

**PROCEDURES OF THE  
SALE AND INVESTOR SOLICITATION PROCESS  
OF NORTH AMERICAN LITHIUM INC.**

**Recitals**

- A. On May 28, 2019, North American Lithium Inc. (“**NAL**”) obtained protection from its creditors under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the “**CCAA**”) pursuant to the provisions of an order (as it may be amended, restated or supplemented from time to time, the “**Initial Order**”) of the Québec Superior Court (Commercial Division) in the District of Montréal (the “**Court**”).
- B. Pursuant to the Initial Order, Raymond Chabot Inc. was appointed as monitor (in its capacity as monitor and not in its personal capacity, the “**Monitor**”) during the proceedings under the CCAA commenced by the Initial Order, under Court file no. 500-11-056550-193 (the “**CCAA Proceedings**”).
- C. Pursuant to an order of the Court dated September 16, 2019 (as it may be amended, restated or supplemented from time to time, the “**SISP Approval Order**”), the Court approved a sale and investor solicitation process to be conducted in respect of the business and assets of NAL (as such process may be amended, restated or supplemented pursuant to the terms herein, the “**SISP**”), in accordance with the procedures, terms and conditions set out herein (the “**SISP Procedures**”).
- D. The SISP Procedures sets out the manner in which (i) bids and proposals for a broad range of executable transaction alternatives (restructuring, recapitalization and/or refinancing) involving the business, more particularly described in the Teaser Letter (as defined herein, the “**Business**”), and all property, assets and undertaking of NAL (the “**Property**”), whether en bloc or any portion(s) thereof, will be solicited from interested parties, (ii) any bids received will be negotiated, (iii) any Successful Bid(s) will be selected and, (iv) the Court’s approval of any Successful Bid(s) will be sought.
- E. An investment in the Business may involve, among other things, a restructuring, recapitalization, or other form of reorganization of the business and affairs of the Business or any part thereof, and such investment may be consummated pursuant to a plan of compromise or arrangement (a “**Plan**”) or otherwise.
- F. The SISP Approval Order, the SISP Procedures, and any other orders of the Court made in the CCAA Proceedings relating to the SISP shall exclusively govern the process for soliciting and selecting bids for the sale of the Property or investment in the Business pursuant to a broad range of executable transaction alternatives.
- G. Unless otherwise stated or unless the subject matter or context otherwise requires, the capitalized terms used in the SISP Procedure have the meaning ascribed to them at Schedule A hereof.

**Section 1. Conduct of the SISP**

- 1.1 The SISP will be carried out by the Monitor. Unless otherwise provided for herein, and in accordance with the SISP Approval Order, the Monitor is fully and exclusively

authorized, empowered and directed to take any and all actions and steps pursuant to the SISP.

- 1.2 The Monitor shall be responsible for contacting Prospective Bidders, communicating with Prospective Bidders and Bidders negotiating with Bidders, providing them with the Teaser Letter coordinating the execution of any confidentiality agreements executed by a Prospective Bidder pursuant to the SISP (a "**Confidentiality Agreement**"), managing the process of answering all reasonable inquiries from Prospective Bidders and Bidders and arranging for visits, when applicable, by Bidders.
- 1.3 The Monitor shall review and assess Bids.
- 1.4 At any time during the SISP, the Monitor may from time to time consult with such parties as the Monitor considers appropriate in respect of the conduct of the SISP.
- 1.5 After the SISP Approval Order, the Monitor may at any time and from time to time, modify, amend, vary or supplement the SISP or the SISP Procedures, without the need for obtaining an order of the Court or providing notice to Qualified Bidders, Authorized Bidders, Auction Bidders and Successful Bidder (collectively, the "**Bidders**"): if the Monitor determines that such modification, amendment, variation or supplement would not be materially prejudicial to the interests of the Prospective Bidders and Bidders and is necessary or useful in order to give effect to the substance of the SISP, the SISP Procedures or the SISP Approval Order. The Monitor shall post on the Monitor's Website, as soon as possible, any such modification, amendment, variation or supplement to the SISP Procedures and inform Prospective Bidders and Bidders reasonably impacted by any such modification, amendment, variation or supplement to the SISP Procedures.
- 1.6 The Monitor, may, at any time and on notice to the service list in the CCAA Proceedings as posted on the Monitor's website, as it may be updated from time to time (the "**Service List**"), apply to the Court for directions in connection with the implementation of the SISP or the SISP Procedures or the modification, suspension or termination of same being understood that the Monitor is empowered to suspend the SISP for a period that is not to exceed forty-five (45) days.
- 1.7 The implementation of the SISP by the Monitor shall commence at the latest fifteen (15) "**Business Days**" following the SISP Approval Order (the "**Implementation Date**"). In the event the Monitor considers it necessary or appropriate to postpone the Commencement Date, it shall select a new Commencement Date to be published on the Monitor's website and notified forthwith to the Service List.

## **Section 2. Sale and Investment Opportunities**

- 2.1 Qualified Bidders will have the opportunity to submit a bid consisting in either a "**Sale Proposal**" or an "**Investment Proposal**". Sale Proposals and Investment Proposals may be in respect of only some of the Property and any such proposal will not be precluded from consideration as an acceptable Bid.
- 2.2 In the event of a Sale Proposal for any or all of the Property, all of the NAL's right, title and interest in and to the Property may be acquired pursuant to an approval and vesting order of the Court, free and clear of all pledges, liens, security interests, charges,

options, hypothecs, mortgages and interest thereon, except to the extent otherwise set forth in a definitive purchase agreement executed with a Successful Bidder.

### Section 3. "As is. Where Is"

- 3.1 Any Sale Proposal or Investment Proposal (either being a "**Proposal**") shall be made on an "as is, where is" basis, without surviving representations or warranties of any kind or nature.
- 3.2 The Monitor and NAL are not responsible for, and will have no liability with respect to, any information obtained by any Prospective Bidder or Bidder in connection with the Property or the Business. The Monitor, NAL and their advisors, if applicable, do not make any representations or warranties whatsoever as to the information or the materials provided through the due diligence process or otherwise made available to any Prospective Bidder and Bidder including any information contained in the Teaser Letter or Data Room.

### Section 4. Solicitation of Interest

- 4.1 The Monitor, with the assistance of NAL's management, employees and legal advisors, will by no later than 5:00 p.m. (Montreal time) on October 7, 2019 or such later date or time as the Monitor, in accordance with the SISP Procedures, may determine appropriate (the "**Commencement Date**"):
  - (a) compile a listing (the "**Contact List**") of prospective purchasers and investors (collectively, "**Prospective Bidders**"). Any of NAL's shareholders may on a timely basis identify any other parties to the Monitor which shall be included in the Contact List. The Monitor will use all reasonable commercial efforts to contact all parties identified in the Contact List as well as any additional parties identified as prospective purchasers or investors;
  - (b) post of a copy of the SISP Approval Order and the SISP Procedures on its website;
  - (c) determine the appropriate advertising to be directed at Prospective Bidders, which may include newspaper, trade publication, internet or other advertising directed at Prospective Bidders;
  - (d) send to each Prospective Bidder a solicitation letter summarizing the acquisition and investment opportunity with respect to the Property and Business (the "**Teaser Letter**");
  - (e) set up and update an electronic data room with confidential information in respect of the Property and the Businesses (the "**Data Room**");
  - (f) send to each Prospective Bidder upon request a form of Confidentiality Agreement and written acknowledgement of receipt of a copy of the SISP Approval Order and of the SISP Procedure wherein such Prospective Bidder agrees to accept and be bound by the provisions of the SISP Approval Order and the SISP Procedures (the "**Written Acknowledgement**"). The Prospective Bidders will be required, among other things, to sign a Confidentiality Agreement

in order to gain access to confidential information (including access to the Data Room). For greater certainty, only Prospective Bidders who submit an executed Confidentiality Agreement and Written Acknowledgement shall have access to the Data Room and other confidential information and management presentations, if available;

- (g) give access to the Data Room and coordinate the communication of information to each Prospective Bidder who has executed a Confidentiality Agreement and provided the Written Acknowledgement; and
  - (h) prepare the form of a template asset purchase agreement (the "**Template APA**") to be used by Prospective Bidders to submit a Sale Proposal and post same in the Data Room.
- 4.2 The Monitor reserves the right to limit any Prospective Bidder's or Bidder's access to any confidential information (including any information in the Data Room) and to customers and suppliers of NAL, where, in the Monitor's discretion, such access could negatively impact the SISP, the ability to maintain the confidentiality of the confidential information, the Business or the value of the Property.
- 4.3 Any and all requests for additional information are to be made solely to the Monitor.

#### **Section 5. Submission of Non-Binding Letters of Intent & Other Participation Requirements**

- 5.1 Unless otherwise provided for herein, ordered by the Court or agreed to by the Monitor, in order to participate in the SISP and be considered for qualification as a Qualified Bidder, a Prospective Bidder must deliver the following to the Monitor:
- (a) an executed Confidentiality Agreement, which shall inure to the benefit of any purchaser of any part of the Property or any investor in NAL;
  - (b) an executed Written Acknowledgement; and
  - (c) a letter setting forth the identity of the Prospective Bidder, the contact information for such Prospective Bidder, and the contact information for any business, financial or legal advisors retained or to be retained in connection with the contemplated transaction, and full disclosure of the direct and indirect owners of the Prospective Bidder and their principals.
- 5.2 A Prospective Bidder will be deemed a "**Qualified Bidder**" if: (a) such Prospective Bidder has satisfied all of the requirements described in paragraph 5.1; and (b) such Prospective Bidder's financial information and credit support or enhancement demonstrate to the satisfaction of the Monitor, the capability of such Prospective Bidder to consummate a transaction and that such Prospective Bidder is likely (based on availability of financing, experience and other considerations) to consummate either a Sale Proposal or an Investment Proposal. Investissement Quebec and CATL Canada shall each be deemed to be a Qualified Bidder.
- 5.3 The determination as to whether a Prospective Bidder is a Qualified Bidder pursuant to paragraph 5.2 will be made as promptly as practicable but no later than five (5) Business

Days after a Prospective Bidder delivers all of the materials required above. If it is determined that a Prospective Bidder is a Qualified Bidder, the Monitor will promptly notify the Prospective Bidder that it is a Qualified Bidder.

- 5.4 If it is determined in accordance with paragraph 5.2, that there are no Qualified Bidders and that, as a consequence, proceeding with the SISP Procedures is not in the best interests of NAL or its stakeholder, the Monitor shall notify Investissement Québec and CATL Canada forthwith.

## **Section 6. Due diligence**

- 6.1 As soon as a practicable after the determination that a party is a Qualified Bidder, the Monitor will make available to such Qualified Bidder in a secure online electronic data room confidential due diligence information regarding (i) the Property available for sale, and (ii) the debt and equity interests in NAL. At the request of a Qualified Bidder, such confidential due diligence information shall also be provided to a proposed lender of such Qualified Bidder that is reasonably acceptable to the Monitor.
- 6.2 Each Qualified Bidder shall have such access to due diligence materials and information relating to the Property, and the debt and equity interests in NAL, as the Monitor deems appropriate.
- 6.3 At the discretion of the Monitor, due diligence access may include presentations (as may be scheduled by the Monitor), access to physical and secure online electronic data rooms, on-site inspections and such other matters as a Qualified Bidder may reasonably request and as to which the Monitor, in its reasonable business judgment deem appropriate. The Monitor shall not be obligated to furnish any due diligence materials or information after the Bid Deadline.
- 6.4 Unless otherwise agreed by the Monitor, no Prospective Bidder and Bidder shall be permitted to have any discussions with any counterparty to any contract with NAL or with any regulatory authority responsible for NAL or any other Prospective Bidder or Bidder in connection with any bid submitted in accordance with the terms hereof or in contemplation thereof save and except, as the case may be with any shareholder of NAL.

## **Section 7. Submission of Qualified Bids**

- 7.1 In order to continue to participate in the SISP, a Qualified Bidder must deliver a Qualified Purchase Bid or Qualified Investment Bid to the Monitor and such bids must be received by the Monitor by no later than **5:00 p.m. (Montreal time) on January 21, 2020**, or such later date or time as the Monitor, in accordance with the SISP Procedures, may determine appropriate (the "**Bid Deadline**").
- 7.2 A Sale Proposal submitted by a Qualified Bidder will be considered a "**Qualified Purchase Bid**" only if the Sale Proposal complies with all of the following :
- (a) it includes a letter stating that the Sale Proposal is irrevocable until 45 Business Days following the Bid Deadline; provided, however, that if such Sale Proposal is selected as the Successful Bid or the Backup Bid, it shall remain irrevocable until the closing of the Successful Bid or the Backup Bid, as the case may be;

- (b) it includes a duly authorized and executed purchase and sale agreement, together with a mark up outlining and highlighting all proposed changes from the Template APA, specifying the purchase price, expressed in Canadian dollars, including the cash component thereof and/or the liabilities to be assumed by the Bidder (or the combination of both - the "**Purchase Price**"), together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements) and such ancillary agreements;
- (c) it contains a detailed listing and description of the Property to be included in the Sale Proposal or a detailed listing of the Property to be excluded from the Sale Proposal;
- (d) it does not include any request or entitlement to any break-fee, expense reimbursement or similar type of payment. Further, by submitting a Sale Proposal, a Qualified Bidder shall be deemed to waive its right to pursue a substantial contribution claim in any way related to the submissions of its Sale Proposal or the SISP;
- (e) it includes evidence sufficient to allow the Monitor to make a reasonable determination as to the bidder's (and its direct and indirect owners and their principals') financial, technical, operational and other capabilities to consummate the transaction contemplated by the Sale Proposal and operate the NAL's mining operations, which evidence could include but is not limited to evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution;
- (f) it is not conditioned on (i) the outcome of unperformed due diligence by the bidder and/or (ii) obtaining any financing capital and includes an acknowledgement and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its Sale Proposal;
- (g) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Sale Proposal, including the identification of the Qualified Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (h) it includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its Sale Proposal; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Monitor, or the Financial Advisor, except as expressly stated in the purchase and sale agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of making its Sale Proposal; and (iv) has had the benefit of independent legal advice in connection with its Sale Proposal;

- (i) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Sale Proposal;
- (j) except in the case of a credit bid, it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of **Raymond Chabot Inc.**, in trust, in an amount equal to 5% of the proposed gross purchase price, to be held and dealt with in accordance with the SISP Procedures;
- (k) it contains full details of the proposed number of employees of NAL who will become employees of the Qualified Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (l) it includes an acknowledgement and representation that the Qualified Bidder will assume the obligations of NAL under executory contracts, unexpired leases, and licences proposed to be assigned (or identifies with particularity which of such contracts, leases, and licenses of NAL, as applicable, that the Qualified Bidder wishes not to assume, or alternatively wishes to assume), contains full details of the Qualified Bidder's proposal for the treatment of related cure costs; and which of these the assumption of which is a condition of closing;
- (m) to the extent not addressed elsewhere, it includes the proposed treatment of stakeholders, including lenders, trade creditors and shareholders;
- (n) it provides for closing of the Qualified Purchase Bid by no later than March 20, 2020 or such later date or time as the Monitor, in accordance with the SISP Procedures. May determine appropriate (the "**Target Closing Date**");
- (o) if the Qualified Bidder is an entity newly formed for the purpose of the transaction, the bid shall contain an equity or debt commitment letter from the parent entity or sponsor, which is satisfactory to the Monitor, that names NAL as a third-party beneficiary of any such commitment letter with recourse by the Monitor and/or NAL against such parent entity or sponsor;
- (p) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of compliance or anticipated compliance with any and all applicable regulatory approvals (including, if applicable, anti-trust regulatory approval and any approvals with respect to the grant or transfer of any mining permits or licenses), the anticipated time frame for such compliance and any anticipated impediments for obtaining such approvals;
- (q) it contains other information reasonably requested by the Monitor; and
- (r) it is received by no later than the Bid Deadline.

7.3 An Investment Proposal submitted by a Qualified Bidder will be considered a "**Qualified Investment Bid**" only if the Investment Proposal complies with all of the following :

- (a) it includes duly authorized and executed binding definitive documentation setting out the terms and conditions of the proposed transaction, including the aggregate amount of the proposed equity and/or debt investment and details regarding the proposed equity and/or debt structure of NAL, if applicable, following completion of the proposed transaction (a "**Definitive Investment Agreement**");
- (b) it includes a letter stating that the Investment Proposal is irrevocable 45 Business Days following the Bid Deadline; provided, however, that if such Investment Proposal is selected as the Successful Bid or Backup Bid, it shall remain irrevocable until the earlier of (i) the closing of the Successful Bid or the Backup Bid, as the case may be, and (ii) the outside date stipulated in the Successful Bid or the Backup Bid, as applicable;
- (c) it includes a description of the type and amount of consideration, including equity, if any, to be allocated to secured creditors, unsecured creditors and shareholders of NAL;
- (d) it does not include any request or entitlement to any break-fee, expense reimbursement or similar type of payment. Further, by submitting an Investment Proposal, the Qualified Bidder shall be deemed to waive its right to pursue a substantial contribution claim in any way related to the submission of its Investment Proposal or the SISP;
- (e) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence satisfactory to the Monitor, to allow the Monitor to make a reasonable determination as to the Qualified Bidder's financial, technical, operational and other capabilities to consummate the transaction contemplated by the Investment Proposal and operate NAL's mining operations;
- (f) it is not conditioned on (i) the outcome of unperformed due diligence by the Qualified Bidder and/or (ii) obtaining any financing capital and includes an acknowledgement and representation that the Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- (g) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Investment Proposal, including the identification of the Qualified Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (h) it includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents in making its Investment Proposal; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business of NAL or the completeness of any information provided in connection therewith, including by the Monitor, except as expressly stated in the Definitive Investment Agreement; (iii) is a sophisticated party capable of making its own assessments in respect of making its Investment

Proposal; and (iv) has had the benefit of independent legal advice in connection with its Investment Proposal;

- (i) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Investment Proposal;
- (j) it is accompanied by a Deposit in the form of a wire transfer (to a trust account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of **Raymond Chabot Inc.**, in trust, in an amount equal to **5%** of the total proposed investment, to be held and dealt with in accordance with the SISP Procedures;
- (k) it provides for closing of the Qualified Investment Bid by no later than the Target Closing Date;
- (l) if the Qualified Bidder is an entity newly formed for the purpose of the transaction, the Investment Proposal shall contain an equity or debt commitment letter from the parent entity or sponsor, and satisfactory to the Monitor, that names NAL as a third-party beneficiary of any such commitment letter with recourse by the Monitor and/or NAL against such parent entity or sponsor;
- (m) it includes evidence, in form and substance reasonably satisfactory to the Monitor, of compliance or anticipated compliance with any and all applicable regulatory approvals (including, if applicable, anti-trust regulatory approval), the anticipated time frame for such compliance and any anticipated impediments for obtaining such approvals;
- (n) it contains other information reasonably requested by the Monitor; and
- (o) it is received by no later than the Bid Deadline.

## **Section 8. Qualified Bid**

- 8.1 Qualified Purchase Bids and Qualified Investment Bids shall hereinafter be referred to as "**Qualified Bids**" and each a "**Qualified Bid**" and each bidder who has submitted a Qualified Bid shall hereinafter be referred to as a "**Authorized Bidder**".
- 8.2 Notwithstanding paragraph 7.2 and paragraph 7.3 the Monitor, acting reasonably, may waive compliance with any one or more of the Qualified Bid requirements specified herein, and deem such noncompliant bids to be Qualified Purchase Bids or Qualified Investment Bids, as the case may be.

## Section 9. Assessment of Qualified Bids

- 9.1 The Monitor will review and assess the Qualified Bids in respect of a Sale Proposal, and in making such assessment will consider, among other things, the following (the “**Sale Proposal Bid Criteria**”):
- (a) the purchase price and net value (including all assumed liabilities and other obligations to be performed by the Qualified Bidder) provided by such Qualified Bid and the proposed allocation of the purchase price among the applicable Property;
  - (b) the firm, irrevocable commitment for financing the transaction or other evidence of ability to consummate the Sale Proposal;
  - (c) the claims, if any, likely to be created against NAL by the transaction contemplated by the Sale Proposal, relative to alternatives available to NAL;
  - (d) the nature and amount of debt and other liabilities to be assumed or acquired by the Qualified Bidder;
  - (e) the counterparties to the Sale Proposal;
  - (f) the proposed revisions to the Template APA and the terms of the proposed sale transaction documents;
  - (g) the assets included in or excluded from the Sale Proposal and the transaction costs and risks associated with closing multiple transactions versus a single sale transaction for all or substantially all of the Property;
  - (h) any transition services required from NAL post-closing and any related restructuring costs;
  - (i) the planned treatment of stakeholders, including lenders, trade creditors and shareholders; and
  - (j) other factors affecting the speed, certainty and value of the Sale Proposal (including any regulatory approvals and other conditions required to close the Sale Proposal by the applicable Target Closing Date), including the likelihood of closing the Sale Proposal on or before the applicable Target Closing Date.
- 9.2 The Monitor will review and assess the Qualified Bids in respect of an Investment Proposal, and in making such assessment will consider, among other things, the following (the “**Investment Proposal Bid Criteria**”):
- (a) the type and amount of consideration, including equity, if any, to be allocated to secured creditors, unsecured creditors and shareholders of NAL and the planned treatment of such persons under the proposed Investment Proposal;
  - (b) the firm, irrevocable commitment for financing the investment or other evidence of ability to consummate the Investment Proposal;

- (c) the counterparties to the proposed Investment Proposal;
  - (d) the cost, risks and timing associated with obtaining the approval of the requisite majority of creditors and approval of the Court in respect of a Plan, if needed; and
  - (e) the estimated number of employees of NAL that will be offered post-closing employment by the Bidder and any proposed measures associated with their continued employment;
  - (f) the transition services required from NAL post-closing and any related costs.
  - (g) the planned treatment of stakeholders, including lenders, trade creditors, employees and shareholders; and
  - (h) other factors affecting the speed, certainty and value of the Investment Proposal (including any regulatory approvals and other conditions required to close the Investment Proposal by the applicable Target Closing Date), including the likelihood of closing the Investment Proposal on or before the applicable Target Closing Date.
- 9.3 For greater certainty, the Monitor shall be entitled, either prior to or following the Bid Deadline, to seek to clarify the terms of Qualified Bid and the Monitor may accept a revised, clarified Qualified Bid provided that the initial Qualified Bid was received prior to the Bid Deadline. The Monitor may waive compliance with any one or more of the requirements specified in paragraph 7.2 and paragraph 7.3, as applicable and deem any non-compliant Bid to be a Qualified Bid.
- 9.4 The Monitor shall apply the Sale Proposal Bid Criteria and Investment Proposal Bid Criteria, as applicable, and consider each Qualified Bid upon its submission and determine whether it will be in the best interests of NAL's stakeholders to pursue a transaction on the terms set out in the applicable Qualified Bid. Such determination will be made as promptly as practicable but no later than five (5) Business Days after the Bid Deadline, provided that such time period may be extended upon the consent of the Monitor.
- 9.5 If the Monitor, in accordance with paragraph 9.4 above, determine that (a) no Qualified Bid was received, or (b) at least one Qualified Bid was received but it is not likely that the transactions contemplated in any such Qualified Bids will be consummated, it shall inform Investissement Quebec and CATL Canada in writing as soon as practicably possible. In the circumstances described in this subsection, Investissement Quebec and/or CATL Canada shall have the option within ten (10) Business Days from such determination to submit a credit bid (that would constitute a binding agreement if accepted) even if it did not submit a credit bid at any other point, and notwithstanding the receipt of any new information regarding Bids after the Commencement Date.
- 9.6 If the Monitor determines that only one Qualified Bid was received that is in the best interests of NAL's stakeholders (or only one combination of non-overlapping Qualified Portion Bids was received that is in the best interests of NAL's stakeholders), the Monitor may choose to accept such Qualified Bid (in which case, such Qualified Bid shall be a "**Successful Bid**") and the Qualified Bidder making the Successful Bid shall be

a “**Successful Bidder**”) and take such steps as are necessary to finalize and complete an agreement for the Successful Bid with the Successful Bidder. For greater certainty, the Monitor may accept a combination of non-overlapping Qualified Portion Bids (collectively, an “**Aggregated Bid**”) to create one “Successful Bid” and in such case, the applicable Authorized Portion Bidders will become “**Successful Bidders**”.

- 9.7 If the Monitor determines that more than one Qualified Bid (and/or more than one Aggregated Bid) was received that is in the best interests of NAL’s stakeholders, then the Monitor may, without being obligated to do so, conduct an auction (the “**Auction**”), to determine the highest and/or best Sale Proposal or Investment Proposal or Aggregated Bid. In the event that an Auction is to be held, all Authorized Bidders (including Authorized Portion Bidders) who submitted a Qualified Bid that the Monitor determines entitles such Authorized Bidder to participate in the Auction (each, an “**Auction Bidder**”) will be advised by the Monitor of such determination. An Authorized Bidder not identified as an Auction Bidder will no longer be able to participate in the SISP or any Auction.
- 9.8 The Monitor may at any time (including prior to or during an Auction), (a) reject any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the CCAA, the SISP Procedures or any orders of the Court applicable to NAL, or (iii) contrary to the best interests of NAL’s stakeholders; (b) in accordance with the terms hereof, accept Bids not in conformity with the SISP Procedures to the extent that doing so would benefit NAL’s stakeholders; (c) in accordance with the terms hereof, extend the Bid Deadline, and/or change the Auction Date; and/or (d) reject all Bids. For greater certainty, the Monitor shall be under no obligation to accept the highest or best offer and the selection of the Successful Bid shall be entirely in the discretion of the Monitor.

## Section 10. Auction

- 10.1 If the Auction is to be conducted pursuant to paragraph 9.7, the Auction shall commence on February 4, 2020, or such later date as the Monitor, in accordance with the SISP Procedures, may determine appropriate (the “**Auction Date**”). All Auctions shall be conducted at the offices of **Raymond Chabot Inc.** or such other location as the Monitor may determine. Notice of the place, date and time of the Auction will be delivered to all Auction Bidders by the Monitor not less than three (3) Business Days before the date of the Auction.
- 10.2 If there is an Auction, the Auction shall be conducted according to the following procedures:
- (a) At least one (1) Business Day prior to the Auction, each Auction Bidder who has been notified by the Monitor that it has qualified as an Auction Bidder must inform the Monitor whether it intends to attend the Auction; provided that in the event an Auction Bidder elects not to attend the Auction, such Auction Bidder’s Qualified Bid shall remain binding, irrevocable and open for acceptance until at least 11:59 p.m. Montréal Time on the Business Day after the closing of a Successful Bid relating to the same Property and/or Business that is subject to such Auction Bidder’s bid;
  - (b) The Monitor, shall direct and preside over the Auction. Only Auction Bidders are eligible to participate in an Auction. Only the authorized representatives (including legal counsel and other advisors) of each of the Auction Bidders, NAL,

CATL Canada, Investissement Québec and the Monitor shall be permitted to attend the Auction.

- (c) Each Auction Bidder shall be required to confirm that it has not engaged, and will not engage, in any collusion with respect to the bidding or any Sale Proposal or Investment Proposal, and if such Auction Bidder is a special purpose vehicle, each of the direct or indirect equity holders of such Auction Bidder shall be required to confirm that it has not engaged, and will not engage, in any collusion with respect to the bidding or any Sale Proposal or Investment Proposal, such confirmation, in each case, in form and substance satisfactory to the Monitor in its sole discretion.
- (d) Bidding at an Auction shall be conducted in rounds. In each round, an Auction Bidder may submit no more than one Overbid. If at the end of any round of bidding, an Auction Bidder (other than the Auction Bidder who submitted the “**Opening Bid**” for such round and any Qualified Portion Bidder who is an Auction Bidder) did not submit an Overbid, then such Auction Bidder shall be barred from participating in any further round of bidding at the Auction. Any Auction Bidder who submits an Overbid in a round, as well as the Auction Bidder who submitted the Opening Bid for such round and any Qualified Portion Bidder who is an Auction Bidder, shall be entitled to participate in the next round of bidding at the Auction.
- (e) The Monitor shall apply the Sale Proposal Bid Criteria and Investment Proposal Bid Criteria, as applicable, to determine which Qualified Bid is the highest and/or best bid received by the Bid Deadline, which shall constitute the Opening Bid for the first round of an Auction. The Monitor shall follow the same process to determine the highest and/or best Overbid submitted in each round of an Auction, which shall constitute the Opening Bid for the following round. For greater certainty, an Aggregated Bid may be determined to be the “Opening Bid” for any round. As soon as practicable prior to the start of the Auction, the Monitor shall distribute a copy of the Opening Bid for the first round to all Auction Bidders eligible to participate in the applicable Auction.
- (f) All bids made at an Auction shall be Overbids and shall be made and received on an open, non-confidential basis and the identity of each Auction Bidder and all material terms of each Overbid shall be fully disclosed to all other Auction Bidders participating in the applicable round of the applicable Auction. The Monitor shall maintain a transcript of the Opening Bids and all Overbids made and announced at an Auction.
- (g) A Sale Proposal or Investment Proposal submitted at an Auction will be considered an “**Overbid**” only if it complies with the following requirements:
  - (i) *Minimum Consideration*. Subject to subparagraph (l) below in respect of Qualified Portion Bids, the amount of the purchase price (in the case of a Sale Proposal), or the amount of the consideration to be allocated to secured creditors, unsecured creditors and shareholders of NAL (in the case of an Investment Proposal) shall not be less than the purchase price or consideration of the Opening Bid of the applicable round of such

Auction, plus an amount (the “**Minimum Overbid Increment**”) to be set by the Monitor; and

- (ii) *Qualified Bid Criteria.* Except as modified herein, an Overbid shall comply with all requirements for a Qualified Bid as set forth in paragraph 7.2 in the case of Sale Proposals, or paragraph 7.3 in the case of Investment Proposals, (in each case including in respect of its binding and irrevocable nature, and being open for acceptance until at least 11:59 p.m. Montréal Time on the Business Day after the closing of a Successful Bid relating to the same Property and/or Businesses); provided, however, that the Bid Deadline shall not apply and Overbids need not be accompanied by additional cash deposits during the Auction.
  
- (h) At the end of each round of bidding, the Monitor shall (i) review each Overbid made in such round, (ii) identify the highest and/or best such Overbid in accordance with subparagraph (e), and (iii) announce to all Auction Bidders entitled to participate in the next round of bidding the terms of the highest and/or best Overbid and the identity of the Auction Bidder who submitted such Overbid. Such highest and/or best Overbid shall be the Opening Bid for the next round of such Auction.
  
- (i) The Monitor reserves the right to make one or more adjournments in an Auction to, among other things: (i) allow individual Auction Bidders to consider how they wish to proceed; (ii) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (iii) give Auction Bidders the opportunity to provide the Monitor with such additional evidence as it may require to show that the Auction Bidder’s bid complies with the requirements of an Overbid (including in respect of the required internal corporate or credit committee approvals and evidence of sufficient funding commitments or other financial capability to consummate the proposed transaction).
  
- (j) If, in any round of bidding, no new Overbid is made, such Auction shall be closed and the Monitor shall declare the last Opening Bid as a “**Successful Bid**” and the Auction Bidder submitting such Successful Bid a “**Successful Bidder**” and advise such Successful Bidder of such determination and all other applicable Auction Bidders that they are not a Successful Bidder. For greater certainty, the selection of a Successful Bid and a Successful Bidder shall not be deemed a rejection of any other Overbid or Qualified Bid and each Overbid and Qualified Bid shall remain binding, irrevocable and open for acceptance until at least 11:59 p.m. Montréal Time on the Business Day after the closing of a Successful Bid relating to the same Property and/or Businesses.
  
- (k) To the extent not already provided, the Successful Bidder shall, within two (2) Business Days of the conclusion of the Auction, provide the Monitor with an additional Deposit to increase its original Deposit to equal five percent (5%) of the total cash purchase price or investment contemplated by the Successful Bid.
  
- (l) Each Qualified Portion Bidder that is an Auction Bidder shall be entitled to submit Overbids at the applicable Auction (in a minimum increment to be determined by the Monitor) with respect to the portion of the Property or Business it is bidding

on, and is not individually subject to the full Minimum Overbid Increment; provided that one or more Qualified Portion Bids forming an Aggregated Bid in any round of the Auction shall collectively be subject to the full Minimum Overbid Increment. For greater certainty, the Monitor may accept an Aggregated Bid as a "Successful Bid" and in such case, the applicable Auction Bidders will become "Successful Bidders".

- (m) For greater certainty, the Monitor shall be entitled during an Auction, to discuss and clarify the terms of all Overbids and accept a revised, clarified Overbid, provided it is submitted before the end of the applicable round of bidding. The Monitor, may waive compliance with any one or more of the requirements specified in subparagraph (g), and deem any non-compliant Overbid to be a qualifying Overbid.
- (n) The Monitor may adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction and that are not inconsistent with any of the provisions of the SISP Procedures or the SISP Approval Order; provided that no such rules may change the requirement that all Overbids shall be made and received on an open, non-confidential basis, and all Auction Bidders entitled to participate in a further round of bidding shall be entitled to be present for all such bidding.

## **Section 11. Approval Motion**

- 11.1 After a definitive agreement(s) in respect of a Successful Bid has been finalized in accordance with the SISP Procedures, if such Successful Bid relates to the Property or the Business, the Monitor shall apply to the Court as soon as reasonably practicable for an order approving such Successful Bid and authorizing the Monitor, on behalf of NAL, to enter into any and all necessary agreements with respect to such Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to such Successful Bid, including for the approval of any Plan(s) pursuant to the CCAA, as applicable (an "**Approval Motion**").
- 11.2 An Approval Motion will be held on a date to be scheduled by the Court and to be heard as soon as possible. The Monitor reserves its right, as may be necessary or appropriate, to seek to proceed on an expedited basis and abridge any notice period provided for in the Initial Order. An Approval Motion may be adjourned or rescheduled by the Monitor by an announcement of the adjourned date at an Approval Motion or by notice to the Service List and no further notice shall be required.
- 11.3 All Bids (other than the Successful Bid(s)) will be deemed rejected at 11:59 p.m. Montreal Time on the Business Day after the closing of a Successful Bid relating to the same Property and/or Businesses.
- 11.4 For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute or as otherwise required at law in order to implement a Successful Bid.

## **Section 12. Treatment of Deposit**

- 12.1 If there is a Successful Bid, the Deposit (plus accrued interest) paid by a Successful Bidder whose bid is approved by the Court will be released by the Monitor and applied to the purchase price to be paid, or investment to be made, by such Successful Bidder upon closing of the approved transaction or as otherwise set out in the definitive agreement.
- 12.2 The Deposits of Bidders not selected as a Successful Bidder, will be returned to such Bidders within ten (10) Business Days of the date of closing of the Successful Bid. If there is no Successful Bid with respect to the Property or the Business, subject to the following paragraph 12.3, all Deposits with respect to such Property or Business will be returned to all Bidders with respect to that Property or Business, within ten (10) Business Days of the date on which the SISP with respect to that Property or Business is terminated in accordance with the SISP.
- 12.3 If (i) a Successful Bidder breaches any of its obligations under the terms of the SISP Procedures or any definitive transaction documentation; (ii) a Bidder fails to complete the transaction contemplated by its Bid if required by the Monitor to complete such transaction; or (iii) a Bidder fails to provide proof of its ability to complete the transaction to the Monitor (other than with respect to conditions specifically provided in its Bid), within five (5) Business Days of a request to that effect from the Monitor, then, in each case, such Bidder's Deposit will be forfeited to NAL as liquidated damages and not as a penalty. NAL shall apply and use any forfeited Deposit in a manner agreed upon by the Monitor. Provided, however, that the forfeiture of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that NAL and the Monitor has or may have against such breaching entity.

## **Section 13. Reservation of Rights and Conduct of the SISP**

- 13.1 The SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor and any Prospective Bidder and Bidder, other than as specifically set forth in a definitive agreement that any such Bidder may enter into with NAL.
- 13.2 The Monitor may (a) reject, at any time any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the SISP Procedures, or (iii) contrary to the best interests of NAL, its estate, and stakeholders as determined by the Monitor; (b) in accordance with the terms hereof accept bids not in conformity with the SISP Procedures to the extent that the Monitor determines, in its reasonable business judgment, that doing so would benefit NAL, its estate, and stakeholders; and (c) reject all Bids. The Monitor shall not be required to accept the highest Bid.
- 13.3 Investissement Québec and CATL Canada shall be granted by the Monitor with full access to the information in connection with the Non-Binding Letters of Intent, the Qualified Purchase Bid, Qualified Investment Bid, Aggregated Bid and Successful Bid (collectively, the "**Bids**"), save and except if the Bid or Bids contemplate the cash reimbursement in full of the CATL Canada Secured Claim Amount or of the Investissement Québec Secured Claim Amount. For greater clarity, if one or more Bids contemplates the reimbursement in full of either the CATL Canada Secured Claim Amount or the Investissement Québec Secured Claim, then the party having been

offered such full reimbursement shall not be entitled to access the information in connection with such Bid or Bids.

- 13.4 Notwithstanding the restriction set forth in paragraph 13.3, the Monitor may, at any time during the SISP, grant access to the information in connection with any Bid to Investissement Québec and/or CATL Canada, to the extent that it determines, in its reasonable business judgment, that doing so would benefit NAL, its estate, and stakeholders.

#### **Section 14. Notice to the Monitor**

- 14.1 Any notice or other communication to be given to the Monitor in connection with this SISP shall be given in writing and shall be given by personal delivery (in which case it shall be left with a responsible officer of the recipient) or by electronic communication addressed to the Monitor as follows:

**Raymond Chabot Inc.**, the Monitor of NAL  
National Bank Tower  
600, De La Gauchetière Street West, Suite 2000  
Montréal QC H3B 4L8

Attention: **Benoît Fontaine** ([fontaine.benoit@RCGT.com](mailto:fontaine.benoit@RCGT.com))

## **SCHEDULE A DEFINED TERMS**

“**Aggregated Bid**” has the meaning ascribed to it in paragraph 9.5.

“**Approval Motion**” has the meaning ascribed to it in paragraph 11.1.

“**Auction**” has the meaning ascribed to it in paragraph 9.7.

“**Auction Bidder**” has the meaning ascribed to it in paragraph 9.7.

“**Auction Date**” means September 30, 2019, or such later date as the Monitor, in accordance with the SISP Procedures, may determine appropriate.

“**Authorized Bidder**” means each bidder who has submitted a Qualified Bid.

“**Bid Deadline**” means no later than 5:00 p.m. (Montreal time) on January 21, 2020, or such later date or time as the Monitor, in accordance with the SISP Procedures, may determine appropriate.

“**Bidders**” means collectively Qualified Bidders, Authorized Bidders, Auction Bidders and Successful Bidder.

“**Bids**” mean collectively Qualified Purchase Bid, Qualified Investment Bid, Aggregated Bid and Successful Bid.

“**Business**” has the meaning ascribed to it in Recital D.

“**Business Day**” means any day other than (i) a Saturday or a Sunday or (ii) a day which is a statutory holiday in Montreal, Quebec.

“**CATL Canada**” means Contemporary Ampere Technology Ltd.

“**CATL Canada Secured Claims Amount**” means the aggregate amount owing (whether for principal, interest, fees and recoverable expenses) to CATL Canada in connection with the multiple draws convertible promissory note entered into between NAL and CATL Canada dated June 19, 2018 for a principal amount of CAN\$40,000,000, which is secured by a first ranking hypothec (*pari passu* with the Investissement First Secured Debt).

“**CCAA**” means the *Companies' Creditors Arrangement Act* (Canada).

“**CCAA Proceedings**” means the proceedings under the CCAA commenced by the Initial Order, under Court file no. 500-11-056550-193.

“**Commencement Date**” means no later than 5:00 p.m. (Montreal time) on August 12, 2019 or such later date or time as the Monitor, in accordance with the SISP Procedures, may determine appropriate.

“**Confidentiality Agreement**” means a form of confidentiality agreement satisfactory to the Monitor.

“**Contact List**” has the meaning ascribed to it in subparagraph 4.1(a).

“**Court**” means the Québec Superior Court (Commercial Division) in the District of Montréal.

“**Data Room**” has the meaning ascribed to it in subparagraph 4.1(e).

“**Definitive Investment Agreement**” has the meaning ascribed to it in subparagraph 7.3(a).

“**Deposit**” has the meaning ascribed to it in subparagraph 7.2(j).

“**Implementation Date**” has the meaning ascribed to it in paragraph 1.7.

“**Initial Order**” means the initial order dated May 28, 2019 (as it may be amended, restated or supplemented from time to time) granting protection to NAL pursuant to the CCAA.

“**Investissement Québec First Secured Debt**” means the loan agreement entered into between NAL and Investissement Québec dated June 9, 2016 for a principal amount of CAN\$36,000,000, which is secured by a first ranking hypothec (*pari passu* with the CATL Canada Secured Debt).

“**Investissement Québec Second Secured Debt**”) means the CAN\$63,000,000 debt assumed by NAL on June 7, 2016, which is secured by a second rank hypothec.

“**Investissement Québec Secured Claims Amount**” means the aggregate amount owing (whether for principal, interest, fees and recoverable expenses) in connection with the Investissement Québec First Secured Debt and the Investissement Québec Second Secured Debt.

“**Investment Proposal**” means an offer for a broad range of executable transaction alternatives (restructuring, recapitalization and/or refinancing) involving an investment in NAL.

“**Investment Proposal Bid Criteria**” has the meaning ascribed to it in paragraph 9.2.

“**Minimum Overbid Increments**” has the meaning ascribed to it in subparagraph 10.2(g)(i).

“**Monitor**” means Raymond Chabot Inc., the Court-appointed monitor of NAL pursuant to the Initial Order.

“**NAL**” has the meaning described thereto in Recital A.

“**Opening Bid**” has the meaning ascribed to it in subparagraph 10.2(e).

“**Overbid**” has the meaning ascribed to it in subparagraph 10.2(g).

“**Plan**” has the meaning described thereto in Recital E.

“**Property**” has the meaning ascribed to it in Recital D.

“**Proposal**” means any Sale Proposal or Investment Proposal.

“**Prospective Bidders**” has the meaning ascribed to it in subparagraph 4.1(a).

“**Purchase Price**” has the meaning ascribed to it in subparagraph 7.2(b).

**“Qualified Bids”** means Qualified Purchase Bids and Qualified Investment Bids, each a Qualified Bid.

**“Qualified Bidder”** has the meaning ascribed to it in paragraph 5.2.

**“Qualified Investment Bid”** has the meaning ascribed to it in paragraph 7.3.

**“Qualified Purchase Bid”** has the meaning ascribed to it in paragraph 7.2.

**“Sale Proposal”** means an offer to acquire all or substantially all of the Property.

**“Sale Proposal Bid Criteria”** has the meaning ascribed to it in paragraph 9.1

**“Service List”** means the service list in these CCAA Proceedings as posted on the Monitor’s website.

**“SISP”** has the meaning ascribed to it in Recital C.

**“SISP Approval Order”** means the order of the Court dated July 15, 2019, approving the terms of the SISP.

**“SISP Procedures”** has the meaning ascribed to it in Recital C.

**“Successful Bid”** has the meaning ascribed to it in paragraph 9.5.

**“Successful Bidder”** means the Qualified Bidder making the Successful Bid.

**“Target Closing Date”** means October 14, 2019 or such later date or time as the Monitor, in accordance with the SISP Procedures, may determine appropriate.

**“Teaser Letter”** has the meaning ascribed to it in subparagraph 4.1(d).

**“Written Acknowledgement”** has the meaning ascribed to it in subparagraph 4.1(f).

**“Template APA”** has the meaning ascribed to it in subparagraph 4.1(h).