduction of the Tax Losses for each Fiscal Year;
 - b) payments are to be made by Amalco within ten (10) Business Days of receiving a Notice of Assessment from Canada Revenue Agency (“CRA”) for the applicable Fiscal Year allowing the deduction of the Tax Losses;
 - c) if Amalco receives a Notice of Reassessment from CRA for any one or more Fiscal Years which disallows all or part of the Tax Losses, Amalco shall maintain a holdback representing the Annual Aggregate Note Payment Amount(s) that would otherwise have been payable to Holders under the Tax Loss Variable Note;
 - d) after payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2023, Amalco has the right to prepay the Annual Aggregate Note Payment Amounts for Fiscal Years 2024 and 2025 by making a one-time payment to each Holder equal to their Prescribed Interest in the Two Year Prepayment Amount³; and

³ Defined as the lesser of: (i) a dollar amount equal to three times (3x) the average of the Annual Aggregate Note Payment Amounts for Fiscal Years ended 2021, 2022 and 2023; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under the Tax Loss Variable Note.

- e) after payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2024, Amalco has the right to prepay the Annual Aggregate Note Payment amounts for Fiscal Year 2025 by making a one-time payment to each Holder equal to their Prescribed Interest in the Final Year Prepayment Amount⁴.

An illustration of the prepayment option is provided below:

(\$000)	Annual Aggregate Note Payment Amounts
Fiscal 2021	150
Fiscal 2022	250
Fiscal 2023	350
<hr/>	
Three Year Average Annual Note Payment Amount ("A")	250
<hr/>	
Two Year Prepayment Amount (3 x A)	750
Final Year Prepayment Amount (2 x A)	500

4. There are likely to be variances between amounts owing to creditors per the Company's records and the respective creditors' records. Accordingly, the proof of claim form must be submitted to the Proposal Trustee, complete with supporting documentation, for the creditors to vote on the Proposal and receive any dividends.
5. The Proposal Trustee will attempt to reconcile any differences and resolve disputed claims with creditors that file claims.
6. **Creditors should note that payments under the Proposal and the Tax Loss Variable Note in the event the Proposal is approved are not guaranteed and are subject to, among other things, general business risk, the impact of Covid-19 and other macroeconomic factors. Distributions under the notes are also dependent upon Amalco's ability to generate income and make use of the Company's tax losses.**

3.3 Proposal Conditions

1. The Proposal is conditional upon:
 - a) acceptance of the Proposal by the statutory majority of the Creditors as required under the BIA (described in Section 3.5 below);
 - b) an order of the Court approving the Proposal and the amendments to the Company's constating documents as set out in the Articles of Reorganization;
 - c) execution of the Tax Loss Variable Note by VTI for delivery to the Ordinary Creditors in accordance with Section 4.2(a) of the Proposal; and
 - d) the payment by VTI of the amounts set out in Section 4.6 of the Proposal.

⁴ Defined as the lesser of: (i) a dollar amount equal to two times (2x) the average of the Annual Aggregate Note Payment Amounts for Fiscal Years ended 2021, 2022 and 2023; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under the Tax Loss Variable Note.

2. Should any of the above conditions not be met or waived by the Company or VTI, the Proposal will not be effective and the payments due under the Proposal will not be made.

3.4 Other Proposal Terms

1. Other Proposal terms are summarized below:
 - a) The Proposal Trustee shall be entitled to apply for its discharge upon completing the distribution of the Priority Creditor Cash Amount as contemplated in Section 4.2(b) of the Proposal and the determination of the Prescribed Interests of Ordinary Creditors in the Tax Loss Variable Note following the Ordinary Claim Determination;
 - b) Sections 95 to 101 of the BIA do not apply to the Proposal or the proceedings related to the Proposal and may not be invoked or relied upon by any Affected Creditor or the Proposal Trustee. Additional details regarding this provision are provided in Section 4 below;
 - c) “Unaffected Claims” under the Proposal mean indemnity claims by the Company’s directors and the fees and expenses of the Proposal Trustee, its counsel and the Company’s counsel associated with the Proposal;
 - d) At the Creditors’ Meeting, the Creditors may appoint up to five (5) Inspectors whose powers will be limited to:
 - i. advising the Trustee concerning any dispute which may arise as to the validity of Claims; and
 - ii. advising the Trustee from time to time with respect to any other matter that the Trustee may refer to them.

3.5 Acceptance and Approval of the Proposal

1. In order for the Proposal to be accepted, two-thirds in dollar value and over 50% in number of the Unsecured Creditors present and voting, in person or by proxy, must vote in favour of the Proposal.
2. Rejection of the Proposal by the creditors would result in the Company being deemed to have made an assignment in bankruptcy.
3. Upon being accepted by creditors, the Proposal must be approved by the Court. If the Court fails to approve the Proposal, the Company is deemed to have made an assignment in bankruptcy.

4.0 Preferences and Transfers at Undervalue

1. As part of its statutory duties under the BIA, the Proposal Trustee conducted a review of the Company's bank statements and cancelled cheques for the twelve-month period (the "Review Period") immediately preceding the commencement of the NOI proceedings to identify transactions that could be considered preferences or transfers at undervalue. The focus of the Review Period was transactions above \$10,000. The Proposal Trustee's review did not identify any transaction that could be considered a preference or transfer at undervalue.
2. As described in Section 3.4 above, Section 8 of the Proposal provides that Sections 95 to 101 of the BIA, being the relevant sections under the BIA dealing with transactions that may be challenged by a Trustee, do not apply to the Proposal and may not be relied upon by the creditors or by the Proposal Trustee. Therefore, by voting in favour the Proposal, creditors will be giving up their right to pursue any of the remedies under these sections of the BIA.
3. As the Proposal Trustee did not identify any transactions that could be considered a preference or transfer at undervalue during the Review Period, the Proposal Trustee is of the view that Section 8 of the Proposal is not unreasonable.

5.0 Estimated Distribution in the Event of a Bankruptcy

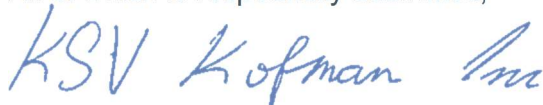
1. As all of the Company's assets were sold to VTI pursuant to the Transaction, no recoveries are expected for the Company's creditors if the Proposal is rejected and the Company is deemed to have made an assignment in bankruptcy.
2. While there is no certainty that Amalco will be able to pay the full amounts of the Tax Loss Variable Note, the Proposal provides Affected Creditors with the opportunity to generate material recoveries on their claims.

6.0 Conclusion and Recommendation

1. Affected Creditors will not have any opportunity for recovery should the Proposal not be accepted and approved by the Court. Payments under the Proposal could result in a recovery of up to approximately 50¢ on the dollar for the Affected Claims versus the alternative, which is a nil recovery if the Proposal is rejected and the Company becomes bankrupt. **Accordingly, the Proposal Trustee recommends that the Company's creditors vote in favour of the Proposal.**
2. If the Proposal is accepted by the Affected Creditors at the creditors' meeting, the Proposal Trustee will seek the Court's approval shortly thereafter.

* * *

All of which is respectfully submitted,



KSV KOFMAN INC.

**IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
7235712 CANADA INC. (FORMERLY VIAFOURA INC.),
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

Court File No. 31-2590812
Estate File No. 31-2590812

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

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF VIAFOURA INC.,
OF THE CITY OF TORONTO IN THE PROVINCE OF ONTARIO**

PROPOSAL

Viafoura Inc. hereby submits the following Proposal to all of its Creditors pursuant to Part III of the BIA.

**ARTICLE 1
DEFINITIONS**

1.1 Definitions

In this Proposal:

- (a) “Administrative Fees and Expenses” means the proper fees, expenses and legal fees and disbursements of the Trustee and the Debtor on and incidental to the negotiation, preparation, presentation, consideration, Court approval of, and implementation of the Proposal and all proceedings and matters relating to or arising out of the Proposal including, without limitation any meeting or meetings of creditors to consider the Proposal;
- (b) “Affected Claims” means Claims and Director Claims which are not Unaffected Claims;
- (c) “Affected Creditor” means a Creditor having an Affected Claim;
- (d) “Approval Order” means an Order of the Court approving the Proposal;

- (e) “Articles of Reorganization” means the articles of reorganization of the Debtor to become effective on the Implementation Date attached hereto as Schedule “A”;
- (f) “BIA” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and in force as at the Date of Filing;
- (g) “Business Day” means each day other than a Saturday or Sunday or a statutory or civic holiday on which banks are open for business in Toronto, Ontario, Canada;
- (h) “Canada Pension Plan” means the *Canada Pension Plan*, R.S.C. 1985, c. C-8, as amended;
- (i) “Claim” means any right of any Person against the Debtor in connection with any indebtedness, liability or obligation of any kind of the Debtor which indebtedness, liability or obligation is in existence on, or which is based in whole or in part on any act, omission or fact that occurred or existed prior to the Date of Filing, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, under-secured, unsecured, present, future, direct or indirect, known or unknown, by guarantee, by surety or otherwise, at law or in equity, and whether or not such a right is executory in nature, including, without limitation, the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action;
- (j) “Court” means the Ontario Superior Court of Justice [Commercial List] (in Bankruptcy and Insolvency);
- (k) “Creditor” means any Person having a Claim or a Director Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or other Person acting on behalf of or in the name of such Person;
- (l) “Creditors’ Meeting” means any meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;
- (m) “Creditors’ Meeting Date” means 10:00 a.m. on the date and time as may be called by the Trustee in consultation with the Official Receiver pursuant to Section 6.2 of the Proposal;
- (n) “Date of Filing” or “Date of Proposal” mean the date of the filing of the Proposal with the Official Receiver;
- (o) “Debtor” means Viafoura Inc., a company existing under the federal laws of Canada;

- (p) “Directors” means the present and former directors of the Debtor, as at the Date of Filing;
- (q) “Director Claim” means a claim against Directors of the Debtor that is based in whole or in part on facts, events or matters which existed or occurred on or before the Date of Filing and that relates to the obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations. Director Claims do not include claims that relate to: (a) contractual rights of one or more Creditors arising from contracts with one or more Directors; or (b) wrongful or oppressive conduct by Directors.
- (r) “Directors’ Indemnity Claims” means all claims by Directors against the Debtor for indemnity in respect of obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations;
- (s) “Employment Insurance Act” means the *Employment Insurance Act*, S.C. 1996, c. 23, as amended;
- (t) “Existing Shares” means all issued preferred and common shares of the Debtor and any and all, warrants, options, instruments, rights or entitlements which have the capacity to be converted into or exchanged for, or give the right to acquire, shares of the Debtor in existence on the Implementation Date;
- (u) “Implementation Date” means the date upon which the conditions set forth in Section 9.3 have been satisfied;
- (v) “Income Tax Act” means *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended;
- (w) “Inspectors” means one or more Inspectors appointed pursuant to the BIA as provided for in the Proposal;
- (x) “Levy” has the meaning ascribed to it in Section 4.7 of the Proposal.
- (y) “New Shares” means the shares of the Debtor to be issued to the Sponsor on the Implementation Date pursuant to the Articles of Reorganization;
- (z) “Official Receiver” shall have the meaning ascribed thereto in the BIA;
- (aa) “Omnibus Suspension Period” mean the period commencing on April 27, 2020 and ending June 30, 2020, defined as the “Suspension Period” in the Order of Chief Justice Morawetz made April 27, 2020 in Court File No. 31-2597721, and any Court ordered extension(s) of the Suspension Period;

- (bb) “Ordinary Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Ordinary Creditors has been finally determined in accordance with the BIA;
- (cc) “Ordinary Creditors” means Creditors with Proven Claims, except for those Claims that:
 - (i) are Claims by Preferred Creditors; or
 - (ii) are Unaffected Claims.
- (dd) “Person” means any individual, general or limited partnership, joint venture, trust, corporation, unincorporated organization, government, or any agency, regulatory body or instrumentality thereof, or any other entity howsoever designated or constituted;
- (ee) “Preferred Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Preferred Creditors has been finally determined in accordance with the BIA;
- (ff) “Preferred Creditors” means Creditors with Proven Claims and which are, subject to the rights of Secured Creditors, required by the BIA to be paid in priority to all other Claims under a proposal made by a debtor and including, without limitation, the Required Employee Amount (for greater certainty a Person can be both a Preferred Creditor and an Unsecured Creditor in respect of distinct Claims);
- (gg) “Prescribed Interest” means the participation entitlement of an Ordinary Creditor in the Tax Loss Variable Note, net of the Levy, as determined by the Trustee following the Ordinary Claim Determination Date;
- (hh) “Priority Creditor Cash Amount” means the cash amount necessary to pay and satisfy: (i) the Affected Claims of Preferred Creditors, including the Required Employee Amount; and (ii) the Required Crown Amount, to be delivered by the Sponsor to the Trustee within five (5) Business Days of the Preferred Claim Determination Date;
- (ii) “Proof of Claim” shall mean the proof of claim required by the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting;
- (jj) “Proposal” means this proposal together with any amendments or additions thereto;
- (kk) “Proven Claim” of a Creditor means the amount of the Affected Claim of such Creditor finally determined in accordance with BIA;
- (ll) “Required Employee Amount” means an amount equal to the amount employees and former employees of the Debtor, not to include independent

commissioned sales agents or contractors, would be qualified to receive under paragraph 136(l)(d) of the BIA if the Debtor became bankrupt on the Date of Filing, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about the Debtor's business during the same period;

- (mm) "Required Crown Amount" means all amounts outstanding at the time of the filing of the notice of intention to Her Majesty in Right of Canada or a Province and that are of a kind that could be subject to a demand under,
- (i) subsection 224(1.2) of the Income Tax Act;
 - (ii) any provision of the Canada Pension Plan or of the Employment Insurance Act that refers to subsection 224(1.2) of the Income Tax Act and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the Employment Insurance Act, and of any related interest, penalties or other amounts; or
 - (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Income Tax Act, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the Income Tax Act, or
 - (B) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;
- (nn) "Sponsor" means Viafoura Technologies Inc., a company existing under the laws of the Province of Ontario;
- (oo) "Tax Loss Variable Note" means the unsecured contingent promissory note to be issued by the Sponsor to Ordinary Creditors in full satisfaction of all Affected Claims, pursuant to this Proposal, substantially in the form attached hereto as Schedule "B";

- (pp) “Trustee” or “Proposal Trustee” means KSV Kofman Inc., or its duly appointed successor or successors;
- (qq) “Unaffected Claims” means the Directors’ Indemnity Claims and the Administrative Fees and Expenses;
- (rr) “Unsecured Creditors” means, collectively, the Preferred Creditors and the Ordinary Creditors; and
- (ss) “Voting Letter” shall mean the voting letter required by Section 51(1) of the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting.

1.2 Articles of Reference

The terms “hereof”, “hereunder”, “herein” and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.3 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.4 Date for Any Action

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

All times expressed herein are local time in Toronto, Ontario, Canada unless otherwise stipulated. Where the time for anything pursuant to the Proposal on a particular date is unspecified herein, the time shall be deemed to be 5:00 p.m. local time in Toronto, Ontario, Canada.

1.6 Numbers, Gender

In the Proposal, where the context requires, a word importing the singular number will include the plural and vice versa and a word or words importing gender will include all genders.

1.7 Currency

Unless otherwise stated herein, all references to currency in the Proposal are to lawful money of Canada.

1.8 Statutory References

Except as otherwise provided herein, any reference in the Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.9 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Proposal.

1.10 Schedules

The following are the Schedules to this Proposal:

Schedule "A" - Articles of Reorganization

Schedule "B" – Form of Tax Loss Variable Note

The terms and conditions of the Schedules form an integral part of this Proposal and should be read in conjunction with this Proposal.

**ARTICLE 2
PURPOSE OF THE PROPOSAL****2.1 PURPOSE OF THE PROPOSAL**

The purpose of this Proposal is to allow the Debtor to effect the restructuring of the indebtedness of the Debtor in the manner contemplated herein and as permitted by the BIA in the expectation that all Affected Creditors will derive greater benefit from the restructuring than they would otherwise receive from a bankruptcy of the Debtor and to provide for:

- (a) the issuance of the Tax Loss Variable Note by the Sponsor to Ordinary Creditors in full satisfaction of all Affected Claims;
- (b) the effective cancellation of all Existing Shares;
- (c) the issuance of New Shares to the Sponsor;

- (d) the payment of the Priority Creditor Cash Amount by the Sponsor to the Trustee in satisfaction of, and for distribution by the Trustee on account of, the Proven Claims of Preferred Creditors (including the Required Employee Amount) and the Required Crown Amount;

The Proposal applies to all Affected Creditors, whether or not any such Affected Creditor proves a Claim against the Debtor under this Proposal. This Proposal does not affect Unaffected Claims.

2.2 Corporate Reorganization

This Proposal contemplates a corporate reorganization of the capital structure of the Debtor in accordance with section 59(4) of the BIA. The Articles of Reorganization attached as Schedule "A" to the Proposal shall, upon Court approval of the Proposal, amend the constating documents of the Debtor to, inter alia, effect the redemption or cancellation of all Existing Shares, and authorize the issuance of a series of New Shares by the Debtor.

ARTICLE 3 CLASSIFICATION OF CREDITORS

3.1 Classes of Creditors

For the purposes of voting on the Proposal, the Creditors of the Debtor shall be comprised of one class of Unsecured Creditors.

ARTICLE 4 TREATMENT OF CREDITORS

4.1 Administrative Fees and Expenses

On the Implementation Date, all Administrative Fees and Expenses incurred to that date which remain unpaid shall be paid by the Sponsor in full in accordance with the BIA from funds delivered to the Trustee in addition to the Priority Creditor Cash Amount.

4.2 Compromise and Satisfaction of Creditor Claims

The Claims of all Affected Creditors shall be compromised on the Implementation Date and thereafter each Affected Creditor with a Proven Claim shall receive the following in full satisfaction of its Proven Claim(s):

- (a) Within ten (10) Business Days of the Ordinary Claim Determination Date, each Ordinary Creditor shall receive its Prescribed Interest in the Tax Loss Variable Note in full satisfaction of all Affected Claims; and
- (b) Within ten (10) Business Days of the Preferred Claim Determination Date, the Proven Claim of each Preferred Creditor (in that capacity), and the

Required Employee Amount and, subject to Section 4.5, the Required Crown Amount shall be paid by the Trustee from the Priority Creditor Cash Amount.

Notwithstanding any other provision hereof, the Ordinary Creditors shall only have recourse to the Tax Loss Variable Note and the payments to be made by the Sponsor thereunder in accordance with the terms of the Tax Loss Variable Note, and Ordinary Creditors shall not be permitted to sue or make any claim against the Debtor, the Sponsor or any other Person for any Claim deficiency remaining after payment of amounts owing under the Tax Loss Variable Note.

4.3 Interest on Claims

Interest will not accrue or be paid on Affected Claims after or in respect of the period following the Date of Filing and no Creditor with an Affected Claim will be entitled to any interest in respect of such Claim accruing on or after or in respect of the period following the Date of Filing.

4.4 Return of Balance of Priority Creditor Cash Amount

To the extent that any excess funds remain in the Priority Creditor Cash Amount after payment in full of the Proven Claims of Preferred Creditors and any Levy thereon, and so long as the Trustee is satisfied that satisfactory arrangements have been made for the payment of Administrative Fees and Expenses to the date of the Trustee's discharge in accordance with Section 7.1, the Trustee shall return such excess funds to the Sponsor within five Business Days of having made the distribution to Preferred Creditors (including the Required Employee Amount) and the Required Crown Amount pursuant to Section 4.2(b) above.

4.5 Required Crown Amount

In the event that the Trustee determines that the Preferred Claim Determination Date will occur more than six (6) months from the date of Court approval of the Proposal, the Required Crown Amount shall be remitted by the Trustee to Her Majesty in Right of Canada from the Priority Claim Cash Amount within six (6) months of the date of Court approval of the Proposal.

4.6 Obligations of the Sponsor

- (a) The Sponsor shall, on or before the Implementation Date:
 - (i) deliver the Priority Creditor Cash Amount to the Trustee;
 - (ii) deliver sufficient additional funds to the Trustee to pay the unpaid Administrative Fees and Expenses incurred to the Implementation Date; and

- (iii) issue the Tax Loss Variable Note to the Ordinary Creditors, subject to the determination by the Trustee of Ordinary Creditors' Prescribed Interest therein on or after the Ordinary Claims Determination Date.
- (b) The Sponsor shall pay to the Trustee all Administrative Fees and Expenses up to and including the date of the Trustee's discharge in accordance with to Section 7.1.

4.7 Superintendent of Bankruptcy Levy

The Office of the Superintendent of Bankruptcy shall be paid its prescribed levy by the Debtor from payments; (i) to Ordinary Creditors under the Tax Loss Variable Note, and (ii) to Preferred Creditors from the Priority Claim Cash Amount, as required by sections 60(4) and 147 of the BIA (the "Levy").

ARTICLE 5 PROCEDURE FOR VALIDATION OF CLAIMS

5.1 Allowance or Disallowance of Claims by the Trustee

Upon receipt of a completed Proof of Claim, the Trustee shall examine the Proof of Claim and shall deal with each claim in accordance with the provisions of the BIA. The Trustee shall have the power and authority to determine the validity of all claims made against the Debtor.

5.2 Claims Bar Process

Forthwith after the Filing Date, the Trustee shall give notice pursuant to section 149 of the BIA, by registered mail, to every Person with an Affected Claim that the Trustee has notice or knowledge but whose claim has not been filed or proved that if such Person does not prove his claim within a period of thirty (30) days after the mailing of the notice, the Trustee will proceed to declare a final list of Prescribed Interests without regard to such Person's claim; the Prescribed Interest referred to in said notice shall be deemed a final dividend and any Person so notified who does not provide its claim within the said thirty (30) day period shall be barred from making a claim in this Proposal or sharing in any dividend or payment hereunder or under the Tax Loss Variable Note, subject to any exceptions set out in subsections 149(2)(3) and (4) of the BIA.

ARTICLE 6 MEETING OF CREDITORS

6.1 Creditors' Meeting

On the Creditors' Meeting Date, the Trustee shall hold the Creditors' Meeting in order for the Creditors to consider and vote upon the Proposal.

6.2 Time and Place of Meeting

The Creditors' Meeting shall be held at a time and place to be established by the Trustee in consultation with Official Receiver, or the nominee thereof, and confirmed in its notice of meeting to be mailed by the Trustee pursuant to the BIA. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the BIA and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting, but in any event shall be no later than twenty-one (21) days following the expiry of the Omnibus Suspension Period, subject at all times to (i) further order of the Court, including without limitation any order respecting COVID-19 related creditor meeting protocols; and (ii) any COVID-19 related creditor meeting directive issued by the Official Receiver.

6.3 Conduct of Meetings

The Official Receiver, or the nominee thereof, shall preside as the chair of the Creditors' Meeting and will decide all matters relating to the conduct of the Creditors' Meeting. The only Persons entitled to attend the Creditors' Meeting are those Unsecured Creditors, including the holders of proxies, entitled to vote at the Creditors' Meeting and their respective legal counsel, if any, the officers, directors, auditors and legal counsel of the Debtor, one or more representatives of and legal counsel to the Sponsor, together with such representatives of the Trustee as the Trustee may appoint in its discretion, and such scrutineers as may be duly appointed by the chair of such meeting. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting or with the consent of the Creditors.

6.4 Adjournment of Meetings

The Creditors' Meeting may be adjourned in accordance with Section 52 of the BIA.

6.5 Voting by Creditors

To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount which is equal to that Creditor's Proven Claim, or such amount as may be agreed to by the Trustee for voting purposes at or prior to the Creditors' Meeting (dollar amounts to be voted by Creditors in accordance with the foregoing are referred to as "**Voting Claims**").

6.6 Approval by Creditors

In order that the Proposal be binding on the class of Unsecured Creditors in accordance with the BIA, it must first be accepted by a majority in number of the Unsecured Creditors who actually vote upon the Proposal (in person or by proxy) at the Creditors' Meeting or by a Voting Letter, representing two-thirds in value of the Voting Claims of the Unsecured Creditors who actually vote upon the Proposal (whether in person or by proxy) at the Creditors' Meeting or by a Voting Letter.

6.7 Appointment of Inspectors

At the Creditors' Meeting, the Creditors may appoint up to five (5) Inspectors whose powers will be limited to:

- (a) advising the Trustee concerning any dispute which may arise as to the validity of Claims; and
- (b) advising the Trustee from time to time with respect to any other matter that the Trustee may refer to them.

Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction or act and make such order as it thinks just.

The authority and term of office of the Inspectors will terminate upon the performance of the Proposal.

6.8 Valuation of Claims

The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as set forth in Section 5 and the BIA. The Debtor and/or the Trustee reserve the right to seek the assistance of the Court in valuing the Claim of any Unsecured Creditor, if required, to ascertain the result of any vote on the Proposal or the amount payable or to be distributed to such Unsecured Creditor under the Proposal, as the case may be.

ARTICLE 7 COMPLETION OF THE PROPOSAL

7.1 Discharge of Trustee

Upon distribution by the Trustee of the balance of the Priority Creditor Cash Amount as contemplated in Section 4.2(b), And the Determination of the Prescribed Interests of Ordinary Creditors in the Tax Loss Variable Note following the Ordinary Claim Determination Date, the Trustee shall have discharged its duties as Trustee, the Proposal shall be fully performed and the Trustee shall be entitled to apply for its discharge as Trustee hereunder.

The Trustee is acting in its capacity as Trustee under the BIA and not in its personal capacity and no officer, director, employee or agent of the Trustee shall incur any liabilities or obligations in connection with the Proposal or in respect of the business or obligations of the Debtor or the Sponsor and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by this Proposal unless such acts have been carried out in bad faith and constitute a wilful misconduct or gross negligence.

7.2 Completion of The Proposal

The payment, compromise, extinguishment or other satisfaction of any Affected Claim under the Proposal will be binding upon each Affected Creditor, its heirs, executors, administrators, successors and assigns, for all purposes, and as and from the Implementation Date all Affected Claims shall be forever discharged and released, excepting only the obligations to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Proposal.

ARTICLE 8 PREFERENCES, TRANSFERS AT UNDER VALUE, ETC.

8.1 Sections 95-101 of the BIA

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal.

8.2 Recourse

As a result of and in accordance with Section 8.1 hereof and all of the rights, remedies, recourses and Affected Claims described therein:

- (a) all such rights, remedies and recourses and any Affected Claims based thereon shall be completely unavailable to the Trustee or any Creditor against the Company, any other Creditor or any other person whatsoever; and
- (b) the Trustee and all of the Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Affected Claims based thereon against the Company, any other Creditor or any other persons.

ARTICLE 9 MISCELLANEOUS

9.1 Modification of Proposal

The Debtor, with the consent of the Trustee and the Sponsor, may propose an alteration or modification to the Proposal prior to the conclusion of the first Creditors' Meeting called to consider the Proposal.

9.2 Consents, Waivers and Agreements

As at 12:01 a.m. on the Implementation Date, each Creditor will be deemed to have:

- (a) executed and delivered to the Debtor all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Proposal in its entirety;
- (b) waived any default by the Debtor in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor that has occurred on or prior to the Implementation Date;
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor as at the Implementation Date (other than those entered into by the Debtor on, or with effect from, the Implementation Date) and the provisions of the Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly; and
- (d) released the Debtor, the Trustee, the Directors, and all of their respective affiliates, employees, agents, directors, officers, shareholders, advisors, consultants and solicitors from any and all demands, claims, actions, causes of action, counter-claims, suits, debts, sums of money, accounts, covenants, damages, judgements, expenses, executions, liens, set off rights and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, relating to or arising out of or in connection with the matters herein.

9.3 Conditions to Proposal Implementation

The implementation of the Proposal by the Debtor will be conditional upon the fulfilment or satisfaction of the following conditions:

- (a) acceptance of the Proposal by the Unsecured Creditors; and
- (b) approval of the Proposal and the amendments to the Debtor's constating documents as set out in the Articles of Reorganization by the Court pursuant to a final and non-appealable Approval Order;
- (c) The execution of the Tax Loss Variable Note by the Sponsor for delivery to the Ordinary Creditors in accordance with Section 4.2(a); and

- (d) the payment by the Sponsor of the amounts set out in Section 4.6(a).

9.4 Release

Upon the Implementation Date, each and every Director shall be released and discharged from any and all Director Claims. This release shall have no force or effect if the Debtor goes bankrupt before the terms of the Proposal are performed.

9.5 Effect of Proposal Generally

As at 12:01 a.m. on the Implementation Date, the treatment of all Claims under the Proposal shall be final and binding on the Debtor and all Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute (i) a full, final and absolute settlement of all rights of the holders of the Claims affected hereby; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Debtor of or in respect of such Claims.

9.6 Notices

Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by receipted email (except for Proofs of Claim which may only be sent by personal delivery, receipted email or registered mail) addressed to the respective parties as follows:

- (a) if to the Debtor:

c/o Goldman Sloan Nash & Haber LLP
480 University Avenue, Suite 1600
Toronto, Ontario
M5V 1G2

Attention: Jennifer Stam
email: stam@gsnh.com

- (b) if to a Creditor, to the address or email address for such Creditor specified in the Proof of Claim filed by Creditor or, if no Proof of Claim has been filed, to such other address or email address at which the notifying party may reasonably believe that the Creditor may be contacted; and

- (c) if to the Trustee:

KSV Kofman Inc.
150 King Street West, P.O. Box 42
Toronto Ontario M5H 1J9

Attention: Mitch Vininsky

Email: mvininsky@ksvadvisory.com

or to such other address or email address as any party may from time to time notify the others in accordance with this section. In the event of any strike, lock-out and other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by receipted email and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption will be deemed not to have been given or made. All such notices and communications will be deemed to have been received, in the case of notice by email or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and in the case of notice mailed as aforesaid, on the fifth (5th) Business Day following the date on which such notice or other communication is mailed. The unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any Person pursuant to this Proposal.

9.7 Assignment of Claims

No assignment of a Claim by an Affected Creditor is effective to give the assignee any rights in respect of the Proposal unless written notice of the assignment is given to the Debtor and the Trustee in accordance with the requirements of Section 9.6. The assignment of the Claim will not be effective for a period of five (5) Business Days from the date of effective receipt of the notice of assignment by the Debtor and by Trustee as determined in accordance with Section 9.6.

9.8 Foreign Currency Obligations

For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the Date of Filing.

9.9 Applicable Law

The Proposal shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

9.10 Non Severability

It is intended that all material provisions of this Proposal shall be fully binding on and effective between all Persons named or referred to in this Proposal and in the event that any material provision or provisions of the Proposal is or are found by the Court to be void, voidable or unenforceable for any reason whatever, then the remainder of this Proposal and all other provisions shall be void and of no force or effect.

9.11 Deeming Provisions

In the Proposal the deeming provisions are not rebuttable and are conclusive and irrevocable.

DATED at the City of Toronto, in the Province of Ontario, this 14th day of May, 2020.

VIAFOURA INC.

Per:



Shahram (Jesse) Moeinifar, Director

Schedule to Articles of Reorganization of Viafoura Inc.

1. to create an unlimited number of shares of a class designated as “New Common Shares”;
2. to change each Common Share, each Seed Preferred Share, each Class A Preferred Share and each Class B Preferred Share into 0.000001 (one one-millionth) of a Redeemable Share;
3. to cancel all options, warrants, convertible instruments and any other rights or interests that are capable of being converted into Common Shares, Seed Preferred Shares, Class A Preferred Shares and Class B Preferred Shares;
4. to remove the authorized but unissued Common Shares, Seed Preferred Shares, Class A Preferred Shares and Class B Preferred Shares and all rights, privileges, restrictions and conditions attaching thereto;
5. to declare that the capital of the Corporation after giving effect to the foregoing shall consist of an unlimited number of New Common Shares and an unlimited number of Redeemable Shares with the rights, privileges, restrictions and conditions set out in these Articles attaching thereto;
6. to change the address of the registered office of the Corporation from 170 University Avenue, Suite 200, Toronto, Ontario M5H 3B3 to 261 Davenport Road, Suite 200, Toronto, Ontario, M5R 1K3.
7. to establish that there shall be a minimum number of one and a maximum number of ten directors of the Corporation and that the number of directors of the Corporation, and the number of directors to be elected at each annual meeting of the shareholders of the Corporation, within the minimum and maximum numbers provided for above, shall be one until otherwise determined by the board of directors;
8. to provide that the issue, transfer or ownership of shares is restricted and the restrictions (if any) are as follows:

The right to transfer shares of the Corporation shall be restricted in that no shares shall be transferred without either: (a) the consent of the directors of the Corporation expressed by a resolution passed by the directors or by an instrument or instruments in writing signed by a majority of the directors, which consent may be given either prior or subsequent to the time of transfer of such shares, or (b) the consent of the holders of shares of the Corporation to which are attached at least a majority of the votes attaching to all shares of the Corporation for the time being outstanding carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing, expressed by resolution passed by such shareholders or by an instrument or instruments

in writing by such shareholders, which consent may be given either prior or subsequent to the time of transfer of such shares.

9. The rights, privileges, restrictions and conditions attaching to the Redeemable Shares are as follows:
 - (a) **Fractional interest:** No holder of a fractional interest in a Redeemable Share will be entitled to be registered on the books of the Corporation in respect of such fraction of a Redeemable Share.
 - (b) **Redemption by the Corporation:** All of the Redeemable Shares, into which the Common Shares, the Seed Preferred Shares, the Class A Preferred Shares and the Class B Preferred Shares and fractional interests therein outstanding immediately prior to the Effective Time were changed pursuant to the Proposal and the terms hereof, will be deemed to be automatically redeemed by the Corporation as of the Effective Time, without notice to the holders of such Redeemable Shares, on payment, subject to the terms hereof, of \$0.01 for each whole Redeemable Share (such amount being herein referred to as the “**Redemption Price**”). The Corporation will pay or cause to be paid to each holder of Redeemable Shares or fractional interests therein to be redeemed the Redemption Price by cheque, provided that if the aggregate Redemption Price payable to any particular holder is less than \$10.00, the actual Redemption Price payable to each such holder of Redeemable Shares will be deemed to be \$0.00 and the Redeemable Shares or fractional interests therein held by each such holder of Redeemable Shares will be redeemed without any payment or further act or formality by the Corporation or otherwise.
 - (c) **Voting Rights:** The holders of the Redeemable Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote at any such meeting.
10. The rights, privileges, restrictions and conditions attaching to the New Common Shares are as follows:
 - (a) **Payment of Dividends:** The holders of the New Common Shares will be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or concurrently with the holders of the New Common Shares, the board may in its sole discretion declare dividends on the New Common Shares to the exclusion of any other class of shares of the Corporation.

- (b) **Participation upon Liquidation, Dissolution or Winding Up:** In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the New Common Shares will, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive assets of the Corporation upon such a distribution in priority to or concurrently with the holders of the New Common Shares, be entitled to participate in the distribution. Such distribution will be made in equal amounts per share on all the New Common Shares at the time outstanding without preference or distinction.
 - (c) **Voting Rights:** The holders of the New Common Shares will be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one vote in respect of each New Common Share held at all such meetings.
11. For the purposes of these Articles the following capitalized terms shall have the following respective meanings:
- (a) **“Act”** shall mean the *Business Corporations Act* (Canada), as amended.
 - (b) **“Class A Preferred Shares”** shall mean the Class A Preferred Shares of the Corporation in existence immediately prior to the Effective Time.
 - (c) **“Class B Preferred Shares”** shall mean the Class B Preferred Shares of the Corporation in existence immediately prior to the Effective Time.
 - (d) **“Common Shares”** shall mean the Voting Common Shares and Non-Voting Common Shares of the Corporation in existence immediately prior to the Effective Time. The Common Shares are issuable in one or more series. The first series of Common Shares shall be unlimited in number and shall be designated the “Voting Common Shares”. The second series of Common Shares shall be unlimited in number and shall be designated the “Non-Voting Common Shares”.
 - (e) **“Effective Time”** shall mean 12:01 a.m. on the “Implementation Date” as defined in the Proposal.
 - (f) **“New Common Shares”** shall mean the new common shares of the Corporation.
 - (g) **“Proposal”** shall mean the Proposal pursuant to Part III of the *Bankruptcy and Insolvency Act* (Canada) of the Corporation to all of its Creditors dated May 13, 2020.
 - (h) **“Redeemable Shares”** shall mean the redeemable shares of the Corporation into which the Common Shares, the Seed Preferred Shares,

the Class A Preferred Shares and the Class B Preferred Shares are changed pursuant to the terms hereof.

- (i) “**Seed Preferred Shares**” shall mean the Seed Preferred Shares of the Corporation in existence immediately prior to the Effective Time.

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) AUGUST 1, 2020; AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

VIAFOURA TECHNOLOGIES INC.

VIAFOURA INC. - TAX LOSS VARIABLE NOTE

Date: [August XX], 2020

Up to a Maximum Principal Amount of [\$1,750,000] (Canadian)

1. Preamble

Viafoura Technologies Inc., a corporation organized under the *Business Corporations Act* (Ontario) (“VTI”), proposed a restructuring of Viafoura Inc. (“Viafoura”), a corporation organized under the *Business Corporations Act* (Canada) (“CBCA”), pursuant to a Proposal to Creditors dated May 13, 2020 (the “Proposal”) under the *Bankruptcy and Insolvency Act* (Canada) (the “Restructuring”).

Pursuant to the Restructuring, VTI received all of the issued and outstanding shares of Viafoura, and the Ordinary Creditors of Viafoura received this Tax Loss Variable Note (the “Variable Note”) in full satisfaction of and in exchange for all of their Affected Claims.

Following the Restructuring, VTI and Viafoura intend to amalgamate or otherwise combine (“Amalco”) in order that the accumulated non-capital loss carry-forwards of Viafoura (“NCLs”) can be utilized by Amalco to reduce the future income taxes payable by Amalco.

2. Definitions

For all purposes of this Tax Loss Variable Note, except as otherwise expressly provided or unless the context otherwise requires:

- (a) all accounting terms used herein and not expressly defined herein shall, except as otherwise noted, have the meanings assigned to such terms in accordance with generally accepted accounting principles in Canada, and the term “**generally accepted accounting principles**” or “**GAAP**” means such accounting principles as are generally accepted as they may change from time to time in Canada.
- (b) the words “**herein**,” “**hereof**” and “**hereunder**” and other words of similar import refer to this Variable Note as a whole and not to any particular Article, Section or other subdivision.
- (c) “**Annual Aggregate Note Payment Amount**” means for each Fiscal Year (as defined below), the cash amount equal to 50% of the Tax Savings Cash Proceeds of Amalco for that Fiscal Year, subject at all times to the Maximum Principal Amount.

- (d) “**CRA**” means the Canada Revenue Agency.
- (e) “**Final Order**” means (i) an order of a court of competent jurisdiction granting or upholding a Successful Appeal, following the expiry of the applicable appeal period thereof, without appeal; and/or (ii) a withdrawal of a Reassessment by the CRA.
- (f) “**Final Year Prepayment Amount**” means the lesser of: (i) a dollar amount equal to two times (2x) the Three Year Average Annual Note Payment Amount; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note.
- (g) “**Prescribed Interest**” shall have the meaning in, and be calculated in accordance with, the Proposal.
- (h) “**Reassessment**” means the issuance of a Notice of Reassessment by the CRA to Amalco for any one or more Fiscal Years (as defined below), under which the CRA disallows the deduction of the NCLs in calculating Amalco’s taxable income for such Fiscal Year.
- (i) “**Reassessment Appeal**” means any appeal of or request for review and withdrawal of a Reassessment undertaken by Amalco, in its sole and unfettered discretion.
- (j) “**Reassessment Costs Contribution**” means an amount deducted from the Reassessment Holdback and paid to Amalco on account of 50% of its out of pocket expenses incurred with respect to conducting a Reassessment Appeal that is a Successful Appeal.
- (k) “**Reassessment Holdback**” means the Annual Aggregate Note Payment Amount(s) that would have been payable by Amalco to Holders under the Variable Note after the date of a Reassessment.
- (l) “**Successful Appeal**” means a Reassessment Appeal in respect of which Amalco is successful in obtaining a Final Order overturning a Reassessment.
- (m) “**Tax Savings Cash Proceeds**” means the amount of Canadian federal and provincial income tax that Amalco would have been subject to with respect to each of the fiscal years ended 2021, 2022, 2023, 2024 and 2025 (the “**Fiscal Years**” and each a “**Fiscal Year**”), absent the deduction of the maximum available amount of NCLs in calculating Amalco’s taxable income for each Fiscal Year;
- (n) “**Three Year Average Annual Note Payment Amount**” means the average of the Annual Aggregate Note Payment Amounts for Fiscal Years ended 2021, 2022 and 2023.
- (o) “**Two Year Prepayment Amount**” means the lesser of: (i) a dollar amount equal to three times (3x) the Three Year Average Annual Note Payment Amount; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note.

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Proposal.

3. **Maximum Principal Amount and Payment**

- (a) FOR VALUE RECEIVED, VTI for itself and on behalf of Amalco promises to pay to each of the Ordinary Creditors set forth in Schedule “A” attached hereto, or their successors and permitted assigns (collectively, the “**Holders**” and individually, a “**Holder**”), in accordance with their Prescribed Interests set forth in Schedule “A” (“**Interests**”), the Annual Aggregate Note Payment Amount less the Superintendent’s Levy (as defined in Section 11), for each Fiscal Year, up to a maximum aggregate principal amount of ONE MILLION SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$1,750,000) (the “**Maximum Principal Amount**”), subject at all times to the Reassessment Holdback.
- (b) Subject to Section 3(d), each Holder shall be paid its entitlement under this Variable Note (less the Levy amount) by Amalco within 10 Business Days of Amalco receiving its Notice of Assessment from the CRA for the applicable Fiscal Year allowing the deduction of NCLs (“**Payment Date**”).
- (c) Any and all payments made by Amalco to any of the Holders hereunder shall be made contemporaneously and *pro rata* to all Holders without preference or priority of any nature to any one or more Holders. The Interest of each Holder in this Variable Note shall rank rateably and pari-passu in all respects with the interest of each other Holder herein.
- (d) Notwithstanding Section 3(a), in the event of a Reassessment, Amalco shall maintain a Reassessment Holdback in respect of all amounts otherwise payable to Holders under the Variable Note, which Reassessment Holdback amounts in respect of any Fiscal Year shall only be released to Holders, net of the Reassessment Costs Contribution, in the event of a Final Order in respect of each applicable Fiscal Year. In the event that Amalco determines in its sole discretion to not pursue one or more appeal(s) of a Reassessment in respect of any Fiscal Year, or otherwise fails to obtain a Final Order, the Reassessment Holdback for the applicable Fiscal Year shall be returned to Amalco.

For greater certainty, under no circumstances shall the aggregate payments to the Holders exceed the Maximum Principal Amount (the actual amount owing to the Holders shall be referred to herein as the “**Principal Amount**”).

4. **Permitted Pre-Payments**

- (a) At any time following the payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2023, Amalco, in its sole discretion, may pay and satisfy the Annual Aggregate Note Payment Amounts for Fiscal Years 2024 and 2025, by making a one-time payment to each Holder equal to their Prescribed Interest in the Two Year Prepayment Amount.

(b) At any time following the payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2024, Amalco, in its sole discretion, may pay and satisfy the Annual Aggregate Note Payment amounts for Fiscal Year 2025, by making a one-time payment to each Holder equal to their Prescribed Interest in the Final Year Prepayment Amount.

Upon payment by Amalco of the amounts prescribed under either Section 4(a) or 4(b), Amalco shall have satisfied in full all of its obligations under this Variable Note.

5. **Interest**

No interest shall be payable by under the Variable Note.

6. **Place of Payment**

Payments hereunder shall be made by Amalco to each Holder and to the Receiver General with respect to the Levy, by cheque or electronic funds transfer in lawful money of Canada at the respective address set forth on Schedule "A" hereto, or at such other address as may be designated by that Holder in writing.

7. **Transfer**

Neither this Variable Note nor any Interest of any Holder herein may be sold, assigned, pledged, encumbered or in any manner transferred or disposed of, in whole or in part, except to another Holder (which shall only be effective after written notice to Amalco), without the prior written consent of Amalco, and in compliance with applicable securities laws.

The Holder understands that there is not currently, nor is it anticipated that there will be any public market for the Variable Note or Interests therein, and it may not be possible for the Holder to resell or transfer the Variable Note. The Holder has been independently advised as to the restrictions with respect to trading in, and the restricted period or statutory hold period applicable to, the Variable Note imposed by the securities laws of the jurisdiction in which the Holder resides or to which the Holder is subject, that a suitable legend or legends, if required, be placed on the Variable Note to reflect the applicable restricted period and statutory hold period to which the Variable Note interests are subject and it is the responsibility of the Holders to comply with such restrictions before selling or transferring the Variable Notes.

8. **No Security Provided**

This Variable Note shall represent an unsecured obligation of Amalco.

9. **Notice**

Any notice or written communication given pursuant to or in connection with this Variable Note shall be in writing and shall be given by delivering the same personally or by prepaid courier, prepaid registered mail, or read receipted email, addressed to the party to be notified at the address of such party set out in Schedule "A" or at such other address of which such party has given notice

to the other party hereto. Any such notice shall be conclusively deemed to have been given and received on the day of actual receipt by the addressee or, if given by prepaid registered or certified mail, on the fifth day following the mailing date (absent a general disruption in postal service).

10. **Amendments with Consent of Majority Holders.**

- (a) Amalco, when authorized by written instrument signed by a majority in number of Holders, representing at least two-thirds in value of the Prescribed Interests, may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Variable Note, even if such addition, elimination or change is in any way adverse to the interests of the Holders. Notwithstanding the foregoing, no portion of Section 3(a) hereof may be amended or deleted without the written authorization of all Holders then holding a Prescribed Interest herein.
- (b) Promptly after the implementation of any amendment to the Variable Note, Amalco shall mail a notice thereof by first-class mail to the Holders at the respective addresses forth on Schedule "A" hereto, setting forth in general terms the substance of such amendment.
- (c) Upon the execution of any amendment under this Section 18, this Variable Note shall be modified in accordance therewith, such amendment shall form a part of this Variable Note for all purposes and every Holder shall be bound thereby.

11. **Superintendent of Bankruptcy Levy**

The payment of the amount due under the Variable note to Holders from time to time shall be subject to the right of the Office of the Superintendent of Bankruptcy Canada (the "**Superintendent**") to first receive payment on account of its statutory Levy pursuant to sections 60(3), (4) and 147 of the *Bankruptcy and Insolvency Act* (Canada). The Superintendent's levy payment amount shall be 5% of the amounts to be paid by Amalco to Holders from time to time, to a maximum amount of \$62,500 (less any other Superintendent levy amounts previously paid under the Proposal) in the aggregate (the "**Superintendent's Levy**").

12. **General Provisions**

- (a) In the event that a Payment Date shall not be a Business Day, then, notwithstanding any provision of this Variable Note to the contrary, any payment required to be made hereunder may be made on the next succeeding Business Day with the same force and effect as if made on the Payment Date.
- (b) Each of the provisions contained in this Variable Note is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
- (c) This agreement represents the entire understanding of the parties hereto with reference to the Variable Note and supersedes any and all other oral or written agreements made with respect to the Variable Note.

- (d) This Variable Note shall be governed by, and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein (other than the conflict of laws rules).
- (e) Each Holder hereby submits to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of any dispute arising under this Variable Note.
- (f) In this Variable Note, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.
- (g) This Variable Note shall be binding on VTI, Amalco and its successors, and shall enure to the benefit of the Holders and their successors and assigns.
- (h) This Variable Note may be signed in any number of counterparts (which may be effectively delivered by facsimile or other electronic means), each of which shall be deemed to constitute but one and the same instrument.

13. **Acknowledgments**

VTI ON BEHALF OF ITSELF AND AMALCO WAIVES PRESENTMENT FOR PAYMENT, NOTICE OF NON-PAYMENT, PROTEST AND NOTICE OF PROTEST OF THIS VARIABLE NOTE AND WAIVES EVERY DEFENSE BASED UPON ANY OR ALL INDULGENCES AND FORBEARANCES WHICH MAY BE GRANTED BY THE HOLDERS TO ANY PARTY LIABLE HEREON. THE HOLDERS ACKNOWLEDGE RECEIPT OF A TRUE COPY OF THIS VARIABLE NOTE.

IN WITNESS WHEREOF VTI on behalf of itself and on behalf of Amalco has executed this Variable Note as of the date first above written above.

VIAFOURA TECHNOLOGIES INC.

Per: _____ c/s

Name: Jason Chapnik

Title: Chairman

Schedule “A”
 Holders and Prescribed Interests

Holder	Principal Amount of Determined Claim	Prescribed Interest (expressed as a %)	Registered Address
Superintendent of Bankruptcy	N/A	5%	
TOTAL		100%	

Appendix “B”



Industry Canada

Office of the Superintendent
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant
des faillites Canada

District of Ontario
 Division No. 09 - Toronto
 Court No. 31-2590812
 Estate No. 31-2590812

In the Matter of the Proposal of:

Viafoura Inc.

Debtor

KSV KOFMAN INC.

Licensed Insolvency Trustee

Date of Proposal:	May 14, 2020	Security:	\$
Meeting of Creditors:	July 21, 2020, 10:00 Meeting to be conducted by Video Conf. https://zoom.us/j/99077860652?pwd=TFFhbTID:99077860652 Pass: 503871, Ontario Canada,		
Chair:	Trustee		

CERTIFICATE OF FILING OF A PROPOSAL - Section 62

-- AMENDED --

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that:

- a proposal in respect of the aforementioned debtor was filed under section 62 of the *Bankruptcy and Insolvency Act*.

The aforementioned trustee is required:

- to provide to me, without delay, security in the aforementioned amount; and
- to send to all creditors, at least ten days prior to the meeting, a notice of a meeting of creditors, which will be held at the aforementioned time and place.

Date: July 08, 2020, 13:30

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

Appendix “C”



Bankruptcy and Insolvency Act ("Act")

Proof of Claim

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

All notices or correspondence regarding this claim must be forwarded to the following address:

Creditor Name: _____ Telephone: _____
Address: _____ Fax: _____
Account No.: _____ Email: _____

In the matter of the bankruptcy (or the proposal, or the receivership) of _____ (name of debtor) of _____ (city and province) and the claim of _____, creditor.

I, _____ (name of creditor or representative of the creditor), of _____ (city and province), do hereby certify:

- 1. That I am a creditor of the above-named debtor (or that I am _____ (state position or title) of _____ (name of creditor)).
- 2. That I have knowledge of all the circumstances connected with the claim referred to below.
- 3. That the debtor was, at the date of bankruptcy, (or the date of the receivership, or in the case of a proposal, the date of the notice of intention or of the proposal, if no notice of intention was filed), namely the _____ day of _____, _____, and still is, indebted to the creditor in the sum of \$ _____, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
- 4. (Check and complete appropriate category.)
 - A. UNSECURED CLAIM OF \$ _____
(other than as a customer contemplated by Section 262 of the Act)
That in respect of this debt, I do not hold any assets of the debtor as security and
(Check appropriate description.)
 - Regarding the amount of \$ _____, I do not claim a right to a priority.
 - Regarding the amount of \$ _____, I claim a right to a priority under Section 136 of the Act.
(Set out on an attached sheet details to support priority claim.)
 - B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ _____
That I hereby make a claim under Subsection 65.2(4) of the Act, particulars of which are as follows:
(Give full particulars of the claim, including the calculations upon which the claim is based.)
 - C. SECURED CLAIM OF \$ _____
That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)
 - D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ _____
That I hereby make a claim under Subsection 81.2(1) of the Act for the unpaid amount of \$ _____ (Attach a copy of sales agreement and delivery receipts.)
 - E. CLAIM BY WAGE EARNER OF \$ _____
 - That I hereby make a claim under Subsection 81.3(8) of the Act in the amount of \$ _____
 - That I hereby make a claim under Subsection 81.4(8) of the Act in the amount of \$ _____
 - F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ _____
 - That I hereby make a claim under Subsection 81.5 of the Act in the amount of \$ _____
 - That I hereby make a claim under Subsection 81.6 of the Act in the amount of \$ _____
 - G. CLAIM AGAINST DIRECTOR \$ _____
(To be completed when a proposal provides for the compromise of claims against directors.)
That I hereby make a claim under Subsection 50(13) of the Act, particulars of which are set out on the attached sheet(s). (Give full particulars of the claim, including the calculations upon which the claim is based.)
 - H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ _____
That I hereby make a claim as a customer for net equity as contemplated by Section 262 of the Act, particulars of which are set out on the attached sheet(s).
(Give full particulars of the claim, including the calculations upon which the claim is based.)

Bankruptcy and Insolvency Act ("Act")

Proof of Claim

(Section 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1),
and Paragraphs 51(1)(e) and 66.14(b) of the Act)

5. That, to the best of my knowledge, I am (or the above-named creditor is) (or am not or is not) related to the debtor within the meaning of Section 4 of the Act, and have (or has) (or have not or has not) dealt with the debtor in a non-arm's-length manner.
6. That the following are the payments that I have received from, the credits that I have allowed to, and the transfers at undervalue within the meaning of Subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of Section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Subsection 2(1) of the Act: *(Provide details of payments, credits and transfers at undervalue.)*
7. *(Applicable only in the case of the bankruptcy of an individual.)*
- Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under Section 68 of the Act, I request to be informed, pursuant to Paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.
- I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to Subsection 170(1) of the Act be sent to the above address.

Dated at _____, this _____ day of _____, _____

Witness

Creditor

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to Subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.
Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

DIRECTIONS FOR COMPLETION OF THIS FORM ARE ON THE REVERSE SIDE

GENERAL PROXY

(Paragraphs 51(1)(e) and 66.15(3)(b) and Subsection 102(2))

In the matter of the bankruptcy) (or proposal) of _____ a bankrupt (or an insolvent)

I (or We), _____ (name of creditor), of _____ (name of city, town or village), a creditor in the above matter, hereby appoint _____, of _____, to be my (or our) general proxy in the above matter except as to the receipt of dividends, with (or without) power to appoint another general proxy in his or her place.

DATED AT _____ this _____ day of _____, _____

Witness

Individual Creditor OR Name of Corporate Creditor

Per:

Witness

Name and Title of Signing Officer

CHECKLIST FOR PROOF OF CLAIM

This checklist is provided to assist you in preparing the accompanying proof of claim form and, where required, proxy form in a complete and accurate manner. Please specifically check each requirement.

Under Section 109 of the Bankruptcy and Insolvency Act only those creditors who have filed their claims in the proper form with the trustee, before the time appointed for the meeting, are entitled to vote at the meeting.

Section 124 states that every creditor shall prove his claim and the creditor who does not prove his claim is not entitled to share in any distribution that may be made.

General

- The signature of a witness is required;
- The claim must be signed personally by the individual completing this declaration;
- Provide the complete address where all notices or correspondence are to be forwarded;
- The amount of the statement of account must correspond to the amount indicated on the proof of claim.

Notes:

- It is permissible to file a proof of claim by fax.
- A creditor may vote either in person or by proxy at any meeting of creditors if the proof of claim is filed with the trustee prior to the time appointed for the meeting.
- A quorum at any meeting of creditors consists of at least one creditor with a valid proof of claim in attendance in person or by proxy.
- A corporation may vote through an authorized agent or mandatary at meetings of creditors.
- In order for a duly authorized person to have a right to vote, they must be a creditor or be the holder of a properly executed proxy. The name of the creditor must appear in the proxy.
- A creditor who is participating in any distribution from an estate must have filed a proof of claim prior to the distribution being declared.
- In the case of an individual bankrupt, by checking the appropriate box or boxes at the bottom of the proof of claim form, you may request that the trustee advise you of any material change in the financial situation of the bankrupt or the amount the bankrupt is required to pay into the bankruptcy, and a copy of the trustee's report on the discharge of the bankrupt.

Paragraph 1

- Creditor must state full and complete legal name of company or firm;
- If the individual completing the proof of claim is not the creditor himself, he/she must state his/her position or title.

Paragraph 3

- The amount owing must be set out in paragraph 3.
- A detailed statement of account must be attached to the proof of claim and must show the date, the number and the amount of all the invoices or charges, together with the date, the number and the amount of all credits or payments. A statement of account is not complete if it begins with an amount brought forward.

Paragraph 4

- **Paragraph A** applies to *ordinary unsecured claims*. In addition to recording the amount of the claim, please indicate whether the claim has a priority pursuant to Section 136 of the Act.
- **Paragraph B** applies to lessor claims in a commercial proposal. Please ensure that the claim applies to a commercial proposal and, if so, include the full particulars of the claim.
- **Paragraph C** applies to *secured claims*. Please indicate the dollar value of the security and attach copies of the security document. In addition, please attach copies of the security registration documents, where appropriate.
- **Paragraph D** applies to *inventory claims of farmers, fishermen and aquaculturists*. Please note that such claims apply only to inventory supplied from farmers, fishermen and aquaculturists within 15 (fifteen) days of the date of bankruptcy. In addition, please attach copies of any applicable sales agreements and delivery slips.
- **Paragraph E** applies to *claims by wage earners*. Please note that such claims apply only for unpaid wages owed upon the bankruptcy of an employer or when the employer becomes subject to a receivership.
- **Paragraph F** applies to *claims by employees for unpaid amounts regarding pension plans*. Please note that such claims apply only to unremitted pension contributions outstanding when the sponsoring employer becomes bankrupt or is subject to a receivership.
- **Paragraph G** applies to *claims against directors*. Please note that such claims apply only to directors of corporations that have filed a commercial proposal to creditors that includes a compromise of statutory claims against directors.
- **Paragraph H** applies to *claims of customers of a bankrupt securities firm*. Please ensure that the claim of the customer is for net equity and, if so, include the full particulars of the claim, including the calculations upon which the claim is based.

Paragraph 5

- All claimants must indicate whether or not they are related to the debtor, as defined in Section 4 of the Act, or dealt with the debtor in a non-arm's-length manner.

Paragraph 6

- All claimants must attach a detailed list of all payments or credits received or granted, as follows:
 - a) Within the three (3) months preceding the initial bankruptcy event (including the bankruptcy or the proposal), in the case where the claimant and the debtor are not related;
 - b) Within the twelve (12) months preceding the initial bankruptcy event (including the bankruptcy or the proposal), in the case where the claimant and the debtor were not dealing at arm's length.

APPOINTING PROXY

Note: The Act permits a proof of claim to be made by a duly authorized representative of a creditor but, in the absence of a properly executed proxy, does not give such an individual the power to vote at the first meeting of creditors nor to act as the proxyholder of the creditors.

General

- In order for duly authorized persons to have a right to vote, they must themselves be creditors or be the holders of a properly executed proxy. The name of the creditor must appear in the proxy.

Notes:

- A creditor may vote either in person or by proxyholder.
- A proxy may be filed at any time prior to a vote at a meeting of creditors.
- A proxy can be filed with the trustee in person, by mail or by any form of telecommunication.
- A proxy does not have to be under the seal of a corporation unless required by its incorporating documents or its bylaws.
- The individual designated in a proxy cannot be substituted unless the proxy provides for a power of substitution.
- Bankrupts/debtors may not be appointed as proxyholders to vote at any meeting of their creditors.
- The trustee may be appointed as a proxyholder for any creditor.
- A corporation cannot be designated as a proxyholder.

Estate No. 31-2590812

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO**

Form 37

**VOTING LETTER
(Paragraph 51(1)(f) of the *Bankruptcy and Insolvency Act.*)**

I/we, _____, creditor,
of _____,

a creditor in the above matter for the sum of \$ _____, hereby request the trustee acting with respect to the Proposal of 7235712 Canada Inc. (formerly Viafoura Inc.) to record my vote:

PLEASE TICK OFF OR INDICATE YOUR VOTE AS FOLLOWS:

- FOR** the acceptance of the Proposal, as made on the 14th day of May, 2020.
- AGAINST** the acceptance of the Proposal, as made on the 14th day of May, 2020.

DATED at _____, this _____ day of _____, 2020.

Signature of Witness

*Signature of individual creditor or person
signing on behalf of corporate creditor*

Print name of Witness

*Print name of individual creditor or name and
title of person signing on behalf of corporate
creditor*

Appendix “D”



Estate File No: 31-2590812

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF PROPOSAL TO CREDITORS
(Subsection 51)**

Take notice that:

1. 7235712 Canada Inc. (formerly Viafoura Inc.) (the "Company") has lodged with KSV Kofman Inc. (the "Proposal Trustee") a Proposal pursuant to the *Bankruptcy and Insolvency Act*.
2. A general meeting of creditors to consider the Proposal will be held on the 21st day of July, 2020 at 10 a.m., to be convened via Zoom at:
<https://zoom.us/j/99077860652?pwd=TFFhbTVQYXBpVnJSb2VxYXhXQXR1dz09>
3. Enclosed are copies of:
 - The Proposal;
 - A condensed statement of the Company's assets and liabilities;
 - A list of the creditors affected by the Proposal whose claims amount to \$250 or more;
 - A Proof of Claim form and proxy; and
 - A voting letter.
4. To be entitled to vote at the meeting, proofs of claim, proxies (where necessary) and voting letters intended to be used at the meeting must be lodged with the Proposal Trustee prior to the commencement of the meeting.
5. Creditors must prove their claims against the Company in order to share in any distribution of the proceeds realized from the estate.

DATED at Toronto, Ontario, this 10th day of July, 2020.

KSV KOFMAN INC.

LICENSED INSOLVENCY TRUSTEE

Appendix “E”

District of: Ontario
 Division No. 09 - Toronto
 Court No. 31-2590812
 Estate No. 31-2590812

Original Amended

Form 78
 Statement of Affairs (Business Proposal) made by an entity
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

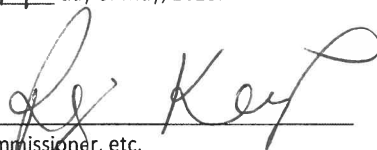
In the Matter of the Notice of Intention to Make a Proposal of
 Viafoura Inc.
 of the City of Toronto, in the Province of Ontario

To the debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal (or notice of intention, if applicable), on the 1st day of December 2019. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A"	3,423,332.53	1. Inventory	0.00
Balance of secured claims as per list "B"	0.00	2. Trade fixtures, etc.	0.00
Total unsecured creditors	3,423,332.53	3. Accounts receivable and other receivables, as per list "E"	
2. Secured creditors as per list "B"	0.00	Good	0.00
3. Preferred creditors as per list "C"	0.00	Doubtful	0.00
4. Contingent, trust claims or other liabilities as per list "D"	0.00	Bad	0.00
estimated to be reclaimable for		Estimated to produce	0.00
Total liabilities	3,423,332.53	4. Bills of exchange, promissory note, etc., as per list "F"	0.00
Surplus	NIL	5. Deposits in financial institutions	0.00
		6. Cash	0.00
		7. Livestock	0.00
		8. Machinery, equipment and plant	0.00
		9. Real property or immovable as per list "G"	0.00
		10. Furniture	0.00
		11. RRSPs, RRIFs, life insurance, etc.	0.00
		12. Securities (shares, bonds, debentures, etc.)	0.00
		13. Interests under wills	0.00
		14. Vehicles	0.00
		15. Other property, as per list "H"	0.00
		If debtor is a corporation, add:	
		Amount of subscribed capital	0.00
		Amount paid on capital	0.00
		Balance subscribed and unpaid	0.00
		Estimated to produce	0.00
		Total assets	0.00
		Deficiency	3,423,332.53

I, Jesse S. Moeinifar, Officer of Viafoura Inc., do swear (or solemnly declare) that the above statement and the attached lists are to the best of my knowledge, based on the information available to me, a full, true and complete statement of the affairs of Viafoura Inc. on May 14, 2020, and fully disclose all of its property of every description in its possession or that may devolve on it in accordance with Section 67 of the Bankruptcy and Insolvency Act.

Sworn (or solemnly declared) before me at
 the City of Toronto, in the Province of Ontario,
 this 14th day of May, 2020.


 A Commissioner, etc.



 Jesse S. Moeinifar

**Rajinder Kashyap, a Commissioner, etc.,
 Province of Ontario, for KSV Kofman Inc.
 Expires January 22, 2021.**

Appendix “F”

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**List of creditors as at May 14, 2020
as submitted by Viafoura Inc., without admission as to any liability or privilege herein shown**

Creditors	Amount due (\$)
ActiveMind Legal	2,761.09
AP Bespoke Consulting Canada Ltd	1,546.69
Canada Revenue Agency	1.00
Cerebral Selling Inc.	27,120.00
Datadog	11,323.04
Dean Devlin	20,710.06
Demand Gen Content Marketing Services	3,203.00
Espresso Capital	864,494.56
FedDev Ontario	235,450.00
Idea Notion	4,208.00
Keepcon	3,972.30
Linkedin.com	2,796.61
Lisa Walker Creative	1,130.00
Michael Shewchenko Group	10,000.00
Ministry of Finance (EHT)	2,189.71
National Bank Loan	2,171,831.26
On The Way cafe Inc.	1,144.44
Osler, Hoskin & Harcourt LLP	20,057.50
Receiver General of Canada	1,168.00
SalesForce.com	986.25
TDSB - Canada-Ontario Job Grant	5,666.67
Themis Solutions Inc.	20,845.22
Twitter International Company	9,244.00
WPY NOW Creative Group	1,483.13
	3,423,332.53

*US dollar amounts were converted to C\$ at 1.38

**An amount of \$1.00 indicates that the amount due is undetermined or unknown.

Appendix “E”

Court File No. 31-2590812
Estate File No. 31-2590812

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

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF VIAFOURA INC.,
OF THE CITY OF TORONTO IN THE PROVINCE OF ONTARIO**

PROPOSAL

Viafoura Inc. hereby submits the following Proposal to all of its Creditors pursuant to Part III of the BIA.

**ARTICLE 1
DEFINITIONS**

1.1 Definitions

In this Proposal:

- (a) “Administrative Fees and Expenses” means the proper fees, expenses and legal fees and disbursements of the Trustee and the Debtor on and incidental to the negotiation, preparation, presentation, consideration, Court approval of, and implementation of the Proposal and all proceedings and matters relating to or arising out of the Proposal including, without limitation any meeting or meetings of creditors to consider the Proposal;
- (b) “Affected Claims” means Claims and Director Claims which are not Unaffected Claims;
- (c) “Affected Creditor” means a Creditor having an Affected Claim;
- (d) “Approval Order” means an Order of the Court approving the Proposal;

- (e) “Articles of Reorganization” means the articles of reorganization of the Debtor to become effective on the Implementation Date attached hereto as Schedule “A”;
- (f) “BIA” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and in force as at the Date of Filing;
- (g) “Business Day” means each day other than a Saturday or Sunday or a statutory or civic holiday on which banks are open for business in Toronto, Ontario, Canada;
- (h) “Canada Pension Plan” means the *Canada Pension Plan*, R.S.C. 1985, c. C-8, as amended;
- (i) “Claim” means any right of any Person against the Debtor in connection with any indebtedness, liability or obligation of any kind of the Debtor which indebtedness, liability or obligation is in existence on, or which is based in whole or in part on any act, omission or fact that occurred or existed prior to the Date of Filing, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, under-secured, unsecured, present, future, direct or indirect, known or unknown, by guarantee, by surety or otherwise, at law or in equity, and whether or not such a right is executory in nature, including, without limitation, the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action;
- (j) “Court” means the Ontario Superior Court of Justice [Commercial List] (in Bankruptcy and Insolvency);
- (k) “Creditor” means any Person having a Claim or a Director Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or other Person acting on behalf of or in the name of such Person;
- (l) “Creditors’ Meeting” means any meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;
- (m) “Creditors’ Meeting Date” means 10:00 a.m. on the date and time as may be called by the Trustee in consultation with the Official Receiver pursuant to Section 6.2 of the Proposal;
- (n) “Date of Filing” or “Date of Proposal” mean the date of the filing of the Proposal with the Official Receiver;
- (o) “Debtor” means Viafoura Inc., a company existing under the federal laws of Canada;

- (p) “Directors” means the present and former directors of the Debtor, as at the Date of Filing;
- (q) “Director Claim” means a claim against Directors of the Debtor that is based in whole or in part on facts, events or matters which existed or occurred on or before the Date of Filing and that relates to the obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations. Director Claims do not include claims that relate to: (a) contractual rights of one or more Creditors arising from contracts with one or more Directors; or (b) wrongful or oppressive conduct by Directors.
- (r) “Directors’ Indemnity Claims” means all claims by Directors against the Debtor for indemnity in respect of obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations;
- (s) “Employment Insurance Act” means the *Employment Insurance Act*, S.C. 1996, c. 23, as amended;
- (t) “Existing Shares” means all issued preferred and common shares of the Debtor and any and all, warrants, options, instruments, rights or entitlements which have the capacity to be converted into or exchanged for, or give the right to acquire, shares of the Debtor in existence on the Implementation Date;
- (u) “Implementation Date” means the date upon which the conditions set forth in Section 9.3 have been satisfied;
- (v) “Income Tax Act” means *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended;
- (w) “Inspectors” means one or more Inspectors appointed pursuant to the BIA as provided for in the Proposal;
- (x) “Levy” has the meaning ascribed to it in Section 4.7 of the Proposal.
- (y) “New Shares” means the shares of the Debtor to be issued to the Sponsor on the Implementation Date pursuant to the Articles of Reorganization;
- (z) “Official Receiver” shall have the meaning ascribed thereto in the BIA;
- (aa) “Omnibus Suspension Period” mean the period commencing on April 27, 2020 and ending June 30, 2020, defined as the “Suspension Period” in the Order of Chief Justice Morawetz made April 27, 2020 in Court File No. 31-2597721, and any Court ordered extension(s) of the Suspension Period;

- (bb) “Ordinary Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Ordinary Creditors has been finally determined in accordance with the BIA;
- (cc) “Ordinary Creditors” means Creditors with Proven Claims, except for those Claims that:
 - (i) are Claims by Preferred Creditors; or
 - (ii) are Unaffected Claims.
- (dd) “Person” means any individual, general or limited partnership, joint venture, trust, corporation, unincorporated organization, government, or any agency, regulatory body or instrumentality thereof, or any other entity howsoever designated or constituted;
- (ee) “Preferred Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Preferred Creditors has been finally determined in accordance with the BIA;
- (ff) “Preferred Creditors” means Creditors with Proven Claims and which are, subject to the rights of Secured Creditors, required by the BIA to be paid in priority to all other Claims under a proposal made by a debtor and including, without limitation, the Required Employee Amount (for greater certainty a Person can be both a Preferred Creditor and an Unsecured Creditor in respect of distinct Claims);
- (gg) “Prescribed Interest” means the participation entitlement of an Ordinary Creditor in the Tax Loss Variable Note, net of the Levy, as determined by the Trustee following the Ordinary Claim Determination Date;
- (hh) “Priority Creditor Cash Amount” means the cash amount necessary to pay and satisfy: (i) the Affected Claims of Preferred Creditors, including the Required Employee Amount; and (ii) the Required Crown Amount, to be delivered by the Sponsor to the Trustee within five (5) Business Days of the Preferred Claim Determination Date;
- (ii) “Proof of Claim” shall mean the proof of claim required by the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting;
- (jj) “Proposal” means this proposal together with any amendments or additions thereto;
- (kk) “Proven Claim” of a Creditor means the amount of the Affected Claim of such Creditor finally determined in accordance with BIA;
- (ll) “Required Employee Amount” means an amount equal to the amount employees and former employees of the Debtor, not to include independent

commissioned sales agents or contractors, would be qualified to receive under paragraph 136(l)(d) of the BIA if the Debtor became bankrupt on the Date of Filing, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about the Debtor's business during the same period;

- (mm) "Required Crown Amount" means all amounts outstanding at the time of the filing of the notice of intention to Her Majesty in Right of Canada or a Province and that are of a kind that could be subject to a demand under,
- (i) subsection 224(1.2) of the Income Tax Act;
 - (ii) any provision of the Canada Pension Plan or of the Employment Insurance Act that refers to subsection 224(1.2) of the Income Tax Act and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the Employment Insurance Act, and of any related interest, penalties or other amounts; or
 - (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Income Tax Act, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the Income Tax Act, or
 - (B) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;
- (nn) "Sponsor" means Viafoura Technologies Inc., a company existing under the laws of the Province of Ontario;
- (oo) "Tax Loss Variable Note" means the unsecured contingent promissory note to be issued by the Sponsor to Ordinary Creditors in full satisfaction of all Affected Claims, pursuant to this Proposal, substantially in the form attached hereto as Schedule "B";

- (pp) “Trustee” or “Proposal Trustee” means KSV Kofman Inc., or its duly appointed successor or successors;
- (qq) “Unaffected Claims” means the Directors’ Indemnity Claims and the Administrative Fees and Expenses;
- (rr) “Unsecured Creditors” means, collectively, the Preferred Creditors and the Ordinary Creditors; and
- (ss) “Voting Letter” shall mean the voting letter required by Section 51(1) of the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting.

1.2 Articles of Reference

The terms “hereof”, “hereunder”, “herein” and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.3 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.4 Date for Any Action

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

All times expressed herein are local time in Toronto, Ontario, Canada unless otherwise stipulated. Where the time for anything pursuant to the Proposal on a particular date is unspecified herein, the time shall be deemed to be 5:00 p.m. local time in Toronto, Ontario, Canada.

1.6 Numbers, Gender

In the Proposal, where the context requires, a word importing the singular number will include the plural and vice versa and a word or words importing gender will include all genders.

1.7 Currency

Unless otherwise stated herein, all references to currency in the Proposal are to lawful money of Canada.

1.8 Statutory References

Except as otherwise provided herein, any reference in the Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.9 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Proposal.

1.10 Schedules

The following are the Schedules to this Proposal:

Schedule "A" - Articles of Reorganization

Schedule "B" – Form of Tax Loss Variable Note

The terms and conditions of the Schedules form an integral part of this Proposal and should be read in conjunction with this Proposal.

**ARTICLE 2
PURPOSE OF THE PROPOSAL****2.1 PURPOSE OF THE PROPOSAL**

The purpose of this Proposal is to allow the Debtor to effect the restructuring of the indebtedness of the Debtor in the manner contemplated herein and as permitted by the BIA in the expectation that all Affected Creditors will derive greater benefit from the restructuring than they would otherwise receive from a bankruptcy of the Debtor and to provide for:

- (a) the issuance of the Tax Loss Variable Note by the Sponsor to Ordinary Creditors in full satisfaction of all Affected Claims;
- (b) the effective cancellation of all Existing Shares;
- (c) the issuance of New Shares to the Sponsor;

- (d) the payment of the Priority Creditor Cash Amount by the Sponsor to the Trustee in satisfaction of, and for distribution by the Trustee on account of, the Proven Claims of Preferred Creditors (including the Required Employee Amount) and the Required Crown Amount;

The Proposal applies to all Affected Creditors, whether or not any such Affected Creditor proves a Claim against the Debtor under this Proposal. This Proposal does not affect Unaffected Claims.

2.2 Corporate Reorganization

This Proposal contemplates a corporate reorganization of the capital structure of the Debtor in accordance with section 59(4) of the BIA. The Articles of Reorganization attached as Schedule "A" to the Proposal shall, upon Court approval of the Proposal, amend the constating documents of the Debtor to, inter alia, effect the redemption or cancellation of all Existing Shares, and authorize the issuance of a series of New Shares by the Debtor.

ARTICLE 3 CLASSIFICATION OF CREDITORS

3.1 Classes of Creditors

For the purposes of voting on the Proposal, the Creditors of the Debtor shall be comprised of one class of Unsecured Creditors.

ARTICLE 4 TREATMENT OF CREDITORS

4.1 Administrative Fees and Expenses

On the Implementation Date, all Administrative Fees and Expenses incurred to that date which remain unpaid shall be paid by the Sponsor in full in accordance with the BIA from funds delivered to the Trustee in addition to the Priority Creditor Cash Amount.

4.2 Compromise and Satisfaction of Creditor Claims

The Claims of all Affected Creditors shall be compromised on the Implementation Date and thereafter each Affected Creditor with a Proven Claim shall receive the following in full satisfaction of its Proven Claim(s):

- (a) Within ten (10) Business Days of the Ordinary Claim Determination Date, each Ordinary Creditor shall receive its Prescribed Interest in the Tax Loss Variable Note in full satisfaction of all Affected Claims; and
- (b) Within ten (10) Business Days of the Preferred Claim Determination Date, the Proven Claim of each Preferred Creditor (in that capacity), and the

Required Employee Amount and, subject to Section 4.5, the Required Crown Amount shall be paid by the Trustee from the Priority Creditor Cash Amount.

Notwithstanding any other provision hereof, the Ordinary Creditors shall only have recourse to the Tax Loss Variable Note and the payments to be made by the Sponsor thereunder in accordance with the terms of the Tax Loss Variable Note, and Ordinary Creditors shall not be permitted to sue or make any claim against the Debtor, the Sponsor or any other Person for any Claim deficiency remaining after payment of amounts owing under the Tax Loss Variable Note.

4.3 Interest on Claims

Interest will not accrue or be paid on Affected Claims after or in respect of the period following the Date of Filing and no Creditor with an Affected Claim will be entitled to any interest in respect of such Claim accruing on or after or in respect of the period following the Date of Filing.

4.4 Return of Balance of Priority Creditor Cash Amount

To the extent that any excess funds remain in the Priority Creditor Cash Amount after payment in full of the Proven Claims of Preferred Creditors and any Levy thereon, and so long as the Trustee is satisfied that satisfactory arrangements have been made for the payment of Administrative Fees and Expenses to the date of the Trustee's discharge in accordance with Section 7.1, the Trustee shall return such excess funds to the Sponsor within five Business Days of having made the distribution to Preferred Creditors (including the Required Employee Amount) and the Required Crown Amount pursuant to Section 4.2(b) above.

4.5 Required Crown Amount

In the event that the Trustee determines that the Preferred Claim Determination Date will occur more than six (6) months from the date of Court approval of the Proposal, the Required Crown Amount shall be remitted by the Trustee to Her Majesty in Right of Canada from the Priority Claim Cash Amount within six (6) months of the date of Court approval of the Proposal.

4.6 Obligations of the Sponsor

- (a) The Sponsor shall, on or before the Implementation Date:
 - (i) deliver the Priority Creditor Cash Amount to the Trustee;
 - (ii) deliver sufficient additional funds to the Trustee to pay the unpaid Administrative Fees and Expenses incurred to the Implementation Date; and

- (iii) issue the Tax Loss Variable Note to the Ordinary Creditors, subject to the determination by the Trustee of Ordinary Creditors' Prescribed Interest therein on or after the Ordinary Claims Determination Date.
- (b) The Sponsor shall pay to the Trustee all Administrative Fees and Expenses up to and including the date of the Trustee's discharge in accordance with to Section 7.1.

4.7 Superintendent of Bankruptcy Levy

The Office of the Superintendent of Bankruptcy shall be paid its prescribed levy by the Debtor from payments; (i) to Ordinary Creditors under the Tax Loss Variable Note, and (ii) to Preferred Creditors from the Priority Claim Cash Amount, as required by sections 60(4) and 147 of the BIA (the "Levy").

ARTICLE 5 PROCEDURE FOR VALIDATION OF CLAIMS

5.1 Allowance or Disallowance of Claims by the Trustee

Upon receipt of a completed Proof of Claim, the Trustee shall examine the Proof of Claim and shall deal with each claim in accordance with the provisions of the BIA. The Trustee shall have the power and authority to determine the validity of all claims made against the Debtor.

5.2 Claims Bar Process

Forthwith after the Filing Date, the Trustee shall give notice pursuant to section 149 of the BIA, by registered mail, to every Person with an Affected Claim that the Trustee has notice or knowledge but whose claim has not been filed or proved that if such Person does not prove his claim within a period of thirty (30) days after the mailing of the notice, the Trustee will proceed to declare a final list of Prescribed Interests without regard to such Person's claim; the Prescribed Interest referred to in said notice shall be deemed a final dividend and any Person so notified who does not provide its claim within the said thirty (30) day period shall be barred from making a claim in this Proposal or sharing in any dividend or payment hereunder or under the Tax Loss Variable Note, subject to any exceptions set out in subsections 149(2)(3) and (4) of the BIA.

ARTICLE 6 MEETING OF CREDITORS

6.1 Creditors' Meeting

On the Creditors' Meeting Date, the Trustee shall hold the Creditors' Meeting in order for the Creditors to consider and vote upon the Proposal.

6.2 Time and Place of Meeting

The Creditors' Meeting shall be held at a time and place to be established by the Trustee in consultation with Official Receiver, or the nominee thereof, and confirmed in its notice of meeting to be mailed by the Trustee pursuant to the BIA. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the BIA and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting, but in any event shall be no later than twenty-one (21) days following the expiry of the Omnibus Suspension Period, subject at all times to (i) further order of the Court, including without limitation any order respecting COVID-19 related creditor meeting protocols; and (ii) any COVID-19 related creditor meeting directive issued by the Official Receiver.

6.3 Conduct of Meetings

The Official Receiver, or the nominee thereof, shall preside as the chair of the Creditors' Meeting and will decide all matters relating to the conduct of the Creditors' Meeting. The only Persons entitled to attend the Creditors' Meeting are those Unsecured Creditors, including the holders of proxies, entitled to vote at the Creditors' Meeting and their respective legal counsel, if any, the officers, directors, auditors and legal counsel of the Debtor, one or more representatives of and legal counsel to the Sponsor, together with such representatives of the Trustee as the Trustee may appoint in its discretion, and such scrutineers as may be duly appointed by the chair of such meeting. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting or with the consent of the Creditors.

6.4 Adjournment of Meetings

The Creditors' Meeting may be adjourned in accordance with Section 52 of the BIA.

6.5 Voting by Creditors

To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount which is equal to that Creditor's Proven Claim, or such amount as may be agreed to by the Trustee for voting purposes at or prior to the Creditors' Meeting (dollar amounts to be voted by Creditors in accordance with the foregoing are referred to as "**Voting Claims**").

6.6 Approval by Creditors

In order that the Proposal be binding on the class of Unsecured Creditors in accordance with the BIA, it must first be accepted by a majority in number of the Unsecured Creditors who actually vote upon the Proposal (in person or by proxy) at the Creditors' Meeting or by a Voting Letter, representing two-thirds in value of the Voting Claims of the Unsecured Creditors who actually vote upon the Proposal (whether in person or by proxy) at the Creditors' Meeting or by a Voting Letter.

6.7 Appointment of Inspectors

At the Creditors' Meeting, the Creditors may appoint up to five (5) Inspectors whose powers will be limited to:

- (a) advising the Trustee concerning any dispute which may arise as to the validity of Claims; and
- (b) advising the Trustee from time to time with respect to any other matter that the Trustee may refer to them.

Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction or act and make such order as it thinks just.

The authority and term of office of the Inspectors will terminate upon the performance of the Proposal.

6.8 Valuation of Claims

The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as set forth in Section 5 and the BIA. The Debtor and/or the Trustee reserve the right to seek the assistance of the Court in valuing the Claim of any Unsecured Creditor, if required, to ascertain the result of any vote on the Proposal or the amount payable or to be distributed to such Unsecured Creditor under the Proposal, as the case may be.

ARTICLE 7 COMPLETION OF THE PROPOSAL

7.1 Discharge of Trustee

Upon distribution by the Trustee of the balance of the Priority Creditor Cash Amount as contemplated in Section 4.2(b), And the Determination of the Prescribed Interests of Ordinary Creditors in the Tax Loss Variable Note following the Ordinary Claim Determination Date, the Trustee shall have discharged its duties as Trustee, the Proposal shall be fully performed and the Trustee shall be entitled to apply for its discharge as Trustee hereunder.

The Trustee is acting in its capacity as Trustee under the BIA and not in its personal capacity and no officer, director, employee or agent of the Trustee shall incur any liabilities or obligations in connection with the Proposal or in respect of the business or obligations of the Debtor or the Sponsor and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by this Proposal unless such acts have been carried out in bad faith and constitute a wilful misconduct or gross negligence.

7.2 Completion of The Proposal

The payment, compromise, extinguishment or other satisfaction of any Affected Claim under the Proposal will be binding upon each Affected Creditor, its heirs, executors, administrators, successors and assigns, for all purposes, and as and from the Implementation Date all Affected Claims shall be forever discharged and released, excepting only the obligations to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Proposal.

ARTICLE 8 PREFERENCES, TRANSFERS AT UNDER VALUE, ETC.

8.1 Sections 95-101 of the BIA

In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal.

8.2 Recourse

As a result of and in accordance with Section 8.1 hereof and all of the rights, remedies, recourses and Affected Claims described therein:

- (a) all such rights, remedies and recourses and any Affected Claims based thereon shall be completely unavailable to the Trustee or any Creditor against the Company, any other Creditor or any other person whatsoever; and
- (b) the Trustee and all of the Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Affected Claims based thereon against the Company, any other Creditor or any other persons.

ARTICLE 9 MISCELLANEOUS

9.1 Modification of Proposal

The Debtor, with the consent of the Trustee and the Sponsor, may propose an alteration or modification to the Proposal prior to the conclusion of the first Creditors' Meeting called to consider the Proposal.

9.2 Consents, Waivers and Agreements

As at 12:01 a.m. on the Implementation Date, each Creditor will be deemed to have:

- (a) executed and delivered to the Debtor all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Proposal in its entirety;
- (b) waived any default by the Debtor in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor that has occurred on or prior to the Implementation Date;
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor as at the Implementation Date (other than those entered into by the Debtor on, or with effect from, the Implementation Date) and the provisions of the Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly; and
- (d) released the Debtor, the Trustee, the Directors, and all of their respective affiliates, employees, agents, directors, officers, shareholders, advisors, consultants and solicitors from any and all demands, claims, actions, causes of action, counter-claims, suits, debts, sums of money, accounts, covenants, damages, judgements, expenses, executions, liens, set off rights and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, relating to or arising out of or in connection with the matters herein.

9.3 Conditions to Proposal Implementation

The implementation of the Proposal by the Debtor will be conditional upon the fulfilment or satisfaction of the following conditions:

- (a) acceptance of the Proposal by the Unsecured Creditors; and
- (b) approval of the Proposal and the amendments to the Debtor's constating documents as set out in the Articles of Reorganization by the Court pursuant to a final and non-appealable Approval Order;
- (c) The execution of the Tax Loss Variable Note by the Sponsor for delivery to the Ordinary Creditors in accordance with Section 4.2(a); and

- (d) the payment by the Sponsor of the amounts set out in Section 4.6(a).

9.4 Release

Upon the Implementation Date, each and every Director shall be released and discharged from any and all Director Claims. This release shall have no force or effect if the Debtor goes bankrupt before the terms of the Proposal are performed.

9.5 Effect of Proposal Generally

As at 12:01 a.m. on the Implementation Date, the treatment of all Claims under the Proposal shall be final and binding on the Debtor and all Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute (i) a full, final and absolute settlement of all rights of the holders of the Claims affected hereby; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Debtor of or in respect of such Claims.

9.6 Notices

Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by receipted email (except for Proofs of Claim which may only be sent by personal delivery, receipted email or registered mail) addressed to the respective parties as follows:

- (a) if to the Debtor:

c/o Goldman Sloan Nash & Haber LLP
480 University Avenue, Suite 1600
Toronto, Ontario
M5V 1G2

Attention: Jennifer Stam
email: stam@gsnh.com

- (b) if to a Creditor, to the address or email address for such Creditor specified in the Proof of Claim filed by Creditor or, if no Proof of Claim has been filed, to such other address or email address at which the notifying party may reasonably believe that the Creditor may be contacted; and

- (c) if to the Trustee:

KSV Kofman Inc.
150 King Street West, P.O. Box 42
Toronto Ontario M5H 1J9

Attention: Mitch Vininsky

Email: mvininsky@ksvadvisory.com

or to such other address or email address as any party may from time to time notify the others in accordance with this section. In the event of any strike, lock-out and other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by receipted email and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption will be deemed not to have been given or made. All such notices and communications will be deemed to have been received, in the case of notice by email or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and in the case of notice mailed as aforesaid, on the fifth (5th) Business Day following the date on which such notice or other communication is mailed. The unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any Person pursuant to this Proposal.

9.7 Assignment of Claims

No assignment of a Claim by an Affected Creditor is effective to give the assignee any rights in respect of the Proposal unless written notice of the assignment is given to the Debtor and the Trustee in accordance with the requirements of Section 9.6. The assignment of the Claim will not be effective for a period of five (5) Business Days from the date of effective receipt of the notice of assignment by the Debtor and by Trustee as determined in accordance with Section 9.6.

9.8 Foreign Currency Obligations

For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the Date of Filing.

9.9 Applicable Law

The Proposal shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

9.10 Non Severability

It is intended that all material provisions of this Proposal shall be fully binding on and effective between all Persons named or referred to in this Proposal and in the event that any material provision or provisions of the Proposal is or are found by the Court to be void, voidable or unenforceable for any reason whatever, then the remainder of this Proposal and all other provisions shall be void and of no force or effect.

9.11 Deeming Provisions

In the Proposal the deeming provisions are not rebuttable and are conclusive and irrevocable.

DATED at the City of Toronto, in the Province of Ontario, this 14th day of May, 2020.

VIAFOURA INC.

Per:



Shahram (Jesse) Moeinifar, Director

Schedule to Articles of Reorganization of Viafoura Inc.

1. to create an unlimited number of shares of a class designated as “New Common Shares”;
2. to change each Common Share, each Seed Preferred Share, each Class A Preferred Share and each Class B Preferred Share into 0.000001 (one one-millionth) of a Redeemable Share;
3. to cancel all options, warrants, convertible instruments and any other rights or interests that are capable of being converted into Common Shares, Seed Preferred Shares, Class A Preferred Shares and Class B Preferred Shares;
4. to remove the authorized but unissued Common Shares, Seed Preferred Shares, Class A Preferred Shares and Class B Preferred Shares and all rights, privileges, restrictions and conditions attaching thereto;
5. to declare that the capital of the Corporation after giving effect to the foregoing shall consist of an unlimited number of New Common Shares and an unlimited number of Redeemable Shares with the rights, privileges, restrictions and conditions set out in these Articles attaching thereto;
6. to change the address of the registered office of the Corporation from 170 University Avenue, Suite 200, Toronto, Ontario M5H 3B3 to 261 Davenport Road, Suite 200, Toronto, Ontario, M5R 1K3.
7. to establish that there shall be a minimum number of one and a maximum number of ten directors of the Corporation and that the number of directors of the Corporation, and the number of directors to be elected at each annual meeting of the shareholders of the Corporation, within the minimum and maximum numbers provided for above, shall be one until otherwise determined by the board of directors;
8. to provide that the issue, transfer or ownership of shares is restricted and the restrictions (if any) are as follows:

The right to transfer shares of the Corporation shall be restricted in that no shares shall be transferred without either: (a) the consent of the directors of the Corporation expressed by a resolution passed by the directors or by an instrument or instruments in writing signed by a majority of the directors, which consent may be given either prior or subsequent to the time of transfer of such shares, or (b) the consent of the holders of shares of the Corporation to which are attached at least a majority of the votes attaching to all shares of the Corporation for the time being outstanding carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing, expressed by resolution passed by such shareholders or by an instrument or instruments

in writing by such shareholders, which consent may be given either prior or subsequent to the time of transfer of such shares.

9. The rights, privileges, restrictions and conditions attaching to the Redeemable Shares are as follows:
 - (a) **Fractional interest:** No holder of a fractional interest in a Redeemable Share will be entitled to be registered on the books of the Corporation in respect of such fraction of a Redeemable Share.
 - (b) **Redemption by the Corporation:** All of the Redeemable Shares, into which the Common Shares, the Seed Preferred Shares, the Class A Preferred Shares and the Class B Preferred Shares and fractional interests therein outstanding immediately prior to the Effective Time were changed pursuant to the Proposal and the terms hereof, will be deemed to be automatically redeemed by the Corporation as of the Effective Time, without notice to the holders of such Redeemable Shares, on payment, subject to the terms hereof, of \$0.01 for each whole Redeemable Share (such amount being herein referred to as the “**Redemption Price**”). The Corporation will pay or cause to be paid to each holder of Redeemable Shares or fractional interests therein to be redeemed the Redemption Price by cheque, provided that if the aggregate Redemption Price payable to any particular holder is less than \$10.00, the actual Redemption Price payable to each such holder of Redeemable Shares will be deemed to be \$0.00 and the Redeemable Shares or fractional interests therein held by each such holder of Redeemable Shares will be redeemed without any payment or further act or formality by the Corporation or otherwise.
 - (c) **Voting Rights:** The holders of the Redeemable Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote at any such meeting.
10. The rights, privileges, restrictions and conditions attaching to the New Common Shares are as follows:
 - (a) **Payment of Dividends:** The holders of the New Common Shares will be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or concurrently with the holders of the New Common Shares, the board may in its sole discretion declare dividends on the New Common Shares to the exclusion of any other class of shares of the Corporation.

- (b) **Participation upon Liquidation, Dissolution or Winding Up:** In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the New Common Shares will, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive assets of the Corporation upon such a distribution in priority to or concurrently with the holders of the New Common Shares, be entitled to participate in the distribution. Such distribution will be made in equal amounts per share on all the New Common Shares at the time outstanding without preference or distinction.
 - (c) **Voting Rights:** The holders of the New Common Shares will be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one vote in respect of each New Common Share held at all such meetings.
11. For the purposes of these Articles the following capitalized terms shall have the following respective meanings:
- (a) **“Act”** shall mean the *Business Corporations Act* (Canada), as amended.
 - (b) **“Class A Preferred Shares”** shall mean the Class A Preferred Shares of the Corporation in existence immediately prior to the Effective Time.
 - (c) **“Class B Preferred Shares”** shall mean the Class B Preferred Shares of the Corporation in existence immediately prior to the Effective Time.
 - (d) **“Common Shares”** shall mean the Voting Common Shares and Non-Voting Common Shares of the Corporation in existence immediately prior to the Effective Time. The Common Shares are issuable in one or more series. The first series of Common Shares shall be unlimited in number and shall be designated the “Voting Common Shares”. The second series of Common Shares shall be unlimited in number and shall be designated the “Non-Voting Common Shares”.
 - (e) **“Effective Time”** shall mean 12:01 a.m. on the “Implementation Date” as defined in the Proposal.
 - (f) **“New Common Shares”** shall mean the new common shares of the Corporation.
 - (g) **“Proposal”** shall mean the Proposal pursuant to Part III of the *Bankruptcy and Insolvency Act* (Canada) of the Corporation to all of its Creditors dated May 13, 2020.
 - (h) **“Redeemable Shares”** shall mean the redeemable shares of the Corporation into which the Common Shares, the Seed Preferred Shares,

the Class A Preferred Shares and the Class B Preferred Shares are changed pursuant to the terms hereof.

- (i) “**Seed Preferred Shares**” shall mean the Seed Preferred Shares of the Corporation in existence immediately prior to the Effective Time.

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) AUGUST 1, 2020; AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

VIAFOURA TECHNOLOGIES INC.

VIAFOURA INC. - TAX LOSS VARIABLE NOTE

Date: [August XX], 2020

Up to a maximum principal amount of \$3,500,000 (Canadian)

1. Preamble

Viafoura Technologies Inc., a corporation organized under the *Business Corporations Act* (Ontario) (“VTI”), proposed a restructuring of 7235712 Canada Inc., formerly Viafoura Inc. (“Viafoura”), a corporation organized under the *Business Corporations Act* (Canada) (“CBCA”), pursuant to a Proposal to Creditors dated May 13, 2020 (the “Proposal”) under the *Bankruptcy and Insolvency Act* (Canada) (the “Restructuring”).

Pursuant to the Restructuring, VTI received all of the issued and outstanding shares of Viafoura, and the Ordinary Creditors of Viafoura received this Tax Loss Variable Note (the “Variable Note”) in full satisfaction of and in exchange for all of their Affected Claims.

Following the Restructuring, VTI and Viafoura intend to amalgamate or otherwise combine (“Amalco”) in order that the accumulated non-capital loss carry-forwards of Viafoura (“NCLs”) can be utilized by Amalco to reduce the future income taxes payable by Amalco.

2. Definitions

For all purposes of this Tax Loss Variable Note, except as otherwise expressly provided or unless the context otherwise requires:

- (a) all accounting terms used herein and not expressly defined herein shall, except as otherwise noted, have the meanings assigned to such terms in accordance with generally accepted accounting principles in Canada, and the term “**generally accepted accounting principles**” or “**GAAP**” means such accounting principles as are generally accepted as they may change from time to time in Canada.
- (b) the words “**herein**,” “**hereof**” and “**hereunder**” and other words of similar import refer to this Variable Note as a whole and not to any particular Article, Section or other subdivision.
- (c) “**Annual Aggregate Note Payment Amount**” means for each Fiscal Year (as defined below), the cash amount equal to 50% of the Tax Savings Cash Proceeds of Amalco for that Fiscal Year, subject at all times to the Maximum Principal Amount.

- (d) **“Change of Control”** shall have the meaning ascribed to it in the CBCA;
- (e) **“Change of Control Prepayment Amount”** means the dollar amount equal to the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note.
- (f) **“CRA”** means the Canada Revenue Agency.
- (g) **“Final Order”** means (i) an order of a court of competent jurisdiction granting or upholding a Successful Appeal, following the expiry of the applicable appeal period thereof, without appeal; and/or (ii) a withdrawal of a Reassessment by the CRA.
- (h) **“Prescribed Interest”** shall have the meaning in, and be calculated in accordance with, the Proposal.
- (i) **“Reassessment”** means the issuance of a Notice of Reassessment by the CRA to Amalco for any one or more Fiscal Years (as defined below), under which the CRA disallows the deduction of the NCLs in calculating Amalco’s taxable income for such Fiscal Year.
- (j) **“Reassessment Appeal”** means any appeal of or request for review and withdrawal of a Reassessment undertaken by Amalco, in its sole and unfettered discretion.
- (k) **“Reassessment Costs Contribution”** means an amount deducted from the Reassessment Holdback and paid to Amalco on account of 50% of its out of pocket expenses incurred with respect to conducting a Reassessment Appeal that is a Successful Appeal.
- (l) **“Reassessment Holdback”** means the Annual Aggregate Note Payment Amount(s) that would have been payable by Amalco to Holders under the Variable Note after the date of a Reassessment.
- (m) **“Successful Appeal”** means a Reassessment Appeal in respect of which Amalco is successful in obtaining a Final Order overturning a Reassessment.
- (n) **“Tax Savings Cash Proceeds”** means the amount of Canadian federal and provincial income tax that Amalco would have been subject to with respect to each of the fiscal years ended 2021, 2022, 2023, 2024, 2025, 2026, 2027 and 2028 (the **“Fiscal Years”** and each a **“Fiscal Year”**), absent the deduction of the maximum available amount of NCLs in calculating Amalco’s taxable income for each Fiscal Year;
- (o) **“Prepayment Exercise Date”** means a date no earlier than January 1, 2026 and no later than December 31, 2028 upon which Amalco exercises the Prepayment rights under subsections 4(a), (b) or (c) hereof;
- (p) **“Prior Years’ Annual Note Payment Amount”** means the dollar amount equal to the higher Annual Aggregate Note Payment Amount determined for each of the

two Fiscal Years ended immediately preceding the Prepayment Exercise Date. *(By illustrative example, if the 2024 Annual Note Payment Amount is higher than the 2025 Annual Note Payment Amount, for purposes of calculating the 2026 Prepayment Amount, the 2024 Annual Note Payment Amount will be used.)*

- (q) **“2026 Prepayment Amount”** means the lesser of: (i) a dollar amount equal to three times (3x) the Prior Years’ Annual Note Payment Amount; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note.
- (r) **“2027 Prepayment Amount”** means the lesser of: (i) a dollar amount equal to two times (2x) the Prior Years’ Annual Note Payment Amount; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note
- (s) **“2028 Prepayment Amount”** means the lesser of: (i) a dollar amount equal to the Prior Years’ Annual Note Payment Amount; and (ii) the Maximum Principal Amount less all amounts previously paid to Holders under this Variable Note

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Proposal.

3. **Maximum Principal Amount and Payment**

- (a) FOR VALUE RECEIVED, VTI for itself and on behalf of Amalco promises to pay to each of the Ordinary Creditors set forth in Schedule “A” attached hereto, or their successors and permitted assigns (collectively, the **“Holders”** and individually, a **“Holder”**), in accordance with their Prescribed Interests set forth in Schedule “A” (**“Interests”**), the Annual Aggregate Note Payment Amount less the Superintendent’s Levy (as defined in Section 11), for each Fiscal Year, up to a maximum aggregate principal amount of the lesser of THREE MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000), and the aggregate dollar amount of all Proven Claims of Preferred Creditors and Ordinary Creditors (the **“Maximum Principal Amount”**), subject at all times to the Reassessment Holdback.
- (b) Subject to Section 3(d), each Holder shall be paid its entitlement under this Variable Note (less the Levy amount) by Amalco within 10 Business Days of Amalco receiving its Notice of Assessment from the CRA for the applicable Fiscal Year allowing the deduction of NCLs (**“Payment Date”**). On the Payment Date, Amalco shall provide National Bank of Canada with a copy of its filed CRA tax return and Notice of Assessment for corresponding Fiscal Year, solely for the purpose of National Bank of Canada’s own review.
- (c) Any and all payments made by Amalco to any of the Holders hereunder shall be made contemporaneously and *pro rata* to all Holders without preference or priority of any nature to any one or more Holders. The Interest of each Holder in this

Variable Note shall rank rateably and pari-passu in all respects with the interest of each other Holder herein.

- (d) Notwithstanding Section 3(a), in the event of a Reassessment, Amalco shall maintain a Reassessment Holdback in respect of all amounts otherwise payable to Holders under the Variable Note, which Reassessment Holdback amounts in respect of any Fiscal Year shall only be released to Holders, net of the Reassessment Costs Contribution, in the event of a Final Order in respect of each applicable Fiscal Year. In the event that Amalco determines in its sole discretion to not pursue one or more appeal(s) of a Reassessment in respect of any Fiscal Year, or otherwise fails to obtain a Final Order, the Reassessment Holdback for the applicable Fiscal Year shall be returned to Amalco.

For greater certainty, under no circumstances shall the aggregate payments to the Holders exceed the Maximum Principal Amount (the actual amount owing to the Holders shall be referred to herein as the “**Principal Amount**”).

4. **Permitted Pre-Payments**

(a) At any time following the payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2025, Amalco, in its sole discretion, may pay and satisfy the Annual Aggregate Note Payment Amounts for Fiscal Years 2026, 2027 and 2028, by making a one-time payment to each Holder equal to their Prescribed Interest in the 2026 Prepayment Amount.

(b) At any time following the payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2026, Amalco, in its sole discretion, may pay and satisfy the Annual Aggregate Note Payment amounts for Fiscal Years 2027 and 2028, by making a one-time payment to each Holder equal to their Prescribed Interest in the 2027 Prepayment Amount.

(c) At any time following the payment of the Annual Aggregate Note Payment Amount in respect of the Fiscal Year ended 2027, Amalco, in its sole discretion, may pay and satisfy the Annual Aggregate Note Payment amounts for Fiscal Year 2028, by making a one-time payment to each Holder equal to their Prescribed Interest in the 2028 Prepayment Amount.

(d) At any time, upon the occurrence of a Change in Control of Amalco, Amalco may pay and satisfy all remaining Annual Aggregate Note Payments, by making a one-time payment equal to the Change in Control Prepayment Amount.

Upon payment by Amalco of the amount prescribed under any of Sections 4(a), 4(b), 4(c) or 4(d) above, Amalco shall have satisfied in full all of its obligations under this Variable Note.

5. **Interest**

No interest shall be payable by under the Variable Note.

6. **Place of Payment**

Payments hereunder shall be made by Amalco to each Holder and to the Receiver General with respect to the Levy, by cheque or electronic funds transfer in lawful money of Canada at the respective address set forth on Schedule “A” hereto, or at such other address as may be designated by that Holder in writing.

7. **Transfer**

Neither this Variable Note nor any Interest of any Holder herein may be sold, assigned, pledged, encumbered or in any manner transferred or disposed of, in whole or in part, except to another Holder (which shall only be effective after written notice to Amalco), without the prior written consent of Amalco, and in compliance with applicable securities laws.

The Holder understands that there is not currently, nor is it anticipated that there will be any public market for the Variable Note or Interests therein, and it may not be possible for the Holder to resell or transfer the Variable Note. The Holder has been independently advised as to the restrictions with respect to trading in, and the restricted period or statutory hold period applicable to, the Variable Note imposed by the securities laws of the jurisdiction in which the Holder resides or to which the Holder is subject, that a suitable legend or legends, if required, be placed on the Variable Note to reflect the applicable restricted period and statutory hold period to which the Variable Note interests are subject and it is the responsibility of the Holders to comply with such restrictions before selling or transferring the Variable Notes.

8. **No Security Provided**

This Variable Note shall represent an unsecured obligation of Amalco.

9. **Notice**

Any notice or written communication given pursuant to or in connection with this Variable Note shall be in writing and shall be given by delivering the same personally or by prepaid courier, prepaid registered mail, or read receipted email, addressed to the party to be notified at the address of such party set out in Schedule “A” or at such other address of which such party has given notice to the other party hereto. Any such notice shall be conclusively deemed to have been given and received on the day of actual receipt by the addressee or, if given by prepaid registered or certified mail, on the fifth day following the mailing date (absent a general disruption in postal service).

10. **Amendments with Consent of Majority Holders.**

- (a) Amalco, when authorized by written instrument signed by a majority in number of Holders, representing at least two-thirds in value of the Prescribed Interests, may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Variable Note, even if such addition, elimination or change is in any way adverse to the interests of the Holders. Notwithstanding the foregoing, no portion of Section 3(a) hereof may be amended or deleted without the written authorization of all Holders then holding a Prescribed Interest herein.

- (b) Promptly after the implementation of any amendment to the Variable Note, Amalco shall mail a notice thereof by first-class mail to the Holders at the respective addresses forth on Schedule “A” hereto, setting forth in general terms the substance of such amendment.
- (c) Upon the execution of any amendment under this Section 18, this Variable Note shall be modified in accordance therewith, such amendment shall form a part of this Variable Note for all purposes and every Holder shall be bound thereby.

11. **Superintendent of Bankruptcy Levy**

The payment of the amount due under the Variable note to Holders from time to time shall be subject to the right of the Office of the Superintendent of Bankruptcy Canada (the “**Superintendent**”) to first receive payment on account of its statutory Levy pursuant to sections 60(3), (4) and 147 of the *Bankruptcy and Insolvency Act* (Canada). The Superintendent’s levy payment amount shall be 5% of the amounts to be paid by Amalco to Holders from time to time, to a maximum amount of \$62,500 (less any other Superintendent levy amounts previously paid under the Proposal) in the aggregate (the “**Superintendent’s Levy**”).

12. **General Provisions**

- (a) In the event that a Payment Date shall not be a Business Day, then, notwithstanding any provision of this Variable Note to the contrary, any payment required to be made hereunder may be made on the next succeeding Business Day with the same force and effect as if made on the Payment Date.
- (b) Each of the provisions contained in this Variable Note is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
- (c) This agreement represents the entire understanding of the parties hereto with reference to the Variable Note and supersedes any and all other oral or written agreements made with respect to the Variable Note.
- (d) This Variable Note shall be governed by, and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein (other than the conflict of laws rules).
- (e) Each Holder hereby submits to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of any dispute arising under this Variable Note.
- (f) In this Variable Note, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.
- (g) This Variable Note shall be binding on VTI, Amalco and its successors, and shall enure to the benefit of the Holders and their successors and assigns.

- (h) This Variable Note may be signed in any number of counterparts (which may be effectively delivered by facsimile or other electronic means), each of which shall be deemed to constitute but one and the same instrument.

13. **Acknowledgments**

VTI ON BEHALF OF ITSELF AND AMALCO WAIVES PRESENTMENT FOR PAYMENT, NOTICE OF NON-PAYMENT, PROTEST AND NOTICE OF PROTEST OF THIS VARIABLE NOTE AND WAIVES EVERY DEFENSE BASED UPON ANY OR ALL INDULGENCES AND FORBEARANCES WHICH MAY BE GRANTED BY THE HOLDERS TO ANY PARTY LIABLE HEREON. THE HOLDERS ACKNOWLEDGE RECEIPT OF A TRUE COPY OF THIS VARIABLE NOTE.

IN WITNESS WHEREOF VTI on behalf of itself and on behalf of Amalco has executed this Variable Note as of the date first above written above.

VIAFOURA TECHNOLOGIES INC.

Per: _____ c/s

Name: Jason Chapnik

Title: Chairman

Schedule "A"
 Holders and Prescribed Interests

Holder	Principal Amount of Determined Claim	Prescribed Interest (expressed as a %)	Registered Address
Superintendent of Bankruptcy	N/A	5%	
TOTAL		100%	

Appendix “F”

District of Ontario
 Division No. 09 - Toronto
 Court No. 31-2590812
 Estate No. 31-2590812

Voting Summary

In the Matter of the Notice of Intention to Make a Proposal of
 Viafoura Inc.
 of the City of Toronto, in the Province of Ontario

Insolvency Date: 01-Dec-2019
 Estate Number: 31-2590812

Result of Voting

Class	Total #		Dollar Value of Claims		Percentage by Votes		Percentage by Value		Result		
	Votes	Yes	No	Yes	No	Yes	No	Yes	No	By Votes	By Value
	8	6	2	3,301,724.72	30,710.06	75.00	25.00	99.08	0.92	App.	App.

List of creditors

Class	Creditor Name	Type	Account #	\$ Admitted for Voting	Voted By	Vote
	ActiveMind Legal	U		2,761.09	Proxy	For
	Cerebral Selling Inc.	U		27,120.00	Letter	For
	Dean Devlin	U		20,710.06	Letter	Against
	Espresso Capital	U		951,371.38	In Person	For
	Lisa Walker Creative	U		1,130.00	Letter	For
	Michael Shewchenko Group	U		10,000.00	Letter	Against
	National Bank Loan	U		2,298,497.03	In Person	For
	Themis Solutions Inc.	U		20,845.22	Letter	For

Appendix “G”

IN THE MATTER OF THE PROPOSAL OF 7235712 CANADA INC. (FORMERLY VIAFOURA INC.), OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

MINUTES OF GENERAL MEETING OF CREDITORS

1. Minutes of the General Meeting of Creditors of 7235712 Canada Inc. (formerly Viafoura Inc.) (the “Company”) held via video conference on the 21st day of July, 2020 at 10:00 a.m. (the “Meeting”).
2. An attendance list of those present is attached as Appendix “A”.
3. Mitch Vininsky of KSV Kofman Inc. (“KSV”) called the Meeting to order at 10:00 a.m., announced the presence of a quorum and that the meeting was duly constituted.
4. Mr. Vininsky informed the Meeting that he would act as Chair pursuant to Section 51(3) of the *Bankruptcy and Insolvency Act* (“BIA”) and Esther Mann of KSV would act as the Recording Secretary.
5. The Chair advised that the Recording Secretary had tabled the following documents:
 - Proposal Trustee’s Report to Creditors (“Report”), which attached:
 - a) Proposal (Appendix “A”);
 - b) Certificate of Filing of the Proposal (Appendix “B”);
 - c) Proof of Claim Forms, Proxy and Voting Letter (Appendix “C”);
 - d) Notice of Proposal to Creditors (Appendix “D”);
 - e) Statement of Affairs summary (Appendix “E”); and
 - f) List of Creditors (Appendix “F”).
 - The Chair also advised that the Proposal Trustee’s Affidavit of Service relating to the Proposal would be made available to any creditors should they wish to review it.

Review of Report and Proposal

6. The Chair reviewed the Report, highlighting the financial position and the causes of financial difficulties of the Company.
7. The Chair provided background on the Proposal, noting that the purpose of the Proposal is to offer the creditors a potential for recoveries of up to 50% of their claims if the Company becomes profitable and can utilize its tax losses. The Chair also advised that, following discussions between Viafoura Technologies Inc. (the “Sponsor”) and the two largest creditors, being National Bank of Canada (“NBC”) and Espresso Capital (“Espresso”), the Sponsor agreed to amend the Proposal (the “Amendments”) such that:
 - The 5-year period for utilization of the Company’s non-capital loss carry-forwards and sharing with the creditors would be extended to 6 years;

- The maximum amount of the tax loss variable note would be increased from \$1.75 million to \$2.5 million; and
 - All the early prepayment dates and formulas would be adjusted accordingly.
8. The Chair requested questions from those present. Dean Devlin, a former employee of the Company, inquired if the Proposal could be structured such that a cash amount would be made available for creditors with smaller claims. The Chair advised that the Sponsor drafted the Proposal such that all creditors would receive the same treatment and did not include a cash component.
 9. A discussion followed between Karen Perron, proxy for NBC and Espresso, and Edmond Lamek, counsel to the Sponsor, regarding the Amendments and additional improvements requested by NBC and Espresso to accept the Proposal.
 10. Ms. Perron moved for an adjournment so that she could discuss the Amendments with NBC and obtain instructions. The motion was unanimously carried.
 11. The Meeting reconvened on the 22nd day of July, 2020 at 4:00 p.m. Two of the creditors from the first meeting, being Mr. Devlin and Michael Shewchenko, did not attend.
 12. The Chair advised that the Sponsor had agreed to further amend the Proposal (“Amended Proposal”) such that:
 - The 5-year period would be extended to 8 years;
 - The maximum amount of the tax loss variable note would be increased from \$1.75 million to the lesser of \$3.5 million or the amount of proven claims; and
 - All the early prepayment dates and formulas would be adjusted to be exercisable after the fourth year.
 13. Following a discussion of the Amended Proposal, Ms. Perron moved for an adjournment to afford time to review it with NBC. The motion was unanimously carried.
 14. Mr. Vininsky communicated the terms of the Amended Proposal Messrs. Devlin and Shewchenko.
 15. The Meeting reconvened on the 23rd day of July, 2020 at 11:00 a.m.
 16. The Chair requested questions from the floor regarding the Amended Proposal. There were no further questions. The Amended Proposal is attached as Appendix “B”.
 17. The Chair reported that there were 8 voting creditors with admitted claims.

Vote on the Proposal

18. The Chair requested that a motion be tabled to vote on acceptance of the Amended Proposal. Ms. Perron tabled a motion to accept the Amended Proposal. The motion was seconded by Mr. Vininsky as the proxy to activeMind.legal UK Ltd. and unanimously carried.
19. The Chair announced the voting results. The Proposal was accepted by 75% of the voting creditors in number (six out of eight creditors¹) and 99% in dollar value (\$3,301,724.72 out of \$3,332,434.78). The Chair declared that the vote on the Proposal had been carried by the statutory majority of voting creditors.
20. The Chair advised that it will be scheduling a motion for Court approval of the Proposal, with further details to follow.
21. There being no further business, the meeting was terminated at 11:15 am.

Dated at Toronto, Ontario this 27th day of July, 2020.



Mitch Vininsky, Chair



Esther Mann, Recording Secretary

¹ Subsequent to the meeting, the two creditors that had voted to reject the Proposal amended their votes to accept the Proposal. With their votes recast, the Proposal was unanimously accepted by the creditors.

Appendix “A”

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: July 21, 2020 at 10 :00 am
Estate File No: 31-2590812

No.	Name (Print)	Representing	Amount of Claim	Remarks
1	Mitch Vininsky	KSV Kofman Inc., Proposal Trustee	N/A	
2	Esther Mann	KSV Kofman Inc., Proposal Trustee	N/A	
4	Jennifer Stam	Goldman, Sloan, Nash and Haber LLP, counsel to 7235712 Canada Inc.	N/A	
5	Edmond Lamek	Viafoura Technologies Inc.	N/A	
6	Karen Perron	Borden Ladner Gervais LLP Proxy to National Bank of Canada and Espresso Capital	3,249,868	
7	Michael Shewchenko	Michael Shewchenko Group	10,000.00	
8	Dean Devlin	N/A	20,716.06	
9	Jesse Moeinifar	7235712 Canada Inc.	N/A	
10	George Benchetrit	Chaitons LLP, counsel to KSV Kofman Inc., Proposal Trustee	N/A	

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: July 22, 2020 at 4 :00 PM
Estate File No: 31-2590812

No.	Name (Print)	Representing	Amount of Claim	Remarks
1	Mitch Vininsky	KSV Kofman Inc., Proposal Trustee	N/A	
2	Esther Mann	KSV Kofman Inc., Proposal Trustee	N/A	
4	Jennifer Stam	Goldman, Sloan, Nash and Haber LLP, counsel to 7235712 Canada Inc.	N/A	
5	Edmond Lamek	Viafoura Technologies Inc.	N/A	
6	Karen Perron	Borden Ladner Gervais LLP Proxy to National Bank of Canada and Espresso Capital	3,249,868	
7	George Benchetrit	Chaitons LLP, counsel to KSV Kofman Inc., Proposal Trustee	N/A	

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

FIRST MEETING OF CREDITORS

ATTENDANCE REGISTER

Date: July 23, 2020 at 11 :00 PM
Estate File No: 31-2590812

No.	Name (Print)	Representing	Amount of Claim	Remarks
1	Mitch Vininsky	KSV Kofman Inc., Proposal Trustee	N/A	
2	Esther Mann	KSV Kofman Inc., Proposal Trustee	N/A	
4	Jennifer Stam	Goldman, Sloan, Nash and Haber LLP, counsel to 7235712 Canada Inc.	N/A	
5	Edmond Lamek	Viafoura Technologies Inc.	N/A	
6	Karen Perron	Borden Ladner Gervais LLP Proxy to National Bank of Canada and Espresso Capital	3,249,868	
7	George Benchetrit	Chaitons LLP, counsel to KSV Kofman Inc., Proposal Trustee	N/A	

Appendix “H”

COURT FILE NO.: 31-2590812

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
VIAFOURA INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

AFFIDAVIT OF MITCH VININSKY
(Sworn August 7, 2020)

I, Mitch Vininsky, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Managing Director of KSV Kofman Inc. ("KSV").
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) ("Court") made on March 23, 2020 ("Order"), KSV was appointed as receiver ("Receiver") pursuant to Section 101 of the *Courts of Justice Act* of certain assets of 7235712 Canada Inc. (formerly Viafoura Inc.) (the "Company"). KSV is also the Company's Proposal Trustee in its proceeding under the *Bankruptcy and Insolvency Act* which commenced on December 1, 2019.
3. I have managed this mandate since the proceedings commenced. As such, I have knowledge of the matters to which I hereinafter depose.
4. On August 7, 2020, KSV issued its Fourth Report to Court as Proposal Trustee and First Report to Court as Receiver in which it outlined its activities with respect to the Company and provided information with respect to its fees.
5. I hereby confirm that attached as Exhibit "A" hereto are true copies of the accounts of KSV in its capacity as Receiver for the periods indicated and confirm that these accounts accurately reflect the services provided by KSV in this matter and the fees and disbursements claimed by it.

6. Additionally, attached hereto as Exhibit "B" is a summary of additional information with respect to all members of KSV who have worked on the receivership matter, including their roles, hours and rates, and I hereby confirm that the list represents an accurate account of such information.
7. I consider the accounts to be fair and reasonable considering the circumstances connected with this administration.
8. I also confirm that the Receiver has not received, nor expects to receive, nor has the Receiver been promised any remuneration or consideration other than the amount claimed in the accounts.

SWORN BEFORE ME at the City of
Toronto, on August 7, 2020.


A Commissioner, etc.



Mitch Vininsky

**Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Kofman Inc.
Expires January 22, 2021.**

This is Exhibit "A" referred to in the
affidavit of Mitch Vininsky
sworn before me, this 7th
day of August 2020

Raj Kashyap
A COMMISSIONER FOR TAKING AFFIDAVITS

Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Kofman Inc.
Expires January 22, 2021.



INVOICE

Viafoura Inc.
c/o InterCap Equity Inc.
261 Davenport Rd #200
Toronto, ON M5R 1K3

May 7, 2020

Attention: Jason Chapnik

Invoice No: 1681
HST #: 818808768RT0001

Re: Viafoura Inc. (the “Company”)

For professional services rendered in April 2020 by KSV Kofman Inc. in its capacity as in its capacity as Court-appointed receiver (the “Receiver”) of the Company, including:

- Corresponding with the Office of the Superintendent of Bankruptcy Canada regarding the receivership;
- Preparing and sending to all known creditors the Notice of Receiver and Statement of the Receiver (“Notice”) pursuant to sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*;
- Corresponding with former employees of the Company to provide an update on the proceedings, including emails and calls on April 3 and 13, 2020;
- Submitting employee information to Service Canada regarding the Wage Earner Protection Program (“WEPP”) and preparing a Notice of *Wage Earner Protection Program Act*;
- Corresponding with Jesse Moeinifar, CEO of the Company, regarding the Transition Services Agreement (“TSA”) dated March 23, 2020, including calls and emails on April 8, 9, and 22, 2020;
- Corresponding with InterCap Equity Inc. (“InterCap”) and DLA Piper (Canada) LLP, counsel to InterCap, regarding the TSA, including emails and calls on April 8, 9, 22, and 27, 2020;
- Corresponding with Chaitons LLP, counsel to the Receiver, regarding the TSA;

- To all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements	\$	3,386.25
HST		440.21
		<u>3,826.46</u>
Less funds in trust account		(3,826.46)
Total Due	\$	<u><u>-</u></u>

KSV Kofman Inc.

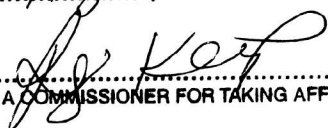
Viafoura Inc.

Time Summary

For the period ending April 30, 2020

Personnel	Rate (\$)	Hours	Amount (\$)
Robert Kofman	725	1.30	942.50
Mitch Vininsky	625	2.80	1,750.00
Esther Mann	450	1.50	675.00
Total Fees			<u>3,367.50</u>
Disbursements			18.75
Total Fees and Disbursements			<u><u>3,386.25</u></u>

This is Exhibit "B" referred to in the
affidavit of Mitch Vininsky
sworn before me, this 14th
day of August 2020.


A COMMISSIONER FOR TAKING AFFIDAVITS

Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Kofman Inc.
Expires January 22, 2021.

7235712 Canada Inc.

Schedule of Professionals' Time and Rates

For the Period from March 23, 2020 to April 30, 2020

Personnel	Title	Duties	Hours	Billing Rate (\$ per hour)	Amount (\$)
Robert Kofman	Managing Director	Overall responsibility	1.30	725	942.50
Mitch Vininsky	Managing Director	All aspects of mandate	2.80	625	1,750.00
Esther Mann	Manager	All aspects of mandate	1.50	450	675.00
Total fees					<u>3,367.50</u>
Total hours					5.60
Average hourly rate					\$ 601.34

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

MOTION RECORD

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

George Benchetrit (LSO #34163H)
Tel: 416-218-1141
Fax: 416-218-1841
Email: george@chaitons.com

**Lawyers for KSV Kofman Inc., in its capacity as
proposal trustee**