

**RICHTER**

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Court File No.: \_\_\_\_\_

**ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.**

**REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS PROPOSED MONITOR**

**August 10, 2018**

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## APPENDICES

### **APPENDIX "A" – CASH FLOW FORECAST**

Court File No.: \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
ARALEZ PHARMACEUTICALS INC., AND ARALEZ PHARMACEUTICALS CANADA INC.**

**REPORT OF THE PROPOSED MONITOR  
RICHTER ADVISORY GROUP INC.**

**AUGUST 10, 2018**

## I. INTRODUCTION

1. Richter Advisory Group Inc. (“**Richter**” or the “**Proposed Monitor**”) understands that Aralez Pharmaceuticals Inc. (“**API**”) and Aralez Pharmaceuticals Canada Inc. (“**Aralez Canada**” and together with API, the “**Applicants**”) will make an application (the “**CCAA Application**”) before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) returnable on August 10, 2018, seeking an Initial Order (the “**Proposed Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) to obtain a stay of proceedings in favour of the Applicants until September 9, 2018, and to seek other related relief, with a view to allowing them an opportunity to restructure their business and affairs. The Applicants’ CCAA proceedings are referred to herein as the “**CCAA Proceedings**”.
2. The Proposed Initial Order, contemplates that Richter be appointed as Monitor of the Applicants in the CCAA Proceedings (in such capacity, the “**Monitor**”).
3. Concurrently with the CCAA Application, Aralez Pharmaceuticals Management Inc., Aralez Pharmaceuticals R&D Inc., Aralez Pharmaceuticals U.S. Inc., POZEN Inc. (“**Pozen**”), Halton Laboratories LLC, Aralez Pharmaceuticals Holdings Limited (“**APHL**”) and Aralez Pharmaceuticals Trading DAC (“**Aralez DAC**” and collectively with each of the foregoing entities, the “**Chapter 11 Entities**”, and with the CCAA Entities, collectively the “**Aralez Entities**”) filed for creditor protection in the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Court**”) for relief under title 11 of the United States Bankruptcy Code, 11 U.S.C § 101-1532 (the “**Chapter 11 Proceedings**” and together with the CCAA proceedings, the “**Restructuring Proceedings**”).

## II. PURPOSE OF REPORT

4. This report (the “**Report**”) has been prepared by Richter as the Proposed Monitor of the Applicants’ in the CCAA Proceedings. The purpose of the Report is to provide information to the Court pertaining to:
  - (i) Richter’s qualifications to act as Monitor;
  - (ii) background on the Applicants, including their corporate history, operations, financial position and creditors;
  - (iii) the Applicants’ decision to commence the CCAA Proceedings and to seek a stay of proceedings;
  - (iv) the Applicants’ thirteen week cash flow forecast (the “**Cash Flow Forecast**”) for the period from August 9, 2018 to November 2, 2018 (the “**Forecast Period**”);

- (v) the Applicants' request that they be authorized and empowered to obtain and borrow interim financing, including the terms of the debtor-in-possession ("**DIP**") facility with Deerfield Private Design Fund III, L.P., and Deerfield Partners, L.P., as lenders (collectively, "**Deerfield**") and Deerfield Management Company L.P., as administrative agent ("**Deerfield Management**", and collectively with Deerfield, the "**DIP Lender**") in the maximum principal amount of \$10 million (the "**Deerfield DIP Facility**");
- (vi) the charges proposed in the Proposed Initial Order;
- (vii) an update on the Applicants intention to return to the Court for a motion (the "**Comeback Motion**") seeking various other relief; and
- (viii) the Proposed Monitor's conclusions and recommendations.

### III. TERMS OF REFERENCE

5. Capitalized terms used but not defined in this Report are defined in the Affidavit of Mr. Andrew Koven sworn August 9, 2018 (the "**Koven Affidavit**"), filed by the Applicants as part of their materials in support of the CCAA Application and the Proposed Initial Order. This Report should be read in conjunction with the Koven Affidavit, as certain information contained in the Koven Affidavit has not been included herein in order to avoid unnecessary duplication.
6. In preparing this Report, the Proposed Monitor has relied solely on information and documents provided by the Applicants and their advisors, including unaudited financial information, declarations and affidavits of the Applicants' executives and other information from the Applicants' financial advisor, Alvarez & Marsal Canada Inc. ("**A&M Canada**") (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Report, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
7. Future orientated financial information contained in the Cash Flow Forecast is based on the Applicants' estimates and assumptions regarding future events. Actual results will vary from the information presented even if the hypothetical assumptions occur, and variations may be material. Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved.

8. If the Proposed Initial Order is granted, and Richter is appointed as Monitor, Richter will make available all Court documents and other material documents pertaining to the CCAA Proceedings on its website at <http://insolvency.richter.ca/A/Aralez-Pharmaceuticals>. In addition, Richter has arranged for a toll-free hotline (1-877-676-4390) and an email address ([aralez@richter.ca](mailto:aralez@richter.ca)) through which the Applicants' creditors or other interested parties can make inquiries related to the CCAA Proceedings.
9. Unless otherwise stated, all monetary amounts noted herein are expressed in United States dollars, which is the Applicants' common reporting currency.

#### **IV. RICHTER'S QUALIFICATIONS TO ACT AS MONITOR**

10. On July 31, 2018, Richter was retained by the Applicants to assist them, their legal counsel and A&M Canada with contingency planning and the preparation of materials for the CCAA Application.
11. Richter is a licensed insolvency trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada). Richter is not subject to any of the restrictions to act as Monitor set out in section 11.7(2) of the CCAA and, in particular, neither Richter nor any of its representatives has been at any time in the two preceding years:
  - (i) a director or an employee of the Applicants;
  - (ii) related to the Applicants or to any director or officer of the Applicants; or
  - (iii) the auditor of the Applicants.
12. Paul van Eyk and Pritesh Patel, the individuals at Richter with primary carriage of this matter, are certified Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees. Further, Messrs. van Eyk and Patel have acted in cross-border restructurings and matters of a similar nature under the CCAA, and therefore are well-suited for this role.
13. Should the Court grant the Applicants' request to make the Proposed Initial Order, Richter has consented to act as Monitor. Furthermore, the Proposed Monitor has retained Torys LLP ("**Torys**") to act as its legal counsel in the CCAA Proceedings.

#### **V. OBJECTIVES OF THE CCAA PROCEEDINGS**

14. The primary objectives of the Applicants' CCAA Proceedings are to:
  - (i) facilitate the ongoing operations of the Applicants;

- (ii) ensure the Applicants have the necessary working capital to maximize the value of their businesses for the benefit of the Applicants' stakeholders, while providing the opportunity to restructure their business and affairs, and implement the Stalking Horse Sales Process; and
- (iii) identify one or more parties interested in pursuing a going-concern transaction in connection with the business or assets of the Applicants through a court-supervised sales process.

## VI. BACKGROUND

15. Detailed information with respect to the Applicants' business, operations, products and causes of insolvency are detailed extensively in the Koven Affidavit. The information contained herein represents only a summary of the background to the CCAA Proceedings.

### Corporate Structure

16. As noted in the Koven Affidavit, the Aralez Entities are a speciality pharmaceutical company focused on acquiring, marketing, developing and commercializing products primarily related to cardiovascular health and pain management. As described below, the Aralez Entities' product offering is comprised of: (i) products that were co-developed with other pharmaceutical companies, (ii) third-party products purchased by the Aralez Entities for sale under various banners of the Aralez Entities, and (iii) products under agreements with third-parties to license and/or distribute under the Aralez Entities' banner.
17. API, the ultimate parent of the Aralez Entities, was formed for the purpose of facilitating the business combination of Pozen, a Delaware corporation, and Tribute Pharmaceuticals Canada Inc. (now known as Aralez Canada), a corporation incorporated under the laws of the Province of Ontario, Canada, pursuant to a transaction which closed on February 5, 2016. This merger was initiated to take advantage of a more diverse array of products owned by the pre-merger entities, and to leverage debt and equity financings associated with the merger to increase the product portfolio and scale up sales and marketing.
18. The Aralez Entities' business and operations are mainly within Canada and the U.S., with some supply chain management, quality control and IP-holding functions located in Ireland. API has four direct or indirect subsidiaries located outside of Canada and the U.S.: (i) Aralez DAC and APHL, each subsidiaries incorporated under the laws of Ireland that are located in Dublin, Ireland, and included among the Chapter 11 Entities, (ii) Aralez Luxembourg Finance ("**Luxco**"), a wholly-owned subsidiary of APHL that was incorporated under the laws of Luxembourg, and (iii) Tribute Pharmaceuticals International Inc. ("**Tribute Barbados**"), a wholly-owned subsidiary of Aralez Canada that was incorporated under the laws of Barbados. Luxco and Tribute Barbados, together with the Aralez Entities, are collectively referred to herein as the "**Aralez Group**".

19. Luxco and Tribute Barbados are not subject to the Restructuring Proceedings. The Proposed Monitor understands that Tribute Barbados is a dormant entity with no operations or significant assets (other than minimal cash on hand), and Luxco has no employees and its only assets are minimal cash reserves and intercompany receivables (unsecured) due from certain of the Aralez Entities. The Proposed Monitor further understands that the Aralez Entities are currently considering their next steps in dealing with their interest in both Tribute Barbados and Luxco.
20. A copy of the API organizational chart is attached as Exhibit "A" to the Koven Affidavit.

#### **API**

21. API is a public company incorporated under the British Columbia *Business Corporations Act*, S.B.C. 2002, c.57, as amended, with its registered office located at 666 Burrard Street, Vancouver, British Columbia, and its head office located at 7100 West Credit Avenue, Suite 101, Mississauga, Ontario (the "**Head Office**"). The leased Head Office serves as the global headquarters for the Aralez Entities.
22. API is registered on the NASDAQ Global Market ("**NASDAQ**") and the Toronto Stock Exchange ("**TSE**") and trades under the following symbols: NASDAQ:ARLZ and TSE:ARZ. As per the Koven Affidavit, API's authorized share capital consists of an unlimited number of common shares and preferred shares; however, as at August 6, 2018, only common shares are issued and outstanding. The Proposed Monitor understands that API is the public company shell of the Aralez Group with no operations or employees, and its assets principally consist of cash, investments in the other Aralez Entities and intercompany receivables.

#### **Aralez Canada**

23. Aralez Canada is the wholly-owned, direct subsidiary of API. Aralez Canada was amalgamated under the *Business Corporations Act*, R.S.O. 1990, B-1616, as amended, with its registered office located at the Head Office.
24. Aralez Canada is the Canadian operating company of the Aralez Entities. It is engaged in a variety of product offerings including the commercialization of cardiovascular, pain management, dermatological, allergy and certain other products primarily sold to the Canadian market. The Proposed Monitor understands the majority of the Applicants' revenues are derived from domestic sales.



25. The Applicants obtain protection for their products, proprietary technology and licenses by means of patents, trademarks and contractual arrangements. As noted in the Koven Affidavit, Aralez Canada owns approximately a dozen patents (in various jurisdictions) related to two products and other members of the Aralez Entities hold patents (in various jurisdictions) related to other drug products.
26. Certain key products of Aralez Canada, which comprise approximately 75% of its gross revenue, are summarized below:
- (i) Cambia – a non-steroidal anti-inflammatory drug for the acute treatment of migraine attacks in adults over 18 years of age that Aralez Canada licensed in 2010 from Nautilus Neurosciences, Inc. (“**Nautilus**”) for the exclusive rights in Canada, which was subsequently assigned by Nautilus to Depomed Inc. in 2013. Cambia is manufactured in Italy.
  - (ii) Blexten – a second generation antihistamine drug for relief of allergic rhinitis and hives that Aralez Canada exclusively licensed in 2014 from Faes Farma, S.A. (“**Faes**”), a Spanish pharmaceutical company, pursuant to a license and supply agreement between the parties that is set to expire in May 2036, subject to renewal for a further five year term. In April 2016, Aralez Canada received regulatory approval from Health Canada to sell Blexten in Canada. Blexten is manufactured in Spain by Faes. Aralez Canada makes royalty and milestone payments to Faes based on conditions being met in the license and supply agreement.
  - (iii) Novartis Products – Fiorinal and Fiorinal C, which are used for the treatment of tension headaches and Visken and Viskazide, which are used for the treatment of hypertension (collectively the “**Novartis Products**”). In October 2014, Aralez Canada entered into an agreement with Novartis AG and Novartis Pharma AG for the Canadian rights to manufacture, market and promote, distribute and sell Novartis Products. The Novartis Products are manufactured in Canada.
  - (iv) Soriatane – used for the treatment of severe psoriasis. In January 2018, Aralez Canada entered into an exclusive distribution agreement with Allergen Inc. (“**Allergen**”) that expires in 2023. Aralez Canada pays Allergen a revenue-based royalty that is subject to an annual minimum amount. Soriatane is manufactured in France.
  - (v) Proferrin – an iron supplement used to prevent or treat iron deficiencies. Aralez Canada has a distribution agreement with Colorado Biolabs Inc. for exclusive distribution in Canada for a term ending in 2031. Proferrin is manufactured in the U.S.

- (vi) Bezalip – used to treat high cholesterol. Aralez Canada is the exclusive licensee authorized to market Bezalip in Canada and the U.S.; however, the Proposed Monitor understands that Aralez Canada currently only markets this product in Canada. The exclusive license agreement is with Allergen. Bezalip is manufactured in France.
27. In addition to the products noted above, Aralez Canada markets certain other drug products, both non-prescription and prescription, which comprise approximately 25% of Aralez Canada's gross revenues.
28. As of August 3, 2018, Aralez Canada owed approximately CAD\$5 million in accrued royalty and milestone payments to certain third-party licensors.
29. Aralez Canada customers are comprised of wholesale pharmaceutical distributors and chain accounts. As of December 31, 2017, Aralez Canada had four significant customers, each of which is a well-known and established entity, which accounted for approximately 90% of net product revenue.
30. In accordance with industry practice, Aralez Canada enters into arrangements with certain of its customers to provide rebates, discounts, fee-for-services, allowance for returns, etc. with respect to the purchase of Aralez's products (collectively the "**Customer Programs**"). Aralez Canada accrues obligations due to customers in connection with the Customer Programs, some of which the Proposed Monitor understands will not have been paid as at the date of the CCAA Application hearing.
31. Aralez Canada's products are inventoried and shipped by a third party logistics provider ("**3PL**") to wholesalers and chain accounts. These customers place orders with the 3PL, who then manages the inventory order, completes the sale on behalf of Aralez Canada and remits the sale proceeds to Aralez Canada, less a service fee.

### **The Chapter 11 Entities**

32. The Chapter 11 Entities, each of which are direct or indirect wholly-owned subsidiaries of API, own the rights to certain drugs that are only sold in the U.S. and other non-Canadian markets. The Chapter 11 Entities also out-license certain products in exchange for royalties and/or other consideration. The most significant products in the Chapter 11 Entities drug portfolio include (or included) Toprol-XL, Zontivity, Vimovo and Yosprala, each of which is further described in the Koven Affidavit.
33. With the exception of Aralez DAC and APHL, each of the Chapter 11 Entities is incorporated in Delaware and have operations primarily located Princeton, New Jersey. Further background information regarding the Chapter 11 Entities is provided in the Koven Affidavit.

## **Operational Interdependencies**

34. Due in large part to the initiatives undertaken by management of the Aralez Entities to build a global pharmaceutical company, there is a high degree of operational interdependency between the Applicants and the other Aralez Entities, including sharing certain executive management personnel, cash management/financing functions, pharmacovigilance efforts (monitoring the effects of medical drugs after they have been licensed for use) and legal, human resources and IT services.
35. As part of the above operational interdependencies, there has historically been intercompany transactions and movement of cash between the Applicants and the Chapter 11 Entities to fund various costs and ensure that entities have the required funds to operate. The Proposed Monitor has not yet had an opportunity to examine in detail any intercompany transactions that occurred prior to the CCAA Application. The Proposed Monitor intends to discuss with management the nature and quantum of any recent intercompany transactions.
36. The Proposed Monitor understands that the Aralez Entities will not engage in any further intercompany lending or transfers of cash during the Restructuring Proceedings, as any necessary funding is to be supported by the proposed interim financing, as detailed below. However, intercompany support functions are expected to continue in the ordinary course, and will be tracked and reconciled among the Aralez Entities.

## **Employees of Aralez Canada**

37. As at August 2, 2018, Aralez Canada had 43 employees, all of whom are located in Canada. Of the 43 employees, 22 are sales people who are paid sales commissions on a quarterly basis, in arrears, and 3 are sales managers. In addition to its employees, Aralez Canada has 11 contract workers that perform sales work and back office functions.
38. Aralez Canada's employees are members of a defined contribution Registered Retirement Savings Plan, in which Aralez Canada matches, dollar for dollar, contributions up to 4% of earnings, which is funded semi-monthly. The Applicants do not have any defined benefit pension plans, nor are the Applicants subject to a collective bargaining agreement.

## Historical Financial Results

39. Included in the Koven Affidavit are copies of API's fiscal 2017 consolidated audited financial statements. The financial results for the Aralez Entities, including Aralez Canada, are included as part of the consolidated reporting for API. Set out below is a summary of API's consolidated income statement for: (i) the fiscal period ending December 31, 2016 (ii) the fiscal period ending December 31, 2017 and (iii) the three month period ending March 31, 2018 (unaudited):

<b>Aralez Pharmaceuticals Inc.</b>			
<b>Consolidated Statement of Operations</b>			
<i>(US\$, in millions)</i>	<b>3-months ended</b>	<b>Year ended</b>	<b>Year ended</b>
	<b>31-Mar-18</b>	<b>31-Dec-17</b>	<b>31-Dec-16</b>
<b>Total revenues, net</b>	<b>\$ 38.1</b>	<b>\$ 105.9</b>	<b>\$ 54.3</b>
<b>Costs and expenses</b>			
Cost of product revenues	\$ 11.5	\$ 13.5	\$ 11.8
Selling, general and administrative	26.5	116.6	118.5
Research and development	-	2.3	8.8
Amortization of intangible assets	9.0	34.3	12.6
Change in fair value of contingent consideration	5.1	35.7	0.8
Impairment of intangible assets	-	-	4.4
<b>Total costs and expenses</b>	<b>\$ 52.1</b>	<b>\$ 202.4</b>	<b>\$ 156.9</b>
<b>Loss from operations</b>	<b>\$ (14.0)</b>	<b>\$ (96.5)</b>	<b>\$ (102.6)</b>
Interest expense	(6.7)	(27.0)	(6.1)
Other income (expense), net	(0.2)	0.7	5.7
<b>Loss before income taxes</b>	<b>\$ (20.9)</b>	<b>\$ (122.8)</b>	<b>\$ (103.0)</b>
Income tax expense (benefit)	(1.2)	2.4	(0.1)
<b>Net loss</b>	<b>\$ (19.7)</b>	<b>\$ (125.2)</b>	<b>\$ (102.9)</b>
<i>Source: Information provided by the Applicants</i>	<i>(unaudited)</i>	<i>(audited)</i>	<i>(audited)</i>

40. As detailed above, API experienced significant net losses over the past 2 fiscal years due, in large part, to the significant marketing, personnel, and other costs incurred by the Chapter 11 Entities related to the unsuccessful launch of Yosprala and the relaunch of Zontivity, both of which failed to reach anticipated levels of commercial success in the U.S. Zontivity and Yosprala were discontinued by the Chapter 11 Entities in 2018.
41. Set out below is API's consolidated balance sheet as at March 31, 2018:

<b>Aralez Pharmaceuticals Inc.</b>			
<b>Consolidated Balance Sheet - as at March 31, 2018</b>			
<i>(US\$, in millions; unaudited)</i>			
<b>Assets</b>		<b>Liabilities</b>	
Cash and cash equivalents	\$ 43.9	Accounts payable	\$ 10.6
Accounts receivable, net	40.7	Accrued expenses	89.9
Inventory	5.7	Short-term contingent consideration	10.5
Prepaid expenses and other current assets	3.1	Other current liabilities	5.9
<b>Total current</b>	<b>\$ 93.4</b>	<b>Total current</b>	<b>\$ 116.9</b>
Property and equipment, net	6.6	Long-term debt	274.6
Goodwill	79.7	Deferred tax liability	2.5
Other intangible assets, net	299.6	Long-term contingent consideration	90.8
Other long-term assets	2.0	Other long-term liabilities	3.1
<b>Total assets</b>	<b>\$ 481.3</b>	<b>Total liabilities</b>	<b>\$ 487.9</b>
		<b>Total shareholders' equity</b>	<b>(6.6)</b>
		<b>Total liabilities and shareholders' equity</b>	<b>\$ 481.3</b>
<i>Source: Information provided by the Applicants</i>			

42. As presented above, API had total assets of approximately \$481.3 million on a consolidated basis as at March 31, 2018. The majority of API's assets consist of intellectual property (comprised of acquired patents and license rights). API's total liabilities as at March 31, 2018 were approximately \$487.9 million, the majority of which was related to long-term debt owing to Deerfield of \$274.6 million (as discussed in further detail below). As at March 31, 2018, the book value of API's total liabilities exceeded the book value of its total assets.
43. As noted, Aralez Canada does not independently report its financial results, which are included as part of API's consolidated financial reporting. Set out below is a summary of Aralez Canada's internal financial results for: (i) the year ending December 31, 2017 and (ii) the three months ended March 31, 2018:

<b>Aralez Pharmaceuticals Canada Inc.</b>		
<b>Statement of Operations</b>		
<i>(US\$, in millions)</i>	<b>3-months ended 31-Mar-18</b>	<b>Year ended 31-Dec-17</b>
<b>Total revenues, net</b>	<b>\$ 6.7</b>	<b>\$ 26.8</b>
<b>Costs and expenses</b>		
Cost of product revenues	\$ 2.6	\$ 9.7
Selling, general and administrative	3.3	11.5
Research and development	0.5	1.5
Amortization of intangible assets	2.1	6.9
<b>Total costs and expenses</b>	<b>\$ 8.5</b>	<b>\$ 29.6</b>
<b>Loss from operations</b>	<b>\$ (1.8)</b>	<b>\$ (2.8)</b>
Other income (expense), net	(0.9)	0.9
<b>Loss before income taxes</b>	<b>\$ (2.7)</b>	<b>\$ (1.9)</b>
Income tax expense (benefit)	(1.1)	0.6
<b>Net loss</b>	<b>\$ (1.6)</b>	<b>\$ (2.5)</b>
<b>EBITDA</b>	<b>\$ 0.3</b>	<b>\$ 4.0</b>
<i>Source: Information provided by the Applicants</i>	<i>(unaudited)</i>	<i>(audited)</i>

44. As detailed above, despite reporting a net loss of approximately \$1.6 million and \$2.5 million for the three month period ended March 31, 2018 and the year ended December 31, 2017, respectively, Aralez Canada generated EBITDA of approximately \$0.3 million and \$4.0 million for the same periods. However, the Proposed Monitor notes the EBITDA generated by Aralez Canada was not sufficient to offset the significant losses generated by the other Aralez Entities, or service the Aralez Entities' obligations pursuant to the Facility Agreement (as defined below).

45. Set out below is Aralez Canada's internal balance sheet as at March 31, 2018:

<b>Aralez Pharmaceuticals Canada Inc.</b>			
<b>Balance Sheet - as at March 31, 2018</b>			
<i>(US\$, in millions; unaudited)</i>			
<b>Assets</b>		<b>Liabilities</b>	
Cash and cash equivalents	\$ 5.9	Accounts payable	\$ 0.6
Accounts receivable, net	2.8	Accrued expenses	4.8
Inventory	5.7	Other current liabilities	3.0
Prepaid expenses and other current assets	0.4	<b>Total current</b>	<b>\$ 8.4</b>
Intercompany Receivables	(3.5)	Long-term liabilities	0.3
Investment in Subsidiary	-	Long-term taxes payable	2.5
<b>Total current</b>	<b>\$ 11.3</b>	<b>Total liabilities</b>	<b>\$ 11.2</b>
Property and equipment, net	0.6	<b>Total shareholders' equity</b>	<b>136.6</b>
Goodwill	75.4		
Product rights, net	60.5		
<b>Total assets</b>	<b>\$ 147.8</b>	<b>Total liabilities and shareholders' equity</b>	<b>\$ 147.8</b>

*Source: Information provided by the Applicants*

46. As at March 31, 2018, Aralez Canada had total assets of approximately \$147.8 million, the majority of which were related to goodwill of approximately \$75.4 million and product rights of approximately \$60.5 million. While Aralez Canada's balance sheet lists total liabilities of approximately \$11.2 million, the Proposed Monitor notes that this does not consider Aralez Canada's obligations to Deerfield, as guarantor, pursuant to the Facility Agreement, as discussed below.
47. Given that API is a shell company with no operations or employees, and its assets principally consist of cash, investments in the other Aralez Entities and intercompany receivables, the Proposed Monitor has not separately reported API's unconsolidated financial position or results herein.

### **Secured Creditors**

48. API, Aralez Canada and Pozen entered into a loan agreement on June 8, 2015 (as amended) with Deerfield, as lender (the "**Facility Agreement**"). API is the borrower under the Facility Agreement in the principal amount of \$275.0 million, comprised of the following:
- (i) \$75.0 million aggregate principal of 2.5% senior secured convertible notes, which mature in February 2022 (the "**Secured Notes**"); and
  - (ii) \$200.0 million aggregate facility agreement bearing interest at 12.5% due to be repaid in October 2022 (the "**Secured Credit Facility**").

49. The Proposed Monitor understands that the Secured Notes and the Secured Credit Facility were mainly used to fund acquisitions, including Aralez Canada, and the U.S. and Canadian rights to key products. As of August 6, 2018, the Proposed Monitor has been advised that approximately \$281.5 million, comprised of principal and accrued payment-in-kind (“**PIK**”) interest, remains outstanding under the Facility Agreement.
50. The Proposed Monitor understands that the Secured Credit Facility and the Secured Notes are guaranteed by the Aralez Entities (other than API), as well as Luxco and Tribute Barbados (collectively, the “**Guarantors**”).
51. The Proposed Monitor further understands that, as security for the Secured Credit Facility and the Secured Notes, Deerfield has a first priority security interest in substantially all present and after-acquired property of API and the Guarantors, including intangible property (collectively, the “**Deerfield Security**”).
52. On June 29, 2018, in light of their liquidity issues, the Aralez Entities announced that they had entered into an amendment to the Facility Agreement, pursuant to which Deerfield agreed to accept PIK interest due and payable on July 1, 2018, with respect to the Secured Credit Facility and the Secured Notes through August 15, 2018.
53. The Proposed Monitor has received a verbal opinion from its independent counsel, Torys, that subject to the typical assumptions and qualifications for opinions of this nature, the Deerfield Security is valid and enforceable in the Province of Ontario. The Proposed Monitor expects to receive a written opinion to this effect shortly from Torys.
54. At present, the Proposed Monitor has not obtained any other verbal or written opinion regarding the validity and enforceability of the Deerfield Security in other relevant Canadian jurisdictions (i.e. British Columbia). The Proposed Monitor does note that, with the exception of the Deerfield Security, there are no other registered security interests against the Applicants in British Columbia and that, in any event, there are only minimal assets, properties and undertakings of the Applicants located in British Columbia.

### **Unsecured Creditors**

55. As at August 7, 2018, the Proposed Monitor understands that the Applicants had approximately CAD\$17 million of unsecured liabilities (excluding any intercompany liabilities), including CAD\$8.3 million of accounts payable and accrued liabilities of Aralez Canada.

56. The Proposed Monitor also understands that included in the above is approximately CAD\$623,000 of employee related amounts for accrued vacation pay, commissions, expenses and bonuses. The Proposed Initial Order provides the Applicants with the authority, but not requirement, to pay employee related expenses in the normal course during the CCAA Proceedings.

## VII. DECISION TO COMMENCE CCAA PROCEEDINGS AND STAY OF PROCEEDINGS

57. The pharmaceutical industry is highly competitive and the Aralez Entities have had to deal with many market factors, including: (i) the costs associated with operating in a highly regulated industry, (ii) the need to invest significantly in marketing and infrastructure costs with unpredictable, and often minimal returns, (iii) competition from approved generic drugs, (iv) legal costs associated with maintaining and defending patents, and (v) pricing and/or pharmaceutical products being subject to increased pressure from various governments and other payors.

58. The primary reasons for the Aralez Entities' current financial difficulties, as discussed in the Koven Affidavit, include:

- (i) *Unsuccessful Product Launches* – The Aralez Entities committed significant resources to the anticipated launch of Yosprala in 2016 and the relaunch of Zontivity in 2017 in the U.S., both of which were unsuccessful and ultimately discontinued in 2018;
- (ii) *High Costs Structure / Significant Debts* – Increased operational costs supported by significant long term debt, and the corresponding debt servicing costs; and
- (iii) *Generic Competition* – The Aralez Entities face increased competition from generic competitors on existing and new products, which has significantly impacted current and future revenue streams.

### Strategic Review

59. Given their financial difficulties, which were further exacerbated following the market's reaction to API's public filing of its financial results for the fiscal quarter ending March 31, 2018 (which raised substantial doubt regarding API's ability to continue as a going concern), the Aralez Entities realized the need to reduce costs and consider strategic options. On May 8, 2018, the Aralez Entities formally announced that they were putting in place a comprehensive strategic review to evaluate opportunities to streamline their business, reduce costs and improve their capital structure and liquidity position (collectively the "**Strategic Review**").



60. The Aralez Entities also announced that they had retained Moelis & Company LLC (“**Moelis**”) to serve as their strategic adviser to consider strategic alternatives and establish a sales process for various lines of business. At the same time, the Aralez Entities engaged a cash management and restructuring advisor, Alvarez & Marsal Healthcare Industry Group LLC (“**A&M US**”) and, in Canada, A&M Canada (collectively, “**A&M**”), to assess the Aralez Entities’ current business plans and assist with managing liquidity in both Canada and the U.S.
61. The key aspects of the Strategic Review included:
- (i) streamlining of the Aralez Entities’ U.S. business and infrastructure costs with a focus on winding down certain U.S. product lines (i.e. Zontivity in June 2018);
  - (ii) working with Moelis on the Pre-Filing Sales Process (as defined below);
  - (iii) exploring and evaluating alternative financing options; and
  - (iv) examining opportunities to generate additional liquidity, including commercialize, divest or out-license certain products (i.e. sale of Yosprala in July 2018).
62. Despite these efforts, the Aralez Entities have exhausted their liquidity and will not have sufficient cash to sustain operations and service their obligations under the Facility Agreement. In addition, the Aralez Entities have not been able to enter into any further amendments or forbearances under the Facility Agreement on terms that would result in a long term going concern solution. The Proposed Monitor further understands that the Aralez Entities were unable to raise additional capital on reasonable terms.
63. In the circumstances, the Aralez Entities ultimately determined that the appropriate approach was to proceed with a sale of substantially all of their assets through a court-supervised process pursuant to: (i) the CCAA with respect to the Applicants, and (ii) section 363 of the United States Bankruptcy Code with respect to the Chapter 11 Entities.

### **Sales Process**

64. The Proposed Monitor understands that Moelis commenced an extensive marketing and sales process in respect of the Aralez Entities prior to the commencement of the Restructuring Proceedings (the “**Pre-Filing Sales Process**”).
65. The Proposed Monitor has also been advised that as part of the Pre-Filing Sales Process, Moelis had discussions with a number of arms-length parties interested in acquiring the assets and/or business of the Aralez Entities. Additionally, the Proposed Monitor understands Moelis received non-binding letters of intent

from certain potential purchasers interested in acquiring certain of the assets of the Applicants, the Chapter 11 Entities, or combinations thereof.

66. As noted in the Koven Affidavit, the Aralez Entities intend to enter into two separate purchase agreements in connection with the following:
  - (i) an agreement among Aralez DAC, Pozen, Aralez Canada and Deerfield to purchase the Toprol-XL franchise through a credit bid of \$140 million; and
  - (ii) an agreement among API, Pozen, Aralez Canada, Nuvo Pharmaceuticals Inc. and Nuvo Pharmaceuticals Ireland (Limited) (collectively, “**Nuvo**”) to purchase the Aralez Entities’ Canadian operations and its rights to royalties from Vimovo for \$110 million.
67. The Proposed Monitor understands the applicable Aralez Entities have signed letters of intent (the “**LOIs**”) with Deerfield and Nuvo, respectively, that contain the material terms of the proposed transactions.
68. The Proposed Monitor understands that the Applicants intend to return to Court to seek approval of a sales process (the “**Stalking Horse Sales Process**”) pursuant to which Nuvo and Deerfield will act as stalking horse bidders for the assets currently subject to the LOIs. The Proposed Monitor will report further to the Court on the Pre-Filing Sales Process, the LOIs and any asset purchase agreement(s) entered into by the Applicants, when these matters are next before the Court. The Applicants expect that the Chapter 11 Entities will return to the U.S. Court to seek similar approval, and the Aralez Entities intend to coordinate the sales process.

## **VIII. OVERVIEW OF THE CASH FLOW FORECAST**

69. The Applicants, with the assistance of A&M Canada and in consultation with the Proposed Monitor, have prepared the Cash Flow Forecast for the purpose of projecting the Applicants’ estimated liquidity needs during the Forecast Period. A copy of the Cash Flow Forecast is attached hereto as **Appendix “A”**.
70. The Cash Flow Forecast has been prepared by the Applicants on a conservative basis using probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast. The Cash Flow Forecast reflects the Applicants’ estimates of receipts and disbursements on a weekly basis over the Forecast Period.
71. The Proposed Monitor’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by the Applicants and/or their advisors. Since the probable and hypothetical assumptions need not be supported, the Proposed Monitor’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Proposed

Monitor also reviewed the support provided by management of the Applicants for the probable and hypothetical assumptions, and the preparation and presentation of the Cash Flow Forecast.

72. Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe that, in all material respects:
- (i) the probable and hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
  - (ii) as at the date of this Report, the probable and hypothetical assumptions developed by the Applicants and its advisors are not suitably supported and consistent with the restructuring plan of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast; or
  - (iii) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
73. As at August 9, 2018, the Applicants had approximately CAD\$6.0 million of cash on hand. The Cash Flow Forecast projects that the Applicants will experience a net cash outflow of approximately CAD\$8.7 million (before any DIP drawdown) over the Forecast Period, comprised of:
- (i) cash receipts of approximately CAD\$7.3 million, primarily related to the collection of existing receivables and new sales generated from the product portfolio of Aralez Canada; and
  - (ii) cash disbursements of approximately CAD\$16.0 million, primarily related to payroll and benefits, operating expenses, procurement of post-filing inventory, as well as the payment of certain pre-filing expenses (as discussed below) and the costs of the CCAA Proceedings.
74. The Cash Flow Forecast forecasts borrowings under the Deerfield DIP Facility in the amount of CAD\$6.0 million over the Forecast Period.
75. As evidenced by the Cash Flow Forecast, without access to interim financing, the Applicants lack sufficient liquidity to maintain operations. The Deerfield DIP Facility will provide the Applicants with sufficient funding during the Forecast Period to ensure continued operations during the CCAA Proceedings.
76. The Proposed Monitor notes that the Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

## **IX. PROPOSED DIP AGREEMENT**

77. As noted above, based on the Cash Flow Forecast, the Applicants will require interim financing in order to maintain sufficient liquidity to continue operations and implement the Stalking Horse Sales Process. The

Chapter 11 Entities will also require interim financing to facilitate their restructuring. As the pre-filing financing of the Applicants is intertwined with the financing of the Chapter 11 Entities, the Alarez Entities determined that the most efficient financing process would be to obtain financing from one lender.

78. Following extensive negotiations, the DIP Lender has agreed, pursuant to a proposed senior secured, super-priority, debtor-in-possession credit agreement dated August 10, 2018 (the “**Canada DIP Credit Agreement**”), to extend the Deerfield DIP Facility to the Applicants. The DIP Lender also informed the Applicants that its willingness to provide such financing was predicated, in part, on the Applicants making the CCAA Application.
79. Principal terms of the DIP Credit Agreement, include, without limitation, the following:

<b>Basic Provisions</b>	<b>Description</b>
<b>Availability</b>	\$10 million
<b>Borrowers</b>	API and Aralez Canada
<b>Interest rate</b>	10% per annum, due and payable in-kind in arrears, and capitalized, on the last business day of each fiscal quarter. Default Rate of additional 2%.
<b>Additional consideration</b>	Commitment fee of 1%, extension fee of 1% for extension of commitment beyond the date that is six months from the date of the CCAA filing date (the “ <b>Stated Maturity Date</b> ”).
<b>Maturity date</b>	Earliest of: (a) Stated Maturity Date, (b) the date of a sale of all or substantially all of the assets of the Applicants, (c) the conversion of the CCAA Proceedings to a proceeding under the BIA, (d) an order is entered by the CCAA Court dismissing the CCAA Proceedings, (e) the implementation of a plan of compromise or arrangement within the CCAA Proceedings, and (f) occurrence of an Event of Default.
<b>Security</b>	The DIP Facility will be secured by a super priority charge (the “ <b>DIP Charge</b> ”) granted in favour of the DIP Lender for all advances made to the Applicants subsequent to the date of the Initial Order, which charge shall rank subordinate only to the Administration Charge.
<b>Financial covenant</b>	Failure to be in compliance with the Cash Flow Forecast or permit negative variances with respect to the cumulative receipts and cumulative disbursements in the Cash Flow Forecast for any two week trailing period, to exceed the greater of (i) 15% and (ii) \$100,000.
<b>Events of Default</b>	A number of Events of Default, including: (a) Occurrence of an Event of Default under the US DIP Credit Agreement would result in an Event of Default under the Canada DIP Credit Agreement; and (b) Failure of the Court to permit Deerfield to credit bid its outstanding debt pursuant to the Facility Agreement in connection with the Applicants’ assets.

80. Pursuant to the Canada DIP Credit Agreement, the Proposed Monitor notes that as a condition of credit extension, the Applicants must provide an approved 13-week cash flow forecast to the DIP Lender within 14 days of the CCAA Application, in a form acceptable to the DIP Lender.
81. The Proposed Monitor has not been party to the ongoing negotiations between the Aralez Entities and the DIP Lender. However, the Proposed Monitor understands that the Aralez Entities solicited DIP financing proposals from nine lenders (including Deerfield), and the most competitive proposal submitted was from the DIP Lender. Further, as the Aralez Entities' senior secured lender, Deerfield indicated that it would not consent to a priming charge, and none of the other lenders agreed to provide interim financing on a subordinated basis.
82. The Applicants' advisors have advised the Proposed Monitor of the following regarding the Canada DIP Credit Agreement:
- (i) the Canada DIP Credit Agreement represents the best alternative available to the Applicants;
  - (ii) the Canada DIP Credit Agreement should ensure the continuation of the Applicants' operations and employment of its employees during the CCAA Proceedings;
  - (iii) the existing Stalking Horse Sales Process would be at risk if the Canada DIP Credit Agreement were not approved by the Court; and
  - (iv) substantially all of the assets of the Aralez Entities and, by extension, the Applicants, are already pledged as security to Deerfield pursuant to the Facility Agreement. As noted above, any alternative DIP lender would need to prime Deerfield, which Deerfield indicated it would oppose.
83. The Proposed Monitor understands the DIP Lender and the Chapter 11 Entities have also negotiated a senior secured, super-priority, debtor-in-possession credit agreement dated August 10, 2018 (the "**US DIP Credit Agreement**") in the maximum amount of \$5 million. The US DIP Credit Agreement and the Canada DIP Credit Agreement are coordinated facilities with largely the same principal terms and requirements, including a cross-default provision. The Proposed Monitor understands that the DIP Lender was not amenable to proceed otherwise since, although the CCAA Proceedings and Chapter 11 Proceedings are separate and not joint proceedings, they consist of a common exercise (the sale of the business and assets of the Aralez Entities) for the principal benefit of Deerfield (the senior secured creditor of the Aralez Entities).
84. The Applicants and their advisors have advised the Proposed Monitor that they will use the funds advanced under the Deerfield DIP Facility for working capital, general corporate purposes, transaction costs, pre-filing expenses (subject to Monitor or Court approval), post-filing expenses, and professional fees. As noted, the

Applicants require the Deerfield DIP Facility in order to continue operations and meet customer order requirements during the CCAA Proceedings.

85. The Proposed Monitor is of the view that, given the nature of the Applicants' assets and the terms of the existing Facility Agreement, the financial terms of the Deerfield DIP Facility appear commercially reasonable and comparable to other recent DIP financing packages in Canada.

## **X. PAYMENT OF CERTAIN PRE-FILING AMOUNTS**

86. As noted in the Koven Affidavit, the Applicants do not manufacture any of their products, and the majority of their business is managed through several agreements with third-parties. If the supply chain is materially interrupted there could be adverse impacts on the Cash Flow Forecast and the Stalking Horse Sales Process. The Applicants are of the view that there is significant risk to the Applicants' business and restructuring if their ability to procure and sell products is interrupted in the first weeks of the CCAA Proceedings. Furthermore, it is critical that the Applicants maintain and continue the Customer Programs to preserve customer loyalty, support and goodwill in order to fully maximize the Stalking Horse Sales Process for the benefit of all stakeholders.
87. Pursuant to the Proposed Initial Order, the Applicants have sought the authority, but not the requirement, to pay certain pre-filing amounts related to the following:
- (i) Regulatory Fees – the Applicants' drug product portfolio is subject to regulation from Health Canada. The Proposed Monitor understands that the Applicants' regularly incur fees with third party service providers that assist the Applicants with the regulatory process. The Proposed Monitor understands these fees relate to the Applicants' drug product portfolio, including annual maintenance fees, audit fees, and fees relating to the submission of products for approval by Health Canada. As at August 8, the Applicants owed approximately \$170,000 relating to accrued or outstanding regulatory-related fees.
  - (ii) License/Royalty Fees – as noted, certain of the Applicants' products are licensed to Aralez Canada from third-parties, which are owed approximately \$6.3 million in accrued royalty, license and other fees. The Proposed Monitor understands certain of these licensors are located in jurisdictions outside of Canada.
  - (iii) Suppliers – the Applicants do not manufacture their own products and procure inventory from third-party manufacturers, certain of which are single-source manufacturers, licensor-owned manufacturers, and/or manufacturers located in jurisdictions outside of Canada. The Applicants estimate that as at August 8, 2018, these manufacturers are owed approximately \$1.3 million in accrued expenses.
88. In addition to the above, the Applicants are also seeking the authority, but not the requirement, to continue to honour and fulfill their obligations under the Customer Programs, including those relating to the period prior to

the date of the CCAA Application. Maintaining the relationships with its key customers during the CCAA Proceedings will maximize the value of Applicants' business for the benefit of all stakeholders. The Proposed Monitor understands the Applicants' had accrued obligations of approximately \$1.2 million related to the Customer Programs.

89. While the Proposed Initial Order prevents counterparties from terminating supply arrangements with the Applicants, the continued supply of drug products are critical to Aralez Canada's ongoing operations, and any interruption could negatively impact the going concern value and goodwill of the business.

Pursuant to the Proposed Initial Order, the Applicants shall only be entitled to pay such amounts contemplated under paragraph 7 of the Proposed Initial Order, if these payments are determined, by the Applicants, in consultation with the Monitor and the DIP Lender, to be necessary to the continued operation of the business or essential for the preservation of value for the Stalking Horse Sales Process. Any such amounts paid will be subject to the prior approval of the Monitor or the Court.

90. As noted above, the Cash Flow Forecast includes payment of certain pre-filing amounts. The Proposed Monitor understands that Deerfield is fully supportive of the Applicants making such payments to ensure the going-concern value of the business is maintained during the Stalking Horse Sales Process. The Proposed Monitor also understands that similar provisions are being sought within the Chapter 11 Proceedings.
91. The Proposed Monitor agrees with the Applicants' view that an interruption of goods and services provided by certain essential suppliers and/or pursuant to third-party agreements could have an immediate and adverse impact on the business, operations and cash flow of the Applicants. The Proposed Monitor also recognizes that the Applicants' available funding is limited and, as such, will work with the Applicants and A&M Canada to ensure that payments in respect of pre-filing liabilities are minimized.

## **XI. PROPOSED CHARGES**

92. The Proposed Initial Order provides for a number of priority charges (collectively the "**Charges**") on the current and future assets, undertakings and properties of the Applicants wherever located, including all proceeds thereof, that rank in the following order:
- (i) First, the Administration Charge (to the maximum amount of CAD\$1.0 million);
  - (ii) Second, the DIP Charge (to the maximum amount of \$10.0 million);
  - (iii) Third, the Directors' Charge (to the maximum amount of CAD\$1.0 million); and
  - (iv) Fourth, the Transactional Fee Charge.

## Administration Charge

93. The Proposed Initial Order provides for a priority charge up to a maximum of \$1.0 million (the “**Administration Charge**”) in favour of the Applicants’ counsel, Stikeman Elliott LLP, the Applicants’ financial advisors, A&M and Moelis (for 50% of the Monthly Fee, as described below), and the Proposed Monitor and its counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the CCAA proceedings.
94. As described above, the Aralez Entities retained Moelis pursuant to an engagement letter dated July 18, 2018 (the “**Moelis Engagement Letter**”) to assist with the Pre-Filing Sales Process and Moelis will continue to be involved with the Stalking Horse Sales Process. In return for its services, Moelis charges a monthly fee for its work in the amount of \$150,000 (the “**Monthly Fee**”), 50% of which will be paid by the Applicants. Pursuant to the Proposed Initial Order, the Applicants are seeking the Court’s confirmation of the retention of Moelis and approval of the Moelis Engagement Letter.
95. The Proposed Monitor notes that certain professionals from the U.S. could receive payment from the Applicants for services either provided directly to the Applicants or provided for the benefit of the Aralez Entities as a whole, as described below:
- (i) A&M was retained by the Aralez Entities as part of the Strategic Review. During the Restructuring Proceedings, the Proposed Monitor understands that CCAA-related work will be continue to be performed by A&M Canada and billed to the Applicants and Chapter 11-related work will be performed by A&M US and billed to the Chapter 11 Entities. Where services are provided for the benefit of the Aralez Entities as a whole, the applicable A&M entity shall bill the CCAA Entities and the Chapter 11 Entities equally; and
  - (ii) In addition to Stikeman Elliott LLP, the Aralez Entities have retained Willkie Farr & Gallagher LLP (“**Willkie**”). The Proposed Monitor understands that while the majority of Willkie’s work will be for the benefit of the Chapter 11 Entities, certain services may be provided for the benefit of the Applicants, which amounts will be billed separately to the Applicants for payment.
96. To the extent necessary, A&M and Moelis will reconcile the fees billed to the Aralez Entities as a whole based on the allocation of proceeds of any sale. The Proposed Monitor notes that pursuant to the Proposed Initial Order, in the event a reconciliation of allocated fees is required, the Applicants will return to the Court to seek such allocation.



97. The amount of the Administration Charge sought by the Applicants was determined in consultation with the Proposed Monitor, and meets the terms of the Canada DIP Credit Agreement.
98. Given the foregoing, the Proposed Monitor is of the view that the proposed Administration Charge is reasonable in the circumstances.

### **DIP Charge**

99. As noted above, the Applicants have insufficient liquidity to maintain operations and the Applicants require DIP financing to continue operations and pursue their restructuring plan.
100. As per the Canada DIP Credit Agreement, the DIP Lender will receive the benefit of the DIP Charge to a maximum amount of the aggregate of any and all advances made by the DIP Lender to the Applicants under the DIP Credit Agreement.
101. The DIP Credit Agreement provides the Applicants with access to the liquidity needed to finance its operations and working capital requirements and undertake its restructuring activities, including the Stalking Horse Sales Process. The Proposed Monitor recommends that the Court approve the DIP Credit Agreement and, as such, the Proposed Monitor also supports granting the DIP Charge.

### **Directors' Charge**

102. The Proposed Initial Order provides for a charge to indemnify the current directors and officers of the Applicants (the "**Directors and Officers**") against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of these CCAA proceedings (the "**Directors' Charge**").
103. The Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent such coverage is insufficient to pay an indemnified amount. As per the Koven Affidavit, the Proposed Monitor understands that the Applicants maintain directors' and officers' liability insurance.
104. The amount of the Directors Charge has been calculated by the Applicants taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment related liabilities that attract potential liability for Directors and Officers.
105. The Proposed Monitor has been informed (and as noted in the Koven Affidavit) that due to the potential for personal liability, the Directors and Officers are unwilling to continue their services and involvement in the CCAA Proceedings without the protection of the Directors' Charge. As the Applicants will require the

participation and experience of the Directors and Officers to facilitate the successful completion of the CCAA Proceedings, including participating in the Stalking Horse Sales Process, the Proposed Monitor believes that the Directors' Charge (both the amount and the priority ranking) is required and reasonable in the circumstances. The Proposed Monitor understands Deerfield has also consented to the Directors' Charge.

### **Transactional Fee Charge**

106. In addition to the Monthly Fee, Moelis is entitled to a success fee (the "**Transaction Fee**") contingent upon the occurrence of a specified transaction, as detailed in the Moelis Engagement Letter. During the Restructuring Proceedings, Moelis shall allocate any Transaction Fees proportionately among the estates based on the proceeds of any sale.

107. Pursuant to the Proposed Initial Order, Moelis shall be entitled to a charge (the "**Transactional Fee Charge**") in respect of any obligation of the Applicants to pay a Transaction Fee.

## **XII. COMEBACK MOTION**

108. Should the Court grant the Proposed Initial Order, the Proposed Monitor understands that the Applicants intend to return to the Court for the Comeback Motion seeking, among other relief:

- (i) approval of a cross-border protocol in order to coordinate proceedings between the Applicants and the Chapter 11 Entities;
- (ii) approval of a key employee incentive and retention program; and
- (iii) an extension of the stay of proceedings established by the Proposed Initial Order.

109. The Proposed Monitor further understands that the Applicants intend to return to the Court on notice for a motion (the "**Sales Process Motion**") seeking, among other things, approval of the Stalking Horse Sales Process.

110. Subsequent to the granting of the Proposed Initial Order, Richter (in its then capacity as Monitor) will report to the Court in connection with the Comeback Motion and the Sales Process Motion, as well as any other relief sought by the Applicants.

## **XIII. PROPOSED MONITOR'S CONCLUSION AND RECOMMENDATIONS**

111. Without CCAA protection and access to interim financing, a shut-down of the Applicants' operations is inevitable, which would be detrimental to the Applicants' stakeholders, including employees and customers. CCAA protection will allow the Applicants to obtain a stay of proceedings and related relief, and provide an

opportunity to restructure their business and affairs. As noted, the Applicants intend to coordinate restructuring proceedings with the Chapter 11 Entities, should they be granted the relief sought from the U.S. Court.

112. For the reasons set out in this Report, the Proposed Monitor is of the view that the relief requested by the Applicants is both appropriate and reasonable. The Proposed Monitor is also of the view that granting the relief requested will provide the Applicants the best opportunity to undertake a going concern sale or other restructuring under the CCAA, thereby preserving value for the benefit of the Applicants' stakeholders. As such, the Proposed Monitor supports the Applicants application for CCAA protection and respectfully recommends that the Court make an Order granting the relief sought by the Applicants in the Proposed Initial Order.

All of which is respectfully submitted this 10<sup>th</sup> day of August, 2018.

**Richter Advisory Group Inc.**  
**In its capacity as Proposed Monitor of**  
**Aralez Pharmaceuticals Inc. and**  
**Aralez Pharmaceuticals Canada Inc. and not**  
**in its personal or corporate capacity**

Per:



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**Paul van Eyk,**  
**CPA, CA-IFA, CIRP, LIT, Fellow of INSOL**  
Senior Vice President



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**Pritesh Patel,**  
**MBA, CFA, CIRP, LIT**  
Vice President

## **Appendix “A”**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
ARALEZ PHARMACEUTICALS INC., AND ARALEZ PHARMACEUTICALS CANADA INC.**

**MANAGEMENT'S REPORT ON CASH FLOW STATEMENT  
(paragraph 10(2)(b) of the CCAA)**

The management of Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (the "**Applicants**") have developed the assumptions and prepared the attached statement of projected cash flow as of the 9<sup>th</sup> day of August, 2018 for the period from August 6, 2018 to November 2, 2018 (the "**Cash Flow Forecast**").

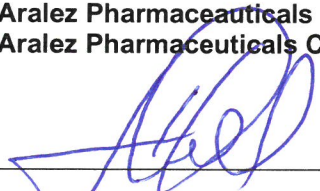
The hypothetical assumptions are reasonable and consistent with the purpose of the Cash Flow Forecast described in the notes therein, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The Cash Flow Forecast has been prepared solely for the purpose described in the notes therein, using the probable and hypothetical assumptions set out therein. Consequently, readers are cautioned that the Cash Flow Forecast may not be appropriate for other purposes.

Dated at Mississauga, in the Province of Ontario, this 9<sup>th</sup> day of August 2018.

**Aralez Pharmaceuticals Inc. and  
Aralez Pharmaceuticals Canada Inc.**



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James L Hall  
General Manager



**Aralez Pharmaceuticals Inc. and  
Aralez Pharmaceuticals Canada Inc.  
13-Week Cash Flow Forecast  
Notes and Summary of Assumptions**

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**In the Matter of the CCAA Proceedings of Aralez Pharmaceuticals Inc. (“Topco”) and Aralez Pharmaceuticals Canada Inc. (collectively with Topco, “Aralez Canada” or the “Canadian Company”).**

**Disclaimer**

In preparing this cash flow forecast (the “**Canadian Forecast**”), Aralez Canada has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. Since the Canadian Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Canadian Forecast period will vary from the Canadian Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Canadian Forecast is presented in millions of Canadian dollars. Receipts and disbursements denominated in U.S. currency or the Euro have been converted to Canadian dollars at an exchange rate of US/CAD = \$1.31 and Euro/CAD = \$1.53, respectively.

**Note 1 Purpose of Canadian Forecast**

The purpose of the Canadian Forecast is to present the estimated cash receipts and disbursements of Aralez Canada for the period from August 9, 2018 to November 2, 2018 in respect of its proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”). The Canadian Forecast has been prepared by management of Aralez Canada (“**Management**”) based on available financial information at the date of Aralez Canada’s application for the Initial Order in accordance with Section 10(2)b) of the CCAA. Readers are cautioned that this information may not be appropriate for other purposes.

**Note 2 Net Sales Receipts**

Net Sales Receipts are forecasted based on current sales forecast prepared by Management. Adjustments have been made to reflect returns, rebates, and discounts, based on Management’s best estimate using historical rates. Net Sales Receipts are net of over-the-counter fees and wholesaler fees-for-service related to distribution and selling costs charged by customers. The majority of these fees are deducted from sales when sales collections are remitted to Aralez Canada.

**Note 3 Inventory Purchases**

Aralez Canada purchases inventory from various third-party suppliers. The timing of disbursements for inventory purchases is based on expected monthly shipping windows and delivery dates of on-order goods and future expected purchases and, as such, is subject to large fluctuations in timing.

**Note 4      Royalty Payments**

Aralez Canada pays royalties and/or license and milestone payments to third-party partners for the right to distribute and sell certain products. The timing and amount of disbursements for royalty payments is based on forecasted sales of the products and timing of receipt of invoices and, as such, is subject to large fluctuations in timing and magnitude.

**Note 5      Payroll Related Expenses**

Payroll and related payments include salaries, payroll taxes, remittances, quarterly commissions, RRSP contribution matching for salaried employees and monthly fees paid to the directors. Payroll related expenses are forecasted based on historical run-rates. Employees are paid bi-weekly, no weeks in arrears.

**Note 6      Operating Expenses**

Operating expenses include general business expenses including: marketing costs, sales team expenses, regulatory filing fees, research and development related costs, general and administration expenses and freight and distribution costs (excluding the OTC and fee-for-service fees which are included in Net Sales Receipts, as noted in note 2 above). Operating expenses are forecasted to be paid bi-weekly by cheque.

**Note 7      Rent**

The Canadian Forecast assumes that rent and occupancy costs for the Mississauga head office are paid on the first day of each month. Occupancy costs include utilities (hydro, gas, internet and telephone), CAM, and realty taxes.

**Note 8      Topco Operating Expenses**

The Canadian Forecast includes operating expenses related to Topco, which primarily relate to legal fees incurred for compliance, patent and trademark work, employment matters, audit fees, accounting and SOX related fees and tax fees.

**Note 9      Professional Fees**

These disbursements include payments to: (i) Aralez Canada's secured creditor's counsel, financial advisor and legal counsel, (ii) the Monitor and its legal counsel, and (iii) Moelis & Company LLC, investment banker to Aralez Canada and its affiliates.

**Note 10     Opening Cash Balance**

This balance includes cash from the Canadian Company's three bank accounts denominated in Canadian dollars, US Dollar and the Euro as at August 9<sup>th</sup>, 2018. The US Dollar and Euro denominated accounts have been translated to Canadian dollars based on the exchange rates noted above.



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
ARALEZ PHARMACEUTICALS INC., AND ARALEZ PHARMACEUTICALS CANADA INC.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT  
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash flow of Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (collectively, the "Applicants"), prepared as of the 9<sup>th</sup> Day of August, 2018, consisting of the period from August 9, 2018 to November 2, 2018 (the "Cash Flow Forecast"), has been prepared by management of the Applicants for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by management and employees of the Applicants. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Cash Flow Forecast.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions; or
- (c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow Forecast will be achieved.

The Cash Flow Forecast has been prepared solely for the purpose described in the notes thereto and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 9<sup>th</sup> day of August 2018.

**RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS PROPOSED CCAA MONITOR OF  
ARALEZ PHARMACEUTICALS INC.  
AND ARALEZ PHARMACEUTICALS CANADA INC.  
AND NOT IN ITS PERSONAL CAPACITY**

Per:

  
\_\_\_\_\_  
Pritesh Patel, MBA, CFA, CIRP, LIT  
Vice President

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

Court File No. \_\_\_\_\_

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA  
INC.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**REPORT OF PROPOSED MONITOR**

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