

November , 2017

CONFIDENTIAL

Crowe Soberman Inc., solely in its capacity as Proposal Trustee of 1482241 Ontario Limited

2 St. Clair Avenue East, Suite 1100
Toronto, Ontario
Canada
M4T 2T5

Attention: Hans Rizarri

Re: Crowe Soberman Inc. solely in its capacity as Proposal Trustee (in such capacity, the “Trustee”) of 1482241 Ontario Limited (the “Corporation”) - Proposed purchase of assets of the Corporation (the “Proposed Transaction”)

We, the undersigned, have requested that the Trustee provide us (the “**Interested Party**”) with the Confidential Information (defined below) to assist in determining for ourselves the desirability and feasibility of proceeding with the Proposed Transaction pursuant and subject to the terms and conditions set by the Trustee (the “**Permitted Purpose**”).

It is acknowledged that but for delivery of this letter the Trustee would not provide the Interested Party such Confidential Information, and that any such Confidential Information provided by the Trustee to the Interested Party will only be provided subject to the provisions of this letter.

For the purposes of this letter:

- (a) **“Confidential Information”** shall include all communications, whether written or oral, of any kind whatsoever, between our Representatives (defined below) and one or more of the Corporation, the Trustee and their respective Representatives concerning the Corporation or any of its assets or affiliates, or any or all intellectual property, trade secrets, data, reports, interpretations, forecasts, analyses, customer and supplier information, studies, appraisals, agreements or other materials prepared or acquired by us or our Representatives. Confidential Information, however, will not include information which: (i) is already in our possession at the time of receiving same from the Corporation, the Trustee and/or their respective Representatives as evidenced by documentation to that effect; or (ii) is or

may be published or become available within the public domain, provided that disclosure in the public domain was not as a result of a breach of this agreement by us or our Representatives;

- (b) **“Corporation”** shall include and extend to each subsidiary of the Corporation, each partnership controlled by the Corporation or their respective subsidiaries, each of whom shall be entitled to directly enforce the provisions of this letter against the Interested Party notwithstanding that this letter is not directly addressed to or required to be accepted by any one or more of such subsidiaries and partnerships;
- (c) **“person”** shall be broadly interpreted to include, without limitation, any individual, corporation, limited liability corporation, company, group, partnership, limited liability partnership or other entity; and
- (d) **“Representatives”** means, collectively, each of the directors, officers, employees, agents and other representatives of the Interested Party, the Corporation and the Trustee including, without limitation, their respective lawyers, accountants, consultants and financial advisors.

At the request of the Trustee and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the Interested Party covenants and agrees with the Corporation and the Trustee as follows:

1. **Deemed Confidential Property:** As between the Interested Party and its Representatives, on the one hand, and the Corporation and the Trustee and their respective Representatives, on the other hand, the Confidential Information, and every part thereof, is and shall at all times be deemed to be the confidential property and constitute valuable trade secrets of the Corporation, whether or not, but for this paragraph, the same would otherwise be considered confidential and/or trade secrets and whether or not it is marked or otherwise expressed on its face to be confidential.
2. **Ownership:** The Confidential Information is and shall be deemed to be owned solely by the Corporation and the right to maintain confidential the Confidential Information constitutes an exclusive proprietary right of the Corporation which it is entitled to protect. The Interested Party does not and shall be deemed not to have any right to or proprietary interest in the Confidential Information. All the Confidential Information which is disclosed to or otherwise comes into the possession or under the control of the Interested Party shall, subject to paragraph 5 below, be received and held by the Interested Party in trust solely for the Corporation notwithstanding the Interested Party’s right to use it for the Permitted Purpose.

3. **Permitted Use:** The Confidential Information shall only be used directly by the Interested Party and its Representatives for the Permitted Purpose. Except as otherwise provided for herein, the Confidential Information will be kept strictly confidential by the Interested Party, whether or not such Confidential Information is marked or otherwise expressed on its face to be confidential. Other than as permitted herein, the Interested Party will not, directly or indirectly, without the prior written consent of the Trustee (which consent may be arbitrarily withheld) disclose, publish, reproduce or otherwise disseminate or communicate the Confidential Information, nor will it permit, cause or acquiesce in such disclosure or other dissemination or communication of the Confidential Information by the Representatives of the Interested Party or by any other person, all in any manner whatsoever, in whole or in part.

The Interested Party agrees to restrict the disclosure, dissemination or other communication of the Confidential Information solely to such of the Interested Party's Representatives who need to know the Confidential Information for the Permitted Purpose and who are informed in writing by the Interested Party of the ownership and strict confidential nature of the Confidential Information and who agree in writing with the Interested Party to be bound by the terms of this letter.

4. **Disclosure List & Responsibility for Representatives:** The Interested Party shall maintain a current listing of each of its Representatives to whom any of the Confidential Information has been disclosed or otherwise disseminated or communicated and on each and every request of the Corporation or the Trustee, the Interested Party shall without delay deliver to the Trustee a complete and accurate copy of such list. The Interested Party shall similarly deliver on such request from the Corporation or the Trustee the business address and telephone number of any or all persons set out on the said list.

The Interested Party shall be responsible and liable to the Corporation and the Trustee for any and all acts or omissions of each of its Representatives which if done or omitted directly by the Interested Party would be a breach of the provisions of this letter.

The Interested Party shall safeguard the Confidential Information from disclosure or other dissemination or communication to any person other than as expressly permitted herein.

5. **Exceptions to Prohibited Use:** The obligations and limitations imposed on the Interested Party and its Representatives hereunder shall not apply to any Confidential Information:

- (a) which is or becomes generally available to the public other than as a result of its disclosure or other dissemination or communication by the Interested Party or its Representatives; or
- (b) which becomes available to the Interested Party or its Representatives on a non-confidential basis from a source other than the Corporation or its Representatives, provided that such source is not then bound by a confidentiality agreement with the Corporation or otherwise prohibited from transmitting the Confidential Information to the Interested Party or its Representatives by contractual, legal or fiduciary obligation.

In addition, the obligations and restrictions imposed on the Interested Party and its Representatives hereunder shall not extend to prohibit the Interested Party from discussing the Proposed Transaction with and disclosing any of the Confidential Information to:

- (c) any other person who has signed a confidentiality agreement with the Trustee in substantially the form of the agreement constituted by this letter; and
- (d) any governmental or regulatory body in Canada having jurisdiction over the operations of the Corporation or any part thereof or over the Interested Party in connection with its participation in the Proposed Transaction, provided that the disclosure, dissemination or other communication of any of the Confidential Information to such governmental or regulatory body is made on a confidential basis and such confidential basis is either provided for by applicable law or recognized in writing by the relevant body.

Notwithstanding the foregoing provisions of this paragraph 5, in the event that the Interested Party or any of its Representatives is required by law or governmental action to disclose any of the Confidential Information, the Interested Party and/or its Representatives will deliver to the Trustee prompt prior notification of such requirement(s) so that the Corporation or the Trustee may seek an appropriate protective order and/or waive compliance by the Interested Party or its Representatives with the provisions of this letter. If, failing the obtaining of a protective order or the delivery of such a waiver, the Interested Party is, in the written opinion of its legal counsel, compelled to disclose, disseminate or otherwise communicate the Confidential Information, the Interested Party may disclose, disseminate, or otherwise communicate the Confidential Information, but only to the extent so compelled, without liability hereunder.

6. **Return of Information:** The Interested Party shall, on receipt of the written request of the Trustee, promptly deliver to the Trustee all the Confidential Information which is in recorded form (whether such form be in writing or in

electronically retrievable form or electronically stored data or otherwise) and each of the Interested Party and its Representatives shall not retain any copies thereof.

7. **No Liability for Information:** At the time(s) any of the Confidential Information is delivered to the Interested Party, the Trustee will attempt to include in such Confidential Information such materials which the Trustee considers to be reliable and relevant for the Permitted Purpose; however, the Trustee shall not have or incur any, and the Interested Party hereby waives any right to claim any, liability to the Interested Party or its Representatives in connection with or arising from the Confidential Information and the use thereof by the Interested Party or its Representatives.

The Interested Party acknowledges and agrees for itself and its Representatives that neither the Trustee nor any of its Representatives in providing the Confidential Information has or will be taken to have made either expressly or impliedly any representations or warranties as to the accuracy or completeness of the Confidential Information and the Interested Party confirms that it is not relying on any representations or warranties of the Corporation, the Trustee or any of their respective Representatives in making use of the Confidential Information.

8. **Indemnity:** The Interested Party hereby unconditionally indemnifies and shall forever save harmless each of the Corporation, the Trustee and their respective Representatives from and against any and all losses, damages, liabilities (whether actual, contingent or otherwise), proceedings, costs and expenses including, without limitation, any and all legal fees, which any of the Corporation, the Trustee or their respective Representatives may suffer, incur or sustain in connection with or as a result of a breach by the Interested Party or any of its Representatives of any of the provisions contained in this letter.

All of the provisions contained herein are reasonable in the circumstances and valid and the Interested Party hereby waives all defences, rights of set off, equities and rights to and against the strict enforcement thereof by each of the Corporation, the Trustee and each of their respective Representatives.

9. **Continuity of Agreement:** The prohibitions, limitations and obligations of the Interested Party herein contained shall continue in full force and effect notwithstanding the Interested Party ceasing to consider or proceed with the Proposed Transaction and will survive any termination or cancellation of its involvement, if any, in the Proposed Transaction.

10. **Use of Information Post Involvement:** The Interested Party shall not, at any time after it ceases to consider or proceed with or be involved in the Proposed Transaction and except as otherwise expressly provided for herein: (i) use any of the Confidential Information in furtherance of the business of the Interested Party

or the business of any other person; (ii) interfere in any way with any contractual or other business relationship of the Corporation; or (iii) disclose, disseminate or otherwise communicate the Confidential Information or any part thereof to any person or utilize the Confidential Information in any way which is adverse to the Corporation.

11. **Right to Enjoin:** It is acknowledged that the provisions of this letter are essential for the protection of the Corporation, the Trustee and their respective Representatives and, in the event of the non-performance by the Interested Party or any of its Representatives of any provisions hereof in strict accordance with their specific terms or any breach by the Interested Party or any of its Representatives of any provisions of this letter, the same would cause immediate and irreparable harm and damage to the Corporation, the Trustee and their respective Representatives for which monetary relief would be inadequate or impossible to ascertain. The Interested Party agrees that upon any breach or threatened breach of the provisions hereof, the Corporation and the Trustee shall be entitled to obtain from any court of competent jurisdiction, interim and permanent injunctive relief or other appropriate form of equitable relief to effectively enforce the provisions hereof, and an accounting of all profits and benefits which may have been or which may be derived both directly or indirectly, as a direct or indirect result of such breach by the Interested Party or any of its Representatives who have committed or who have threatened to commit such breach, which rights and remedies shall be cumulative and in addition to any other rights or remedies to which the Corporation, the Trustee and their respective Representatives may be entitled.

No failure or delay by the Trustee in exercising or taking steps to enforce any of its rights or entitlements under the provisions of this letter shall operate as a waiver thereof, unless such waiver is in writing and signed by the Trustee, nor shall any single or partial exercise thereof preclude any other or future exercise of any other right or entitlement of the Corporation hereunder.

12. **Notices:** Any notice desired, contemplated or required by this letter to be given shall be delivered by hand or facsimile to:

(a) the Trustee at:

**Crowe Soberman Inc., solely in its capacity as Proposal Trustee
of 1482241 Ontario Limited**

2 St. Clair Avenue East, Suite 1100, Toronto, ON
M4T 2T5

Attention: Graeme Hamilton
Telephone No. 416.963.7140
Email graeme.hamilton@crowesoberman.com

(b) with a copy to:

Aird & Berlis LLP
Brookfield Place
181 Bay St, Suite 1800, Toronto, ON
M5J 2T9
Attention: Miranda Spence
Telephone No. 416.865.3414
Email mspence@airdberlis.com

(c) the Interested Party at:

Attention:
Telephone No.
Email

13. **Applicable Law and Capacity:** The provisions of this letter shall be governed by and construed and enforced exclusively in accordance with the laws of Ontario and the federal laws of Canada applicable therein. The Interested Party further acknowledges that the Trustee is acting solely in its capacity as the proposal trustee of the Corporation and shall have no personal or corporate liability under this agreement.

Yours very truly,

[NAME OF INTERESTED PARTY]

Per: _____
Name: _____
Title: _____

I have authority to bind the corporation