Court File No. CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE CHIEF	)	THURSDAY, THE 27TH
	)	
JUSTICE MORAWETZ	)	DAY OF JANUARY, 2022

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
LAURENTIAN UNIVERSITY OF SUDBURY

Applicant

DIP APPROVAL ORDER

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order authorizing the Applicant to borrow under a credit facility governed pursuant to a DIP Loan Agreement dated as of January 19, 2022 (as it may be amended or modified in accordance with its terms, the "**DIP Agreement**") between the Applicant and Her Majesty the Queen in right of Ontario as represented by the Minister of Colleges and Universities (the "**DIP Lender**") and granting related relief was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the affidavit of Dr. Robert Haché sworn January 20, 2022 and the Exhibits thereto (the "**Haché Affidavit**") and the Tenth Report of Ernst & Young Inc. (the "**Monitor**") dated January 24, 2022, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and those other parties listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Derek Harland sworn January 24, 2022:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that service of the Applicant's Notice of Motion and the Applicant's Motion Record is hereby validated, so that this Motion is properly returnable today.

2. **THIS COURT ORDERS** that capitalized terms used herein that are not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order dated as of February 11, 2021 (as amended prior to the date hereof, the "**Amended and Restated Initial Order**").

DIP FINANCING

3. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility (the "**DIP Facility**") from the DIP Lender, provided that principal borrowings under the DIP Facility shall not exceed $35,000,000.00 unless permitted by further Order of this Court.

4. **THIS COURT ORDERS AND DIRECTS** the Applicant, within one (1) Business Day of receiving the Advance (as defined in the DIP Agreement), to utilize the proceeds of the Advance, together with such other funds of the Applicant as may be necessary, to repay in full and discharge the indebtedness and obligations owing by the Applicant under the credit facility (the "**Existing DIP Facility**") made available to the Applicant by Firm Capital Mortgage Fund Inc. (the "**Existing DIP Lender**") pursuant to the DIP Loan Agreement dated as of February 10, 2021 (as amended by the First Amendment to the DIP Loan Agreement dated as of May 19, 2021 and the Second Amendment to the DIP Loan Agreement dated as of August 20, 2021, and as it may be further amended, restated or modified from time to time, the "**Existing DIP Agreement**").

5. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement between the Applicant and the DIP Lender attached as Exhibit "G" to the Haché Affidavit, subject to such minor amendments as may be acceptable to the Applicant and the DIP Lender and approved by the Monitor.

6. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, security instruments, guarantees and other instruments and documents (collectively, and together with the DIP

Agreement, the "**DIP Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms of the DIP Agreement, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, costs, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the other DIP Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order or the Amended and Restated Initial Order.

7. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, including without limitation, the real property set out in Schedule "B" to this Order (the "**Real Property**"), as security for the Applicant's indebtedness and obligations under the DIP Documents, which DIP Lender's Charge shall not secure any obligation that exists before this Order is made.

8. **THIS COURT ORDERS** that the DIP Lender's Charge shall constitute a charge on the Property and such DIP Lender's Charge shall rank in priority to all other security interests, trusts (including any actual, deemed, constructive or equitable trust arising pursuant to common law, statute or otherwise), liens, construction liens and certificates of action, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the "**Encumbrances**") in favour of any Person. The DIP Lender's Charge, as amongst the other Charges, shall have the priority set out in paragraph 45 of the Amended and Restated Initial Order.

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

10. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order or the Amended and Restated Initial Order:

(a) the DIP Lender may, but is not required to, take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the DIP Documents;

(b) upon the occurrence of an event of default under the DIP Documents or the DIP Lender's Charge, the DIP Lender may immediately cease making advances and make demand, accelerate payment and give other notices and, upon seven (7) days' written notice to the Applicant and the Monitor, may exercise, with prior approval of this Court, any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, the other DIP Documents or the DIP Lender's Charge, including to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

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

11. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* (Canada), with respect to any advances made under the DIP Documents.

12. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if this Order or any provision hereof shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (a "**Variation**"), whether by subsequent order of this Court or any court of appeal, such Variation shall not in any way impair, limit or lessen the protections, rights or remedies of the DIP Lender, whether pursuant to this Order (as made prior to the Variation), the Amended and Restated Initial Order, the DIP Documents, the DIP Lender's Charge, or otherwise, with respect to any advance made prior to the DIP Lender receiving written notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Lender's Charge) for all advances so made by the DIP Lender prior to such Variation.

APPLICATION OF THE AMENDED AND RESTATED INITIAL ORDER

13. **THIS COURT ORDERS** that, upon the delivery of a certificate by the Monitor substantially in the form appended as Schedule "A" to this Order confirming that the obligations

of the Applicant to the Existing DIP Lender under the Existing DIP Facility and Existing DIP Agreement have been repaid in full (the "**Monitor's Certificate**"):

(a) the Applicant and the Property shall be released and discharged from all indebtedness, liabilities and obligations under the Existing DIP Facility, the Existing DIP Agreement and all other documents and instruments delivered in connection therewith;

(b) all Encumbrances in favour of the Existing DIP Lender against the Applicant or its Property (including the Real Property) shall be released, deleted and discharged;

(c) the Applicant is hereby authorized and directed to effect the discharge of the Existing DIP Mortgage (as defined below) and any and all registrations and filings made in favour of the Existing DIP Lender in respect of the Applicant under the *Personal Property Security Act* (Ontario) or under any other registry system;

(d) paragraphs 39 to 44 (inclusive) of the Amended and Restated Initial Order shall be rendered inoperative and of no further force or effect and shall be deemed to be deleted from the Amended and Restated Initial Order;

(e) any reference in the Amended and Restated Initial Order to the "DIP Term Sheet" shall mean the DIP Agreement as defined in this Order;

(f) any reference in the Amended and Restated Initial Order to the "DIP Documents" shall mean the DIP Documents as defined in this Order;

(g) any reference in the Amended and Restated Initial Order to the "DIP Lender" shall mean the DIP Lender as defined in this Order;

(h) any reference in the Amended and Restated Initial Order to the "DIP Lender's Charge" shall mean the DIP Lender's Charge as defined in this Order; and

(i) any reference in the Amended and Restated Initial Order to the "Charges" shall include the DIP Lender's Charge as defined in this Order.

14. **THIS COURT ORDERS** that upon the registration of this Order in the Land Registry Office for the Land Titles Division #53 in the form prescribed in the *Land Titles Act* or the *Land Registration Reform Act*, as applicable, the Land Registrar is hereby directed to: (a) register this Order, which includes, without limitation, the DIP Lender's Charge, on title to the Real Property, and (b) discharge, delete and expunge from title to the Real Property all Encumbrances in favour of the Existing DIP Lender or any nominee or agent on its behalf, including, without limitation, Instrument No. SD430066, being a charge in favour of Firm Capital Mortgage Fund Inc. (the "**Existing DIP Mortgage**").

15. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof.

GENERAL

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

17. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order, and is enforceable without any need for entry and filing.

Chief Justice G.B. Morawetz

Schedule A – Form of Monitor's Certificate

Court File No. CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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LAURENTIAN UNIVERSITY OF SUDBURY

Applicant

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Amended and Restated Initial Order of the Ontario Superior Court of Justice (the "**Court**") dated February 11, 2021 (the "**Amended and Restated Initial Order**"), Ernst & Young Inc. was appointed as monitor (the "**Monitor**") of Laurentian University of Sudbury (the "**Applicant**") in proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

B. Pursuant to a DIP Approval Order of the Court dated January ●, 2022 (the "**DIP Approval Order**"), the Court authorized the Applicant to borrow under a credit facility (the "**DIP Facility**") made available by Her Majesty the Queen in right of Ontario as represented by the Minister of Colleges and Universities (the "**DIP Lender**") pursuant to a DIP Loan Agreement dated as of January 19, 2022 between the Applicant and the DIP Lender and directed the Applicant to utilize the funds advanced by the DIP Lender under the DIP Facility to repay in full and discharge the obligations owing by the Applicant under the Existing DIP Facility.

C. The DIP Approval Order provides for certain matters set forth in paragraph 13 of the DIP Approval Order to occur or be deemed to occur upon the delivery of a certificate by the Monitor confirming that the obligations of the Applicant to the Existing DIP Lender under the Existing DIP Facility and Existing DIP Agreement have been repaid in full.

D. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the DIP Approval Order.

THE MONITOR CERTIFIES the following:

1. The Existing DIP Lender has delivered written notice to the Monitor that the obligations of the Applicant to the Existing DIP Lender under the Existing DIP Facility and Existing DIP Agreement have been repaid in full.

2. The matters set forth in paragraph 13 of the DIP Approval Order which are to occur or be deemed to occur upon delivery of the Monitor's Certificate have become operative as of the date and time set forth immediately below.

This Certificate was delivered by the Monitor at __________ [TIME] on __________ [DATE], 2022.

ERNST & YOUNG INC., solely in its capacity as Monitor of the Applicant, and not in its personal or corporate capacity

Per: ____________________________________

Name:
Title:

Schedule "B"
Real Property

PIN	Legal Description
73584-0678	LT 63-67 PL 4SB MCKIM; LT 158-159 PL 25SA MCKIM; PT LT 160 PL 25SA MCKIM; PT LT 68-69 PL 4SB MCKIM; PT NELSON ST, DAVID ST PL 4SB MCKIM (CLOSED BY S70); PT S1/2 LT 5 CON 3 MCKIM AS IN S61148; S/T INTEREST IN S61148; S/T EXECUTION 00-00878, IF ENFORCEABLE; GREATER SUDBURY
73584-0804	LT 232-234 PL 6S MCKIM; PT LT 229-231 PL 6S MCKIM AS IN S53645 EXCEPT PART 1 53R6379; GREATER SUDBURY
73585-1167	PT LT 6, CON 3 MCKIN, PTS 1, 2, AND 3 ON PLAN 53R-19698; SUBJECT TO AN EASEMENT IN GROSS OVER PT 2, 53R19698 AS IN SD225472; SUBJECT TO AN EASEMENT IN GROSS OVER PT 3, 53R19698 AS IN SD225678; SUBJECT TO AN EASEMENT IN GROSS OVER PT 3, 53R19698 AS IN SD229534; CITY OF GREATER SUDBURY
73592-0084	PCL 46194 SEC SES SRO; PT LT 2 CON 2 MCKIM PT 2 53R7594; GREATER SUDBURY
73592-0412	PCL 53884 SEC SES; 1STLY: PT LT 3 CON 2 MCKIM PT 1, 53R16920: 2NDLY: PT LT 3 CON 2 MCKIM PT 5, 8, 11 & 12 53R5371; GREATER SUDBURY; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 2,4,5,6,8,10,11,12 & 13 53R17763 AS IN SD246793
73592-0426	PCL 30769 SEC SES; LT 3 CON 2 MCKIM SW OF PT 13 & 14 53R9175, E OF PT 15 & 16 53R5371, W OF BETHEL LAKE & N OF LT65581; S/T LT394500, LT891690; GREATER SUDBURY
73592-0427	PCL 30769 SEC SES; PT LT 3 CON 2 MCKIM LT 1 EXPROP PL M785; S/T LT622331; GREATER SUDBURY; SUBJECT TO AN EASEMENT IN GROSS OVER PT 1 53R19195 AS IN SD246792
73593-0063	PCL 21810 SEC SES; FIRSTLY: PT LT 2 CON 1 MCKIM; SECONDLY: PT LT 2 CON 2 MCKIM AS IN LT130739; GREATER SUDBURY
73593-0406	PCL 34100 SEC SES AS IN LT264521; PT BROKEN LT 1 CON 1 MCKIM LOCATION 145, PT 1 SR1028; GREATER SUDBURY
73593-0446	PCL 53880 SEC SES; PT LT 3 CON 2 MCKIM PT 7 53R5371; GREATER SUDBURY
73593-0465	PCL 30769 SEC SES; LT 3 CON 2 MCKIM S OF UNIT 1,2,3,4,5 & 6 EXPROP PL D49 & SW OF PT 2,3,7,9 & 14 53R5371; EXCEPT PT 1 SR754 & PARTS 1,2,3 53R20763; N 1/2 LT 2 CON 1 MCKIM; EXCEPT LT130739; PT LT 2 CON 2 MCKIM AS IN EP6694; EXCEPT LT130739, PT 3 53R7594; SRO E 1/2 LT 3 CON 1 MCKIM; EXCEPT PT 1-6, 853R6915; PT LT 3 CON 1 MCKIM AS IN LT211094, EP4842, LT 1 EXPROP PL M764; EXCEPT PT 1 SR754; PT BROKEN LT 4 CON 2 MCKIM AS IN LT220905 (FIRSTLY); EXCEPT UNITS 1-3, 13 EXPROP PL D48; PT LT 4 CON 1 MCKIM AS IN LT2 20905 (SECONDLY) & PT 2 SR754; EXCEPT PT 1 53R4053, PT 1 53R7807, PT 1 & 2 53R8716 & PT 1 & 2 53R9178; PT LT 5 PL M92 PT 2 53R7807; S/T LT119418, LT32862, LT233153 (PARTIALLY RELEASED AS IN SD371949), LT436834, LT25019, LT748126, LT842126;; SUBJECT TO AN

	EASEMENT IN GROSS OVER PT 1 53R7680 AS IN SD261440; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1 53R20567 AS IN SD317507; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 & 3 53R20797 AS IN SD353369; CITY OF GREATER SUDBURY
	Lease between Her Majesty the Queen in Right of Ontario as Represented by the Minister of Government and Consumer Services and Laurentian University dated January 1, 2020

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **LAURENTIAN UNIVERSITY OF SUDBURY**

Court File No.: CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

DIP APPROVAL ORDER

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