



District of British Columbia
Division No.: 03-Vancouver
Court No.: B-240300
Estate No.: 11-3089419
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF CLOUD DIAGNOSTICS CANADA ULC

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
JUSTICE SHARMA) 21/JUN/2024

THE APPLICATION of Cloud Diagnostics Canada ULC ("Cloud DX"), coming on for hearing at Vancouver, British Columbia, on the 21 day of June, 2024; AND ON HEARING Thomas W. Deneka, counsel for Cloud DX and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed AND PURSUANT TO the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 as amended (the "BIA") and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the notice of application for this Order is hereby abridged and deemed good and sufficient such that this application is properly returnable today.
2. Capitalized terms used in this Order and not otherwise defined have the meaning set out in the sale and investment solicitation process (the "SISP") attached as Schedule "B".
3. The SISP, in substantially the form attached as Schedule B is approved.




4. The Proposal Trustee and Cloud DX (including its professional advisors, employees and contractors) are authorised and directed to:
 - a) carry out the SISP in accordance with its terms and this Order; and
 - b) take such steps as they consider necessary or desirable in carrying out each of their obligations under the SISP and this Order.
5. Cloud DX or the Proposal Trustee may, from time to time, apply to this Court for advice and directions in the discharge of their powers and duties under the SISP.
6. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to Cloud DX and the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist Cloud DX or the Proposal Trustee, or their representatives, in carrying out the terms of this Order.
7. Cloud DX and the Proposal Trustee are each at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order.
8. Each of Cloud DX and the Proposal Trustee and their respective affiliates, partners, directors, employees, advisors, agents, shareholders and controlling persons shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the SISP or the conduct thereof, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP.
9. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal*

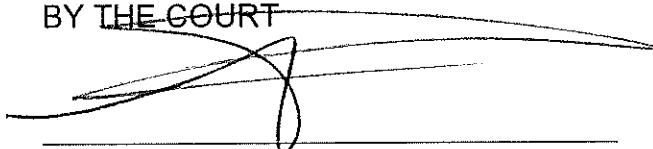
Information Protection Act, S.B.C. 2003, c. 63, and any regulations promulgated under the authority of either Act, Cloud DX and the Proposal Trustee may disclose personal information of identifiable individuals to Potential Bidders and their advisors in connection with the SISP, but only to the extent desirable or required to carry out the SISP. Each Potential Bidder and their respective advisors to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction in respect of Cloud DX and the Property or the Business and if it does not complete such a transaction, shall return all such information to Cloud DX, or in the alternative destroy all such information. The successful bidder(s) shall be entitled to continue to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by Cloud DX, and shall return all other personal information to Cloud DX, or ensure that all other personal information is destroyed.

10. Endorsement of this Order by counsel appearing on this application, except for counsel to Cloud DX, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of
 Party Lawyer for the applicant

BY THE COURT


REGISTRAR

Schedule A – List of Counsel

Christine Matthews
Aminollah Sabzevari

Stewart Thom

Schedule B

SALES AND INVESTMENT SOLICITATION PROCESS

CLOUD DX

INTRODUCTION

1. On June 5, 2024, Cloud Diagnostics Canada ULC ("Cloud DX") filed a notice of intention to make a proposal to its creditors (the "NOI") under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "BIA"). Cloud DX's proceedings under the BIA are referred to herein as the "BIA Proceedings". The BIA Proceedings will be supervised by the Supreme Court of British Columbia In Bankruptcy and Insolvency (the "Court").
2. Crowe Mackay & Company Ltd. is the proposal trustee with respect to the NOI and the BIA Proceedings (in such capacity, the "Proposal Trustee").
3. On June _____, 2024, Cloud DX applied to the Court for an Order (the "SISP Order"), among other things, approving the sale and investment solicitation process set out herein (the "SISP"). Capitalized terms used and not otherwise defined in this SISP are as defined in the SISP Order.
4. The Proposal Trustee will market the Opportunity (as defined below) by developing a list of Known Potential Bidders (as defined below), communicating and meeting with interested parties, preparing and distributing marketing materials and managing the Data Room (defined below).

SISP OVERVIEW

5. The purpose of the SISP is to solicit interest in, and opportunities for, one or more or any combination of (a) a restructuring, recapitalization or other form of reorganization of the business and affairs of Cloud DX as a going concern, or (b) a sale of all, or substantially all, of Cloud DX's assets (the "Property") and/or business operations of Cloud DX (the "Business") as a going concern or otherwise (the "Opportunity").
6. The SISP describes the manner in which individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures, governmental organizations or other entities (each, a "Person") may gain access to or continue to have access to due diligence materials concerning Cloud DX, the Property, and the Business, how bids involving Cloud DX, the Property or the Business will be submitted to and dealt with by the Proposal Trustee, and how Court approval will be obtained in respect of any Transaction (as defined below).

7. As described below, the various deadlines herein may be extended by and at the discretion of the Proposal Trustee in consultation with Cloud DX. The Proposal Trustee will consider extending the various deadlines herein in the event that the Proposal Trustee determines, in its sole discretion, that such an extension will generally benefit Cloud DX's creditors and other stakeholders. The Proposal Trustee shall generally conduct and oversee the SISP. In the event that there is disagreement as to the interpretation or application of the SISP, the Court will have jurisdiction to hear and resolve such dispute.
8. The Proposal Trustee may provide information regarding the status and bids generated in the SISP to the secured creditors of Cloud DX, listed in the first Affidavit of Robert Kaul sworn in these proceedings (together, the "Secured Creditors"), provided such Secured Creditors, or any one of them, enter into a Confidentiality Agreement in a form approved by the Proposal Trustee, and agree that they shall not, directly or indirectly, participate as a bidder in this SISP (such Secured Creditors to constitute Qualified Secured Creditors). The Proposal Trustee shall determine, in its sole discretion, the manner and form of information to be provided to the Secured Creditors (or any one of them), pursuant to this SISP. In the event one or more Secured Creditor does not provide its agreement as aforesaid, the Proposal Trustee shall not provide any information or consultation rights to such Secured Creditor.
9. Any transaction involving Cloud DX, the Property or the Business (in each case, a "Transaction") will be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Proposal Trustee, Cloud DX, or any of their respective agents, estates, advisors, professionals or otherwise, except to the extent expressly set forth in the relevant Final Agreement (as defined in this SISP).
10. The key dates pursuant to the SISP are as follows (capitalized terms in the chart below have the meaning ascribed in this SISP):

Event	Date
Cloud DX's Application to the Court for Approval of the SISP	June _____, 2024
The Proposal Trustee to create list of Known Potential Bidders and distribute Teaser Letter and Confidentiality Agreements to Known Potential Bidders	As soon as practical and no later than June 25, 2024
The Proposal Trustee to prepare and have available for Potential Bidders the Data Room	As soon as practical and no later than June 28, 2024

Event	Date
Bid Deadline	July 26, 2024
Cloud DX's Application to the Court for Approval Order(s)	As soon as reasonably practical after accepting the Winning Bid(s) and entering into the Bid Agreement(s)
Closing of the Transaction	Within ten (10) days of the Approval Order becoming the Final Order, subject to any extensions approved by the Proposal Trustee

THE SISP PROCESS

A. Initial Solicitation of Interest

11. Cloud DX and the Proposal Trustee may contact any Persons to solicit expressions of interest in a Transaction either before or after the granting of the SISP Order.
12. As soon as reasonably practicable and in any event by no later than June 24, 2024 in consultation with Cloud DX and any Qualified Secured Creditors, the Proposal Trustee will prepare a list of potential bidders (the "Known Potential Bidders") who may have interest in a Transaction. Such list shall include both strategic and financial parties who may be interested in acquiring an interest in: (a) Cloud DX's assets pursuant to an asset purchase transaction (an "Asset Bid"); or (b) a restructuring of the debt, share or capital structure of Cloud DX (a "Restructuring Bid"). Concurrently, the Proposal Trustee will prepare an initial offering summary (the "Teaser Letter") notifying Known Potential Bidders of the SISP and inviting the Known Potential Bidders to express interest in making an Asset Bid or Restructuring Bid (each, a "Bid").
13. By no later than June 25, 2024, the Proposal Trustee shall distribute to the Known Potential Bidders and any other interested Persons the Teaser Letter, as well as a draft form of confidentiality agreement (the "Confidentiality Agreement") that shall, inure to the benefit of the Person or Persons who make the Winning Bid (as defined in this SISP) pursuant to this SISP. Copies of the Teaser Letter and Confidentiality Agreement shall also be provided to any appropriate Person who becomes known to Cloud DX or the Proposal Trustee after the initial distribution of such documents.
14. Any Person who wishes to be deemed a potential bidder (each, a "Potential Bidder") shall execute a Confidentiality Agreement and provide a copy of same to the Proposal Trustee. In consultation with Cloud DX and any Qualified Secured

Creditors, the Proposal Trustee shall in its sole discretion, determine whether such Person shall be permitted to become a Potential Bidder, based on: (a) the identity of the Person, including its direct and indirect principals; (b) the Person's financial capabilities and technical expertise to conclude a Transaction; (c) the Person executing the Confidentiality Agreement; and (d) any other criteria the Proposal Trustee considers to be relevant.

B. Due Diligence

15. Any Person whom the Proposal Trustee deems to be a Potential Bidder shall, upon executing a Confidentiality Agreement, receive a SISP bid package (the "Bid Package"), prepared by the Proposal Trustee describing the opportunity.
16. Immediately following delivery of the Bid Package, the Proposal Trustee shall provide each Potential Bidder with information, including access to an electronic data room established by the Proposal Trustee the "Data Room"), that the Proposal Trustee and Cloud DX in their reasonable business judgment determine to be necessary for the Potential Bidder to evaluate a transaction involving a Bid. The Data Room will include, among other things, a form of asset purchase agreement ("APA") and share purchase agreement ("SPA") for use by Potential Bidders who wish to submit a Bid.
17. Cloud DX and the Proposal Trustee shall coordinate all reasonable requests for additional information and due diligence access, including meetings with Cloud DX's management, from Potential Bidders.
18. Neither Cloud DX nor the Proposal Trustee will be obliged to furnish any information relating to the Property or the Business other than to a Potential Bidder. However, any information provided to one Potential Bidder shall be posted in the Data Room so that it is available to all Potential Bidders participating in the SISP.
19. The Proposal Trustee and Cloud DX and their respective advisors make no representation or warranty as to the information contained in the Bid Package or otherwise made available pursuant to the SISP, including any information contained in the Data Room.

C. Bid Process

20. Any Potential Bidder who wishes to submit a Bid, must deliver a written, non-binding letter of intent (each an "LOI"), to the Proposal Trustee at the address specified in, and in accordance with Schedule "A" attached hereto; so as to be received by the Proposal Trustee no later than 5:00 p.m. (Pacific time) on July 26, 2024 or such later time and date as the Proposal Trustee and Cloud DX may determine, in consultation with any Qualified Secured Creditors (the "Bid Deadline"). Each such Potential Bidder who so submits an LOI shall be deemed a "Bidder".
21. The LOIs received by the Proposal Trustee shall be reviewed by the Proposal Trustee, in consultation with Cloud DX and any Qualified Secured Creditors.

22. Any LOI submitted by a Bidder must include:

- a. A copy of the APA or SPA, as applicable, based on the template provided by the Proposal Trustee in the Data Room (the "Bid Agreement"), that includes the proposed purchase price in Canadian Dollars (the "Purchase Price"). The LOI must also include a copy of a blackline comparison between the Bid Agreement compared to the template provided in the Data Room. Failure to include such blackline comparison may result in the Proposal Trustee's refusal to consider the Bid;
- b. 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 Proposal Trustee to allow the Proposal Trustee in consultation with Cloud DX to make a reasonable determination as to the bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Bid;
- c. A deposit in the amount of 10% of the Purchase Price, payable to "Crowe Mackay & Company Ltd.- in trust" (the "Deposit") by way of bank draft or certified cheque. If the consideration contemplated is primarily by way of Credit Bid (defined below), the Deposit payable shall be calculated based on 10% of the total consideration payable under the bid;
- d. A statement by the Potential Bidder that the Bid is not subject to any conditions other than approval by the Court.

23. In addition, the LOI must:

- a. include a letter stating that the Bid is irrevocable until the earlier of (i) the approval by the Court, and (ii) forty five (45) days following the Final Bid Deadline; provided, however, that if such Asset Bid is selected as the Winning Bid or the Backup Bid, it shall remain irrevocable until the closing of the transactions contemplated by the Winning Bid or the Backup Bid, as the case may be;
- b. not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
- c. fully disclose the identity of each Person that is bidding or otherwise that will be sponsoring or participating in the Bid, including the identification of the bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- d. contain any other information requested by the Proposal Trustee or Cloud DX; and
- e. be received by no later than the Bid Deadline.

24. The Proposal Trustee and Cloud DX may consider any Bid on behalf of a secured creditor of Cloud DX that is not a Qualified Secured Creditor, in which all or a portion of the consideration being offered includes the compromise of indebtedness owing from Cloud DX to that secured creditor (a "Credit Bid").

D. Selection of Winning Bid

25. The Proposal Trustee, in consultation with Cloud DX shall review all Bids in consultation with any Qualified Secured Creditors. Subject to the approval of the Proposal Trustee, the Proposal Trustee may, but shall have no obligation to, enter into a definitive agreement or Bid Agreement with the Person or Persons who submitted the highest, best or otherwise most favourable Bid(s). Further, the Proposal Trustee in consultation with Cloud DX and any Qualified Secured Creditors, may waive strict compliance with one or more of the requirements specified above and deem any Bid(s) to be a Winning Bid (defined below).
26. In the event that the Proposal Trustee enters into one or more Bid Agreements with the approval of Cloud DX and in consultation with any Qualified Secured Creditors, any Bid so selected shall be a "Winning Bid" and the next highest, best or otherwise most favourable Bid received, as determined by the Proposal Trustee, with the approval of Cloud DX, shall be the "Backup Bid". Any Potential Bidder that makes a Winning Bid shall be a "Successful Bidder" and any Potential Bidder that makes a Backup Bid shall be a "Backup Bidder".
27. The Proposal Trustee will notify each Successful Bidder and Backup Bidder of the Final Agreement and the Backup Bid shall remain open until the consummation of the transaction contemplated by the Winning Bid (and, for greater certainty, the Proposal Trustee shall be entitled to continue to hold the Deposit in respect of the Backup Bid until such time as the transaction contemplated by the Winning Bid is consummated).
28. This SISP shall terminate, in the event that: (a) no Bidder submits or is deemed to have submitted a Bid; or (b) the Proposal Trustee, with the approval of Cloud DX and in consultation with any Qualified Secured Creditors, determines that none of the Bids should be accepted.
29. The highest Bid may not necessarily be accepted by the Proposal Trustee. The Proposal Trustee, with the approval of Cloud DX in consultation with any Qualified Secured Creditors, reserves the right not to accept any Bid or to otherwise terminate the SISP. The Proposal Trustee, with the approval of Cloud DX, in consultation with any Qualified Secured Creditors, further reserves the right to deal with one or more Bidders to the exclusion of others, to accept a Bid or Bids for some or all of the Property, Cloud DX or the Business, to accept multiple Bids or enter into multiple Bid Agreements.

E. Approval Orders

30. In the event that the Proposal Trustee enters into a Bid Agreement or Agreements, the Proposal Trustee and/or Cloud DX shall apply as soon as reasonably practicable thereafter, for orders (the "Approval Orders") from the Court, in form and substance satisfactory to the Proposal Trustee, approving the transaction or transactions contemplated by the Winning Bid(s) and any necessary related relief required to consummate the transaction(s) contemplated by the Winning Bid(s), subject to the terms of the Bid Agreement(s).
31. Cloud DX may also concurrently obtain relief approving the transaction contemplated by the Backup Bid and any necessary related relief required to consummate the transaction contemplated by the Backup Bid.
32. An Approval Order shall become a "Final Order" upon satisfaction of the following conditions: (a) it is in full force and effect; (b) it has not been reversed, modified or vacated and is not subject to any stay; and (c) all applicable appeal periods have expired, and any appeals therefrom have been finally disposed of, leaving the Approval Order wholly operable.

F. Closing

33. Closing of the transaction(s) contemplated in any Court approved Bid Agreement shall occur within ten (10) days of the date upon which the Approval Order(s) have become Final Orders, or as may be extended with the approval of the Proposal Trustee, in consultation with Cloud DX and any Qualified Secured Creditors.

G. Deposits

34. All Deposits paid pursuant to this SISF shall be held in trust by the Proposal Trustee in a non-interest bearing account, who shall hold Deposits paid by each of the Successful Bidder and the Backup Bidder in accordance with the terms outlined in this SISF. In the event that a Deposit is paid pursuant to this SISF and the Proposal Trustee elects not to proceed to negotiate and settle the terms and conditions of a definitive agreement with the Person that paid such Deposit, the Proposal Trustee shall return the Deposit to that Person as soon as reasonably practicable thereafter.
35. In the event that either of the Successful Bidder or the Backup Bidder default in the payment or performance of any obligations owed to the Proposal Trustee pursuant to any Final Agreement, the Deposit paid by the Successful Bidder or the Backup Bidder, as applicable, shall be forfeited by such party as liquidated damages and not as a penalty.

District of British Columbia
Division No. _____
Court No. _____
Estate No. _____
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IN THE SUPREME COURT OF BRITISH COLUMBIA
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IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF CLOUD
DIAGNOSTICS CANADA ULC

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