



Court File No.: CV-24-00719237-00CL

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

THE HONOURABLE)
JUSTICE OSBORNE)
MONDAY, THE 24th
DAY OF JUNE, 2024

B E T W E E N:

NUANCE PHARMA LTD.

Applicant

- and -

ANTIBE THERAPEUTICS INC.

Respondent

**IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE
COURTS OF JUSTICE ACT**

**ORDER
(Sale Process Approval)**

THIS MOTION, made by FTI Consulting Canada Inc. in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") without security, of all of the present and future assets, undertakings and real and personal property of Antibe Therapeutics Inc. ("**Antibe**"), was heard this day via Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the First Report (including the appendices thereto) of the Receiver dated June 18, 2024 (the "**First Report**"), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the Service List, as appears from the affidavit of service, sworn and filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record of the Receiver is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them in the Sale Process attached at Schedule “A” hereto (the “**Sale Process**”).

APPROVAL OF THE SALE PROCESS

3. **THIS COURT ORDERS** that the Sale Process and the procedures contemplated therein be and are hereby approved, subject to such non-material and permissible amendments as may be made by the Receiver.
4. **THIS COURT ORDERS** that Bloom Burton Securities Inc. is hereby appointed as financial advisor (the “**Financial Advisor**”) to conduct the Sale Process with the direct oversight of the Receiver.
5. **THIS COURT ORDERS** that the Receiver and the Financial Advisor are authorized and directed to take such steps as they deem necessary or advisable to carry out and perform their obligations under the Sale Process, subject to the prior approval of this Court being obtained before the completion of any transaction(s) under the Sale Process.
6. **THIS COURT ORDERS** that the Receiver and the Financial Advisor are authorized to continue the solicitation efforts recently initiated on June 11, 2024 under the Sale Process to solicit interest in the opportunity for a sale of all or part of the Debtors’ assets, including, but not limited to, the intellectual property rights and interests of the Debtor (the “**Property**”).
7. **THIS COURT ORDERS** that the Receiver, the Financial Advisor and its respective affiliates, partners, employees, representatives and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or

liabilities result from the gross negligence or willful misconduct of the Receiver, as determined by the Court.

8. **THIS COURT ORDERS** that in overseeing the Sale Process, the Receiver and the Financial Advisor shall have all benefits and protections granted to it under any order of this Court in the within proceeding.

REGULATORY COMPLIANCE

9. **THIS COURT ORDERS** that the Receiver, and its counsel, be and is hereby authorized but not obligated, to serve or distribute this Order, any other materials, orders, communication, correspondence or other information as may be necessary or desirable in connection with the Sale Process to any Person or interested party that the Receiver consider appropriate. For greater certainty, any such distribution, communication or correspondence shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

10. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended, the Receiver is hereby authorized and permitted to disclose and transfer to each potential bidder (collectively, the “**Potential Bidders**”) and to their advisors, if requested by such Potential Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Debtors’ records pertaining to its past and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale of the Property (“**Sale**”). Each Potential Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of a Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Property acquired pursuant to the Sale in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

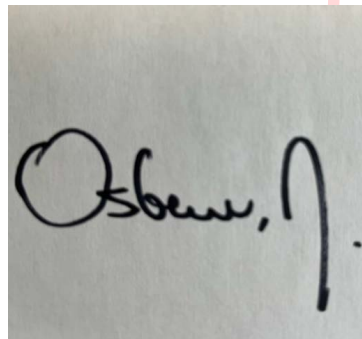
GENERAL

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, 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 the Trustee and its agents as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

14. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. Toronto Time on the date of this Order and is enforceable without the need for entry and filing.



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SCHEDULE “A”

Sale Process

ANTIBE THERAPEUTICS INC.

Introduction

1. On April 9, 2024, Antibe Therapeutics Inc. (“**Antibe**” or the “**Debtor**”) made an application pursuant to the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for creditor protection (the “**CCAA Proceedings**”). On the same day, the Court granted an Initial Order which, among other things: (i) granted a stay of proceedings up to and including April 18, 2024; and (ii) appointed Deloitte Restructuring Inc. as Court-appointed monitor of the business and financial affairs of Antibe (in such capacity, the “**Monitor**”).
2. On April 15, 2024, Nuance Pharma Ltd. (“**Nuance**”), responded with a cross-application objecting to the CCAA proceedings.
3. On April 22, 2024, the Honourable Justice Osborne issued an endorsement appointing FTI Consulting Canada Inc. as receiver and manager (the “**Receiver**”), without security, of the assets, undertakings and properties of Antibe Therapeutics Inc. (“**Antibe**” or the “**Debtor**”). The appointment was confirmed to be effective pursuant to an order of the Court issued on April 30, 2024 (the “**Receivership Order**”).
4. On June 24, 2024, pursuant to an order (the “**Sale Process Order**”) of the Court, the Receiver was, among other things, authorized to continue solicitation efforts and conduct a sale process in respect of the assets of the Debtor (the “**Sale Process**”). Pursuant to the Sale Process Order, the Receiver has engaged and the Court has appointed Bloom Burton Securities Inc. (the “**Financial Advisor**”) to conduct the Sale Process described herein with direct oversight of the Receiver.

Opportunity

5. The Sale Process is intended to solicit interest in opportunities for a sale of all or part of the Debtor’s assets (the “**Opportunity**”). The Opportunity may include one or more sales of all or substantially all of the Debtor’s assets (the “**Property**”) (each, a “**Transaction**”).
6. This document describes the sale process (the “**Sale Process**”) by which the Property will solicited, including 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 the Debtor and the Property, how bids will be submitted to and dealt with by the Receiver, and how Court approval will be obtained in respect of a Transaction.
7. The Sale Process contemplates a two-stage process that requires parties to submit letters of interest by the Phase 1 Bid Deadline and binding offers by the Phase 2 Bid Deadline (as defined below).

8. Except to the extent otherwise set forth in a definitive sale agreement with a successful bidder, any Transaction will be on an “asis, where-is” basis and without surviving representations or warranties of any kind, nature, or description by the Receiver, the Debtor, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Debtor in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.
9. In the Sale Process, (i) “**Business Day**” means any day (other than Saturday or Sunday) that banks are open for business in Toronto, Ontario. If any deadline date referred to in the Sale Process falls on a day that is not a Business Day, then such date shall be extended until the next Business Day; and (ii) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase, “without limitation”.

Timeline

10. The following table sets out the key milestones under the Sale Process:

Milestone	Timeline	Targeted Deadline
Commencement date		June 11, 2024
Preparation of Sale Process materials: (i) Teaser, Buyer list, NDA	Completed	June 11, 2024
(ii) Investment Memorandum, Buyer list, Notices for trade publication, NDA, populate EDR	10 days	June 21, 2024
Phase 1 Bid Deadline	50 days	July 31, 2024
Assessment of Phase 1 Bids	9 days	August 9, 2024
Phase 2 Bid Deadline	25 days	September 3, 2024
Auction Date (if applicable)	7 days	September 11, 2024
Finalize Transaction agreement	7 days	September 11, 2024
Sale Approval Motion (as defined below) in Court	As soon as reasonably practicable	September 20, 2024 (outside date)
Closing of the Transaction	As soon as reasonably practicable	September 27, 2024 (outside date)

11. The dates set out in the Sale Process may be extended by either: (i) further order of the Court; or (ii) the Receiver.

Solicitation of Interest: Notice of the Sale Process

12. The Financial Advisor, with the oversight and assistance from the Receiver and input from the senior management of Antibe, prepared a list of potential bidders, including (i) parties

that operate in a similar industry, and (ii) local and international strategic and financial parties who may be interested in a Transaction pursuant to the Sale Process (collectively, “**Known Potential Bidders**”). The Financial Advisor with oversight from the Receiver also prepared a short-form teaser that provided an overview of the opportunity (the “**Teaser**”). On June 11, 2024, the Receiver and Financial Advisor commenced solicitation efforts to the Known Potential Bidders and sent the Teaser either electronically or by physical mail depending on the recipient.

13. The Receiver’s legal counsel, Thornton Grout Finnigan LLP, also prepared a form of non-disclosure agreement (an “**NDA**”) to be utilized by interested parties to access confidential information.
14. As soon as reasonably practicable, the Receiver with the assistance of the Financial Advisor and its legal counsel, Thornton Group Finnigan LLP, as required will:
 - a. arrange for a notice of the Sale Process (and such other relevant information which the Receiver considers appropriate) (the “**Notice**”) to be published in in *The Globe and Mail* (National Edition), *Insolvency Insider*, the Receiver’s website, and any other newspaper or journal or industry website as the Receiver considers appropriate, if any; and
 - b. prepare a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the Court-approved Sale Process, and inviting recipients of the Teaser and Teaser Letter to express their interest pursuant to the Sale Process.
15. The Receiver and the Financial Advisor will send the Teaser, Teaser Letter and NDA to each Known Potential Bidder and to any other Person who requests a copy of the Teaser Letter and NDA or who is identified to the Receiver as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

Potential Bidders and Due Diligence Materials

16. Any party who wishes to participate in the Sale Process (a “**Potential Bidder**”) must provide an executed NDA to the Receiver, and which shall inure to the benefit of any purchaser of the Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
17. The Receiver shall, in its reasonable business judgment and subject to competitive and other business considerations, afford each Potential Bidder who has signed and delivered an NDA to the Receiver and provided information as to their financial ability, in the Receiver’s sole discretion, to close a transaction, such access to due diligence material and information relating to the Property as the Receiver deems appropriate. Due diligence shall include access to an electronic data room (“**EDR**”) containing information about the Debtor and the Opportunity, and may also include management presentations, confidential information memorandums, on-site inspections, and other matters which a Potential Bidder may reasonably request and as to which the Receiver may agree. The Receiver will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders

and the manner in which such requests must be communicated. The Receiver will not be obligated to furnish any information relating to the Property to any person other than to Potential Bidders. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the Sale Process, the Opportunity or the Property.

18. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property in connection with their participation in the Sale Process and any Transaction they enter into.

Phase 1: Non-Binding LOI

19. Potential Bidders that wish to submit a bid to purchase the Property (a “**Phase 1 Bidder**”) shall submit a non-binding letter of intent (an “**LOI**”) that complies with all of the following requirements to the Receiver’s counsel at the address specified in Schedule “1” hereto (including by e-mail), so as to be received by them not later than **1:00 PM (EST) on July 31, 2024** (the “**Phase 1 Bid Deadline**”) or as may be modified in the Bid process letter that may be circulated by the Receiver to Potential Bidders (each LOI that meets the requirements set out below, a “**Qualified Phase 1 Bid**”):

- a. the LOI must be duly executed by all required parties;
- b. the LOI must be received by the Phase 1 Bid Deadline;
- c. the LOI identifies the Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Phase 1 Bidder for all purposes regarding the contemplated transaction;
- d. the LOI clearly indicates the Property, either in part or all or substantially all, that the Phase 1 Bidder is seeking to acquire;
- e. the LOI contains such other information as may be reasonably requested by the Receiver;
- f. the LOI identifies the following:
 - i. the proposed purchase price in Canadian dollars and a description of any non-cash consideration, including details of any liabilities to be assumed by the Phase 1 Bidder and key assumptions supporting the valuation;
 - ii. a description of the Property that is expected to be subject to and included in the transaction, and any of the Property expected to be excluded from the transaction;
 - iii. a specific indication of the financial capability of the Phase 1 Bidder and the expected structure and financing of the transaction;

- iv. a description of the conditions and approvals required to complete the closing of the transaction;
- v. a description of those liabilities and obligations (including operating liabilities) which the Phase 1 Bidder intends to assume and which such liabilities and obligations it does not intend to assume, if any; and
- vi. any other terms or conditions of the LOI that the Phase 1 Bidder believes are material to the transaction.

20. The Receiver may waive strict compliance with any one or more of the requirements above.

Evaluation of Competing Phase 1 Bids

- 21. The Receiver and the Financial Advisor may, following the receipt of any LOI, seek clarification with respect to any of the terms or conditions of such LOI prior to determining if the LOI should be considered a Phase 1 Qualified Bid or a Phase 1 Satisfactory Bid (as defined below).
- 22. Following the Phase 1 Bid Deadline, the Receiver and the Financial Advisor will determine the LOIs that are selected as the most favourable Phase 1 Qualified Bids, which will then be deemed “**Phase 1 Satisfactory Bids**”.
- 23. Phase 1 Bidders whose LOIs are selected as Phase 1 Satisfactory Bidders will be determined as being Phase 2 Qualified Bidders. The Receiver will notify each Phase 1 Bidder in writing as to whether it was determined to be a Phase 2 Qualified Bidder no later than five (5) business days following the Phase 1 Bid Deadline, or at such later time as the Receiver, in consultation with Financial Advisor, deems appropriate, acting reasonably.

Phase 2: Formal Binding Offers

- 24. Phase 2 Qualified Bidders that wish to make a formal offer to purchase the Property shall submit a binding offer (a “**Bid**”) that complies with all of the following requirements to the Receiver’s counsel at the address specified in Schedule “1” hereto (including by e-mail), so as to be received by them not later than **1:00 PM (EST) on September 3, 2024** or as may be modified in the Bid process letter that may be circulated by the Receiver or Financial Advisor to Phase 2 Qualified Bidders (the “**Phase 2 Bid Deadline**”):
 - a. the Bid must be a binding offer to acquire all, substantially all or a portion of the Property (a “**Sale Proposal**”);
 - b. the Bid (either individually or in combination with other bids that make up one bid) is an offer to purchase the Property and is consistent with any necessary terms and conditions established by the Receiver and communicated to Phase 2 Qualified Bidders;

- c. the Bid includes a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- d. the Bid includes duly authorized and executed transaction agreements, which provide:
 - i. the purchase price (the "**Purchase Price**") for the Sale Proposal;
 - ii. a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - iii. a description of the conditions and approvals required to complete the closing of the transaction;
 - iv. a description of those liabilities and obligations (including operating liabilities) which the Phase 2 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - v. any other terms or conditions of the Bid that the Bid Phase 2 Qualified Bidder believes are material to the transaction; and
 - vi. any and all exhibits and schedules thereto;
- e. the Bid is accompanied by a deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Receiver), in an amount equal to ten percent (10%) of the Purchase Price, to be held and dealt with in accordance with this Sale Process;
- f. the Bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Receiver to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities, and general wherewithal to consummate the proposed transaction;
- g. the Bid is not conditioned on (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, or (ii) obtaining financing. Any conditions and approvals required to complete the Sale Proposal will be included in the transaction documents;
- h. the Bid fully discloses the identity of each entity that will be entering into the transaction, or that is otherwise participating or benefiting from such bid;
- i. the Bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder:
 - i. is completing the Transaction on an "as-is, where-is" basis;

- ii. has had an opportunity to conduct any and all due diligence regarding the Property and the Debtor prior to making its Bid;
 - iii. has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its Bid; and
 - iv. did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Property or the Debtor or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s);
- j. the Bid is received by the Phase 2 Bid Deadline; and
- k. the Bid contemplates closing the Transaction set out therein in an expedient manner following the granting of an order by the Court approving the same.
25. Following the Bid Deadline, the Receiver and the Financial Advisor will assess the Bids received. The Receiver, in consultation with the Financial Advisor, will designate the most competitive bids that comply with the foregoing requirements to be “**Phase 2 Qualified Bids**”. No Bids received shall be deemed not to be Phase 2 Qualified Bids without the approval of the Receiver. Only Phase 2 Qualified Bidders whose bids have been designated as Phase 2 Qualified Bids are eligible to become the Successful Bidder(s).
26. The Receiver may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Bids to be a Phase 2 Qualified Bid. The Receiver will be under no obligation to negotiate identical terms with, or extend identical terms to, each Bidder.
27. The Receiver shall notify each Bidder in writing as to whether its Bid constituted a Phase 2 Qualified Bid within two (2) business days of the Phase 2 Bid Deadline, or at such later time as the Receiver deems appropriate.
28. The Receiver may aggregate separate Bids from unaffiliated Phase 2 Qualified Bidders to create one Phase 2 Qualified Bid.

Evaluation of Competing Bids

29. A Phase 2 Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the net value provided by such bid, (ii) the identity, circumstances and ability of the Bidder to successfully complete such Transaction(s), (iii) the proposed Transaction documents, (iv) the assets included or excluded from the bid, (v) any related restructuring costs, (vi) the likelihood and timing of consummating such Transaction, each as determined by the Receiver and (vii) any other factor deemed relevant by the Receiver.
30. The Receiver reserves the right to negotiate with any bidder with respect to their Phase 2 Qualified Bid if the Receiver determines such negotiations to be in the best interest of the Sale Process.

Auction

31. If the Receiver receives at least two Phase 2 Qualified Bids and determines, in consultation with the Financial Advisor, that they are competitive, the Receiver may proceed to conduct and administer an Auction in accordance with the terms of this Sale Process (the “**Auction**”). Instructions to participate in the Auction, which will take place via video conferencing, or in person, as determined by the Receiver, and will be provided to Qualified Parties (as defined below) not less than 48 hours prior to the Auction.
32. Only parties that provided a Phase 2 Qualified Bid by the Phase 2 Bid Deadline, as confirmed by the Receiver (collectively, the “**Qualified Parties**”), shall be eligible to participate in any Auction. No later than 1:00 p.m. (EST) on the day prior to any Auction, each Qualified Party must inform the Receiver whether it intends to participate in the Auction. The Receiver will promptly thereafter will have the option to inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction.

Auction Procedure

33. If the Receiver is to conduct an Auction, the Auction shall be governed by the following procedures:
 - a. **Participation at the Auction.** Only the Qualified Parties, the Receiver and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction. The Receiver shall provide the selected Qualified Parties with the details of the lead bid by 1:00 PM (EST) no later than five (5) days after the Phase 2 Bid Deadline. Each Phase 2 Qualified Bidder must inform the Receiver whether it intends to participate in the Auction no later than 1:00 PM (EST) on the Business Day prior to the Auction;
 - b. **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid;
 - c. **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Receiver, in consultation with the **Financial Advisor** (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to the Receiver’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of \$100,000;
 - d. **Bidding Disclosure.** The Auction shall be conducted such that all bids may be made and received in one group video-conference or otherwise, on an open basis, and all Qualified Parties may be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party may be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully

- disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Receiver, in its discretion, may establish separate video conference rooms to permit interim discussions between the Receiver and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- e. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each **participating** Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s);
 - f. **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has **concluded**; and
 - g. **Auction Procedures.** The Receiver shall be at liberty to revise those rules set out herein or **set** additional procedural rules prior to or at the Auction as it sees fit.

Selection of Successful Bid

34. If the Receiver elects to conduct an Auction, before the conclusion of the Auction, the Receiver will:
- a. review and evaluate each Qualified Bid, considering the factors set out in paragraph 28 and any other factor that the Receiver may reasonably deem relevant, provided that each Qualified Bid may be negotiated among the Receiver, the Financial Advisor and the Qualified Bidder, and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations; and
 - b. identify the highest or otherwise best bid received at the Auction (the “**Successful Bid**” and the Qualified Party making such bid, the “**Successful Party**”).
35. The Receiver reserves the right to select a Successful Bid without the requirement to perform an Auction if, in the Receiver’s opinion, an Auction will not lead to a better bid as part of the Sale Process.
36. The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the Receiver, subject to the milestones set forth in paragraph 10.

Sale Approval Motion Hearing

37. At the hearing of the motion to approve any transaction with a Successful Party (the “**Sale Approval Motion**”), the Receiver shall seek, among other things, approval from the Court to consummate any Successful Bid. All Qualified Bids other than the Successful Bid, if any, shall be deemed to be rejected by the Receiver on and as of the date of approval of the Successful Bid by the Court.

Confidentiality and Access to Information

38. All discussions regarding a Bid should be directed through the Receiver and the Financial Advisor. Under no circumstances should the former management of the Debtor be contacted directly without the prior consent of the Receiver or the Financial Advisor. Any such unauthorized contact or communication could result in the exclusion of the interested party from the Sale Process.
39. Participants and prospective participants in the Sale Process shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Bidders, Qualified Bids, the details of any Bids submitted or the details of any confidential discussions or correspondence between the Receiver and such other bidders or Potential Bidders in connection with the Sale Process, except to the extent the Receiver, with the consent of the applicable participants, seeks to combine separate bids from Qualified Bidders.

Supervision of the Sale Process

40. The Receiver shall oversee, and the Financial Advisor shall conduct, the Sale Process in all respects, and, without limitation to that supervisory role, the Receiver will participate in the Sale Process in the manner set out in this Sale Process and the Sale Process Order and any other orders of the Court and is entitled to receive all information in relation to the Sale Process.
41. This Sale Process does not and will not be interpreted to create any contractual or other legal relationship between the Receiver and any Potential Bidder, any Qualified Bidder or any other Person, other than as specifically set forth in a definitive agreement that may be entered into with the Receiver.
42. Without limiting the preceding paragraph, the Receiver and the Financial Advisor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Bidder, the Successful Bidder, the Debtor, or any other creditor or other stakeholder of the Debtor, for any act or omission related to the process contemplated by this Sale Process Procedure, except to the extent such act or omission is the result from gross negligence or willful misconduct of the Receiver or the Financial Advisor. By submitting a bid, each Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Receiver or the Financial Advisor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or willful misconduct of the Receiver or the Financial Advisor.
43. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a Transaction.
44. The Receiver shall have the right to modify the Sale Process (including, without limitation, pursuant to the Bid process letter) if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Sale Process; provided that the Service List in these proceedings shall be advised of any substantive modification to the procedures set forth herein.

Deposits

45. All Deposits received pursuant to this Sale Process shall be held in trust by the Receiver. The Receiver shall hold Deposits paid by each of the Bidders in accordance with the terms outlined in this Sale Process. In the event that a Deposit is paid pursuant to this Sale Process and the Receiver elects not to negotiate and settle the terms and conditions of a definitive agreement with the Person that paid such Deposit, the Receiver shall return the Deposit to that Person. In the event that the Successful Bidder defaults in the payment or performance of any obligations owed to the Receiver pursuant to any Final Agreement, the Deposit paid by the Successful Bidder, as applicable, shall be forfeited as liquidated damages and not as a penalty.

Schedule “1”

Address of Receiver

To the Receiver:

FTI Consulting Canada Inc.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

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IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE COURTS OF JUSTICE ACT

NUANCE PHARMA LTD.

Applicant

AND

ANTIBE THERAPEUTICS INC.

Responden

Court File No.: CV-24-00719237-00CI

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

SALE PROCESS ORDER

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