

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY & INSOLVENCY)**  
**[COMMERCIAL LIST]**

*MAF*  
THE HONOURABLE *MR.* ) FRIDAY, THE 8<sup>th</sup> DAY  
)  
JUSTICE *PENNY* ) OF MARCH, 2019



IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A  
PROPOSAL OF SYNERGY STAMPING INC. AND 1696306 ONTARIO INC.,  
OF THE CITY OF MISSISSAUGA, IN THE PROVINCE OF ONTARIO

**ORDER**  
**(Re: Extensions, Sale Process, etc.)**

**THIS MOTION**, made by Synergy Stamping Inc. and 1696306 Ontario Inc. (collectively, the “**Companies**”) pursuant to Sections 50.4(9) and 64.2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) for an order, *inter alia*: (i) approving an extension of the time for the Companies to file a proposal by forty-five (45) days until April 30, 2019; (iii) approving a marketing and sale process; and (ii) granting the Administration Charge (as hereinafter defined), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Saifur Rahman sworn February 28, 2019 (the “**Rahman Affidavit**”) and the exhibits thereto and the First Report of Albert Gelman Inc. in its capacity as

the proposal trustee of the Companies (in such capacity, the "**Proposal Trustee**"), dated March 1, 2019, and the appendices thereto (the "**First Report**"), and on hearing the submissions of counsel for the Companies, the Proposal Trustee, and such other counsel as were present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Sandra Radanovic sworn March 1, 2019, filed,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing 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.

### **EXTENSION**

2. **THIS COURT ORDERS** that the time for the Companies to file proposals under section 50.4 of the BIA is extended by a period of forty-five (45) days to and including April 30, 2019.

### **SALE PROCESS**

3. **THIS COURT ORDERS** that the marketing and sale process as set out in Schedule "A" hereto (the "**Sale Process**") be and is hereby approved.
4. **THIS COURT ORDERS** that the Companies and the Proposal Trustee be and are hereby authorized and empowered to take such steps as are necessary or desirable to carry out and perform their obligations under the Sale Process, provided that any definitive agreement to be executed by the Companies in respect of the sale of all or part of their properties, assets and undertakings shall require further approval of the Court.

11. **THIS COURT ORDERS** that counsel to the Companies, the Proposal Trustee and counsel to the Proposal Trustee shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the assets, undertakings and properties of the Companies (the “**Property**”), which charge shall not exceed an aggregate amount of \$100,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Proposal Trustee and such counsel, both before and after the making of this Order, in respect of these consolidated proceedings. The Administration Charge shall have the priority set out in herein.

12. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge are and shall be valid and enforceable against the Property for all purposes, including, without limitation, as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect the Administration Charge.

13. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and that the Administration Charge shall rank in priority to all other security interests, trusts, liens, charges, mortgages, claims and encumbrances, secured, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any other person.

14. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge, unless the

Companies also obtain the prior written consent of the Proposal Trustee and the beneficiaries of the Administration Charge, or further Order of this Court.

15. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Administration Charge shall create or be deemed to constitute a breach by the Companies of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and
- (c) the payments made by the Companies pursuant to this Order and the granting of the Administration Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

## SERVICE AND NOTICE

16. **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/eservice-commercial/>) 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.albertgelman.com/corporate-solutions/other-engagements/>’.

17. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Companies and the Proposal Trustee are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Companies’ creditors or other interested parties at their respective addresses as last shown on the records of the Companies 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.

18. **THIS COURT ORDERS** that the Companies, the Proposal Trustee, and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be

reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Companies' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

### **SEALING OF CONFIDENTIAL MATERIALS**

19. **THIS COURT ORDERS** that Confidential Appendix "X" and Confidential Appendix "Y" to the Rahman Affidavit shall be sealed until the completion of the Sale Process and any transaction or transactions contemplated thereby or until further order of this Court.

### **GENERAL**

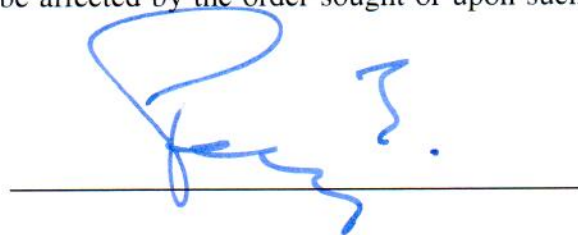
20. **THIS COURT ORDERS** that each of the Companies and the Proposal Trustee may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

21. **THIS COURT ORDERS** that nothing in this Order shall prevent the Proposal Trustee from acting as an interim receiver, a receiver, a receiver and manager, a trustee in bankruptcy or a monitor of the Companies, their business or the Property.

22. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, to give effect to this Order and to assist the Companies, the Proposal Trustee 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 Companies and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding or to assist the Companies, the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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

A handwritten signature in blue ink is positioned above a horizontal line. The signature is stylized and appears to consist of several loops and a trailing flourish.

## SCHEDULE "A"

### SALES PROCESS

#### SYNERGY STAMPING INC. and 1696306 ONTARIO INC.

##### Defined Terms

1. All capitalized terms contained herein but not otherwise defined herein shall have the meanings given to them in the order granted by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on March 8, 2019 (the "**Sales Process Order**") in respect of the proceedings commenced by Synergy Stamping Inc. and 1696306 Ontario Inc. (collectively, the "**Companies**") under the *Bankruptcy and Insolvency Act* (the "**BIA**").

##### Role of the Proposal Trustee

2. The Sales Process will be administered by the Proposal Trustee on behalf of the Companies. The roles and responsibilities of the Proposal Trustee are described in further detail throughout this Sales Process, however, the Proposal Trustee's role in the Sales Process does not include managing, operating, or taking possession or control of any of the Companies' property, assets or undertaking.
3. The Companies and their principals, employees and professional advisors shall cooperate with the Proposal Trustee throughout the Sales Process and provide documents and information requested as part of the Sales Process to the Proposal Trustee in a prompt fashion.

##### Commencement of the Sales Process

4. Within three (3) business days of the date of the Sales Process Order (the "**Commencement Date**"), the Proposal Trustee shall contact parties identified by the Companies who may be interested in purchasing the business and/or assets of the Companies together with any other parties who may be identified by the Companies and Proposal Trustee as potential interested in purchasing the business and/or assets of the Companies (the "**Prospective Participants**") and provide those parties with a copy of the "teaser" document. The teaser document shall contain general details about the opportunity to purchase the assets of the Companies (the "**Opportunity**") as well as some general background information about the Companies.
5. On the Commencement Date, or as soon thereafter as is practical, the Proposal Trustee shall also (a) publish a notice advertising the Opportunity in the Globe & Mail (National Edition) and/or such other trade publications or other publications as the Proposal Trustee may deem appropriate or advisable, and (b) post the Opportunity on its website.

##### Due Diligence

6. Any Prospective Participants who advise the Proposal Trustee of their interest in participating in the Sales Process shall execute a non-disclosure agreement (the "**NDA**") in a form satisfactory to the Proposal Trustee.
7. Commencing on the Commencement Date (and after each respective Prospective Participant has executed the NDA), the Proposal Trustee shall make available to the Prospective Participant the following:

- a) a confidential information memorandum (“**CIM**”) prepared by the Proposal Trustee, with the assistance of the Companies, describing the Sales Process and the Opportunity as well as providing additional background information about the Companies;
- b) a copy of the template asset purchase agreement (the “**Template APA**”); and
- c) access to an electronic data room, to be maintained by the Proposal Trustee, which shall contain information pertaining to the Opportunity along with other corporate financial and other documents as provided by the Companies.

### **Offer Deadline**

8. All offers must be submitted in writing to and received by the Proposal Trustee at 100 Simcoe Street, Suite 125, Toronto, Ontario, M5H 3G2, attention: Tom McElroy, by no later than 5:00 p.m. (Toronto time) on April 9, 2018 (the “**Offer Deadline**”). Each offer must remain open for acceptance until 5:00 pm on April 19, 2018 (the “**Acceptance Date**”).

### **Qualifying Bid**

9. An offer will only be considered in this Sales Process, in which case it shall be considered a “**Qualifying Bid**”, if it is submitted before the Offer Deadline and if it meets the following minimum criteria:
  - a) it is irrevocable until the Acceptance Date;
  - b) it must be accompanied by a deposit in the form of a certified cheque or bank draft payable to the Proposal Trustee “in trust” which is equal to at least ten (10%) percent of the total purchase price payable under the offer;
  - c) it includes evidence, satisfactory to the Proposal Trustee, that the offeror has the financial means to complete the proposed acquisition or investment;
  - d) it includes an acknowledgement that the purchaser has relied solely on its own independent review and investigation and that it has not relied on any representation by the Companies, the Proposal Trustee or their respective agents, employees or advisers;
  - e) the offer must not contain any condition or contingency relating to due diligence or financing or any other material conditions precedent to the offeror’s obligation to complete the transaction; and,
  - f) it must be substantially in the form of the Template APA, with any changes to the offer blacklined against the Template APA.

### **Liquidation Offers**

10. In addition to the foregoing, any offer to liquidate the Companies’ assets shall be deemed to be a Qualifying Bid, notwithstanding any variation from the criteria set out above, provided such offer:
  - a) clearly stipulates what assets are included and which assets are excluded (if any) from the offer;

- b) is irrevocable until the Acceptance Date;
- c) contemplates a net minimum guarantee payment, payable in full within three (3) business days following court approval of the same (as set out below);
- d) includes an acknowledgement that the purchase and sale of the Companies' assets shall be an "as is, where is" basis; and
- e) provides for a deposit in an amount equal to 10% of the net minimum guarantee, payable immediately upon acceptance of such offer as the Winning Bid (as defined below), and includes evidence that the offeror has the financial means to complete the proposed acquisition or the Proposal Trustee is otherwise satisfied to such effect.

### Consideration of Qualifying Bids

11. The Proposal Trustee shall review all offers submitted under the Sales Process and first determine whether any of the bidders are Related Persons (as that term is defined under section 4(2) of the BIA) and:
  - a) if none of the offers are made by parties that are Related Persons, then the determination of whether an offer is a Qualifying Bid shall be made jointly by the Companies and the Proposal Trustee; and,
  - b) if offers are made by one or more Related Persons, then the Proposal Trustee shall, in its sole discretion, determine what offers, if any, represent a Qualifying Bid.
12. Each Qualifying Bid shall be considered and, if necessary, there may be further discussions with some or all of the parties who have submitted a Qualifying Bid with a view to clarifying terms. The Companies shall participate in these discussions provided that a Related Person has not submitted a Qualifying Bid.
13. If the Proposal Trustee deems it advisable, the Proposal Trustee may enter into further negotiations with any party who submitted a Qualifying Bid and/or invite any such party to submit a final offer, which shall meet the criteria for a Qualifying Bid (each a "**Final Offer**") by 5:00 p.m. (Toronto time) on the third business day after being invited by the Proposal Trustee to submit a Final Offer. In the event that the Proposal Trustee does not invoke this Paragraph 13 to seek Final Offers, all Qualifying Bids received shall be deemed to be Final Offers.

### Selection of the Winning Bid

14. Following the receipt of Final Offers, the Proposal Trustee shall determine the highest and best offer received and shall convey its decision to the Companies at that time, together with its recommendation as to the same. Upon receipt of such recommendation, the Companies shall, within twenty-four (24) hours determine whether it will accept such highest and best offer (if so accepted, the "**Winning Bid**") and, if so accepted, upon acceptance of the Winning Bid, there shall be a binding agreement of purchase and sale (the "**Final APA**") between the winning bidder (the "**Winning Bidder**") and the Companies, in accordance with the terms of the Winning Bid.
15. Notwithstanding anything to the contrary herein, it is open to the Proposal Trustee to recommend to the Companies against accepting any Qualifying Bid and it is open to the Companies, in

consultation with the Proposal Trustee, to elect not to accept any of the Qualifying Bids, whether before or after the negotiation of the same or the receipt of any Final Offers.

#### **Court Approval**

16. As applicable, as soon as practicable after the acceptance of the Winning Bid, the Companies will apply to the Court for approval of the transaction contemplated in the Final APA (the “**Approval Motion**”) and an approval and vesting order in respect of same.
17. As applicable, the Proposal Trustee shall serve and file a report with respect to the Sales Process and Final APA in advance of the Approval Motion.

#### **Other Terms**

18. All deposits received (except such deposit forming part of the Winning Bid) shall be held by the Proposal Trustee “in trust” until the acceptance of the Winning Bid. All deposits submitted by Prospective Participants who did not submit the Winning Bid shall be returned, without interest, following acceptance of the Winning Bid. The deposit forming part of the Winning Bid shall be dealt with in accordance with the Final APA.
19. In the event that a Deposit is forfeited for any reason it shall be forfeited as liquidated damages and not as a penalty.
20. All Qualifying Bids (other than the Winning Bid) shall be deemed rejected on the date of the approval of the Final APA by the Court.
21. Subject to the Sales Process Order or other order of the Court, the Companies, in consultation with the Proposal Trustee, shall have the right to adopt such other rules for, or extend any deadlines in, the Sales Process that, at its sole discretion, will better promote the goals of the Sales Process.

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE  
A PROPOSAL OF SYNERGY STAMPING INC. AND 1696306  
ONTARIO INC., OF THE CITY OF MISSISSAUGA, IN THE  
PROVINCE OF ONTARIO**

Court File Nos. 32-2474822 and 32-2474820  
Estate File Nos. 32-2474822 and 32-2474820

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY & INSOLVENCY)  
[COMMERCIAL LIST]**

**Proceedings commenced at Toronto**

**ORDER**

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