

I hereby certify this to be a true copy of  
the original AMENDED AND RESTATED INITIAL ORDER

Dated this 29th day of July, 2024

COURT FILE NUMBER

2401-09688

Stephanie Beaumont

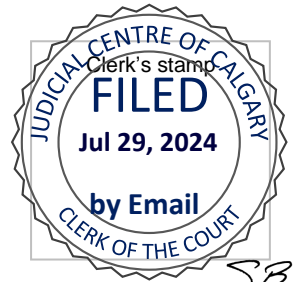
for Clerk of the Court

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY



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

AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF DELTA  
9 CANNABIS INC., DELTA 9 LOGISTICS INC.,  
DELTA 9 BIO-TECH INC., DELTA 9 LIFESTYLE  
CANNABIS CLINIC INC. and DELTA 9  
CANNABIS STORE INC.

APPLICANTS

DELTA 9 CANNABIS INC., DELTA 9 LOGISTICS  
INC., DELTA 9 BIO-TECH INC., DELTA 9  
LIFESTYLE CANNABIS CLINIC INC. and DELTA  
9 CANNABIS STORE INC.

DOCUMENT

**AMENDED AND RESTATED INITIAL ORDER**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**MLT AIKINS LLP**

Barristers and Solicitors  
#2100 – 222 3<sup>rd</sup> Ave SW  
Calgary, AB T2P 0B4

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[kward@mltaikins.com](mailto:kward@mltaikins.com)

File No. 0136555.00034

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**DATE ON WHICH ORDER WAS PRONOUNCED: JULY 24, 2024**

**LOCATION WHERE ORDER WAS PRONOUNCED: EDMONTON, ALBERTA**

**NAME OF JUSTICE WHO MADE THIS ORDER: THE HONOURABLE ASSOCIATE  
CHIEF JUSTICE K.G. NIELSEN**

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**UPON** the application (the "**Comeback Application**") of Delta 9 Cannabis Inc. ("**D9 Parent**"), Delta 9 Logistics Inc. ("**Logistics**"), Delta 9 Bio-Tech Inc. ("**Bio-Tech**"), Delta 9 Lifestyle Cannabis Clinic Inc. ("**Lifestyle**"), and Delta 9 Cannabis Store Inc. ("**Store**", and collectively with D9 Parent, Logistics, Bio-Tech, and Lifestyle, the "**Applicants**" or "**Delta 9**") for, among other things, an Amended and Restated Order pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"); **AND UPON** having read the Comeback

Application filed on July 19, 2024, the First Affidavit of John Arbuthnot IV, sworn on July 12, 2024 and filed on July 15, 2024 (the “**First Arbuthnot Affidavit**”), the Second Affidavit of John Arbuthnot IV sworn and filed on July 18, 2024 (the “**Second Arbuthnot Affidavit**”), the Second Supplemental Affidavit of John Arbuthnot IV, sworn and filed on July 22, 2024, the Affidavit of Mark Townsend sworn on July 19, 2024 and filed on July 22, 2024, the Confidential Affidavit of Danielle Christiansen sworn on July 24, 2024 (the “**Confidential Affidavit**”) and the Affidavit of Service of Regie Agcaoili sworn July 23, 2024; **AND UPON** having read the First Report of the monitor, Alvarez & Marsal Canada Inc. (the “**Monitor**”), dated July 22, 2024 and the Confidential Appendices appended thereto, and the Bench Brief of the Applicants, filed on July 22, 2024;

**AND UPON** being advised that the initial order (the “**Initial Order**”) was granted on July 15, 2024 (the “**Initial Order Date**”) by the Honourable Justice D.R. Mah; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this Comeback Application; **AND UPON** hearing counsel for the Applicants, counsel for Monitor, counsel for 2759054 Ontario Inc., o/a Fika Herbal Goods (the “**Plan Sponsor**” or “**Interim Lender**”), counsel for SNDL Inc., and counsel for any other parties present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

## **DEFINED TERMS**

1. Any capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the First Arbuthnot Affidavit or the Second Arbuthnot Affidavit.

## **SERVICE**

2. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

## **APPLICATION**

3. The Applicants are companies to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

4. The Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the “**Plan**”).

## POSSESSION OF PROPERTY AND OPERATIONS

5. The Applicants shall:

- (a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);
- (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property;
- (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and
- (d) be entitled to continue to utilize the central cash management system currently in place as described in the First Arbuthnot Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after the Initial Order Date:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the Initial Order Date, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
  - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the Initial Order Date;
  - (c) with the consent of the Monitor and in accordance with the Cash Flow Forecast, for goods and services, supplied to the Applicants, including for periods prior to the Initial Order Date if, in the opinion of the Applicants following consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property; and
  - (d) pursuant to the Interim Financing Term Sheet (defined below), the amount required to pay SNDL Inc. ("**SNDL**") in full for the SNDL Mezzanine Debt (as defined in the Second Arbutnot Affidavit) within 10 business days of the issuance of this Order and upon the Monitor confirming: (i) the quantum of the SNDL Mezzanine Debt; and (ii) the security granted in favour of SNDL in respect of the SNDL Mezzanine Debt is valid and enforceable. The Interim Lender is hereby authorized to pay out the confirmed amount of the SNDL Mezzanine Debt directly to SNDL on behalf of the Applicants.
7. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the Initial Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
  - (b) payment for goods or services actually supplied to the Applicants following the Initial Order Date.
8. The Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any payroll remittances in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be remitted in respect of employees' wages, including, without limitation, amounts in respect of:
    - (i) employment insurance,
    - (ii) Canada Pension Plan, and
    - (iv) income taxes,but only where such remittance obligations arise after the Initial Order Date, or are not required to be remitted until after the Initial Order Date, unless otherwise ordered by the Court;
  - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the Initial Order Date, or where such Sales Taxes were accrued or collected prior to the Initial Order Date but not required to be remitted until on or after the Initial Order Date; and
  - (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.
9. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the Initial Order Date ("**Rent**"), but shall not pay any rent in arrears.
10. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the Initial Order Date, except for the payment to SNDL directed pursuant to paragraph 5(c) of this Order;
- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

11. The Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 34), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of their business or operations and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$500,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deems appropriate, in accordance with section 32 of the CCAA; and
- (d) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. The Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicantss, or by further order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.
13. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
  - (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice; and
  - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

14. Until and including September 15, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**")

shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;
  - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
  - (c) prevent the filing of any registration to preserve or perfect a security interest;
  - (d) prevent the registration of a claim for lien; or
  - (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.
16. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

#### **NO INTERFERENCE WITH RIGHTS**

17. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right,



contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

18. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the Initial Order Date are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

19. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Initial Order Date, nor shall any person, other than the Plan Sponsor where applicable, be under any obligation on or after the Initial Order Date to advance or re-advance any monies or otherwise extend any credit to the Applicants.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 16 of this Order, no Proceeding may be commenced or continued against any

of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the Initial Order Date and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court. Further, no Proceeding may be commenced or continued against John Arbuthnot IV in respect of his personal obligations in respect of amounts owed by the Applicants during the pendency of the Stay Period.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

21. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
22. The directors and officers (collectively, the "**Directors**") of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$900,000, as security for the indemnity provided in paragraph 21 of this Order and the professional fees and disbursements incurred both before and after the granting of this Order for the Directors' legal counsel incurred in respect of the within CCAA proceedings. The Directors' Charge shall have the priority set out in paragraphs 51 and 53 herein.
23. Notwithstanding any language in any applicable insurance policy to the contrary:
  - (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
  - (b) the Applicants' 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 that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

## APPOINTMENT OF MONITOR

24. Alvarez & Marsal Canada Inc. (the “**Monitor**”) is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs and the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.
25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicants’ receipts and disbursements, Business and dealings with the Property;
  - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants;
  - (c) assist the Applicants, to the extent required by the Applicants, in its dissemination to the Interim Lender and its counsel on a bi-weekly basis of financial and other information as agreed to between the Applicants and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
  - (d) advise the Applicants in their preparation of the Applicants’ cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than bi-weekly, or as otherwise agreed to by the Interim Lender;
  - (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
  - (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors’ or shareholders’ meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;
  - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
  - (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
  - (j) perform such other duties as are required by this Order or by this Court from time to time.
26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.
27. The Monitor shall provide any creditor of the Applicants and the Plan Sponsor with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants

is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
29. The Monitor, counsel to the Monitor, counsel to the Applicants and counsel to the Plan Sponsor shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and counsel to the Plan Sponsor on a bi-weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Applicants, and counsel to the Directors', retainers in the respective amounts of \$50,000, to be held by each of them as security for payment of their respective fees and disbursements outstanding from time to time.
30. The Monitor and its legal counsel shall pass their accounts from time to time.
31. The Monitor, counsel to the Monitor, and the Applicants' counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of **\$750,000.00**, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the Initial Order Date in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 51 and 53 hereof.

#### **INTERIM FINANCING**

32. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the Interim Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided

that borrowings under such credit facility shall not exceed the principal amount of \$16,000,000.00 unless permitted by further order of this Court.

33. Such credit facility shall be on the terms and subject to the conditions set forth in the interim financing term sheet between the Applicants and the Interim Lender dated as of July 18, 2024 (the “**Interim Financing Term Sheet**”), appended to the Second Arbuthnot Affidavit at Exhibit “2”.
34. The Applicants are hereby authorized and empowered to execute the Interim Financing Term Sheet and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Interim Financing Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the Interim Financing Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Financing Charge**”) on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Interim Financing Term Sheet or the Definitive Documents, plus all accrued interest, fees and costs, as applicable, under the Interim Financing Term Sheet. The Interim Financing Charge shall not secure any obligation existing before this the date this Order is made. The Interim Financing Charge shall have the priority set out in paragraphs 51 and 53 hereof.
36. Notwithstanding any other provision of this Order:
  - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Financing Charge or any of the Definitive Documents;
  - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Financing Charge, the Interim Lender, upon 3 days’ notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies

against the Applicants or the Property under or pursuant to the Interim Financing Term Sheet, Definitive Documents, and the Interim Financing Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lender to the Applicants against the obligations of the Applicants to the Interim Lender under the Interim Financing Term Sheet, the Definitive Documents or the Interim Financing Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

- 37. The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

#### **KEY EMPLOYEE RETENTION PLAN**

- 38. The Key Employee Retention Plan (the “**KERP**”), as described in the Second Arbutnot Affidavit and appended in unredacted form to the Confidential Affidavit, is hereby approved and the Applicants are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.
- 39. Payments by the Applicants pursuant to the KERP do not and shall not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.
- 40. The key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of \$655,000 (the “**KERP Charge**”), as security for amounts payable to the Key Employees pursuant to the KERP. The KERP Charge shall have the priority set out in paragraphs 51 and 53 hereof.

## APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

41. Mark Townsend is hereby appointed as the Chief Restructuring Officer (“**CRO**”) over and in respect of the Applicants and shall have the powers and obligations set out in the engagement agreement between the Applicants and 1198184 B.C. Ltd., dated July 18, 2024 (the “**CRO Agreement**”) as appended in the Confidential Affidavit.
42. The CRO Agreement is hereby approved, subject to such minor amendments as the parties may agree to with the Monitor’s consent, and the Applicants are hereby authorized and directed to perform all of their obligations pursuant to the CRO Agreement.
43. Subject to the terms of this Order and authorization from the Applicants, the CRO is hereby authorized to assist the Applicants and to do all things, carry out all actions and perform all duties described in the CRO Agreement, and without limiting the generality of the foregoing, the CRO is hereby empowered to do the following:
  - (a) assist the Applicants with the Restructuring (as defined in the CRO Agreement);
  - (b) communicate with and provide information to the Monitor and other professionals involved in the Restructuring regarding the business and affairs of the Applicants;
  - (c) assist the Applicants in managing and providing information to, and serving as a contact with, the Applicants’ stakeholders;
  - (d) assist the Applicants in preparing and evaluating their projected cash flow statements and approving the same, in accordance with the terms of the Interim Financing Term Sheet and the Restructuring Term Sheet (collectively, the “**Term Sheets**”);
  - (e) assist with the proposed plan of arrangement in accordance with the terms of the Term Sheets and the applicable orders of this Court, and any potential sale and investment solicitation process in connection with these proceedings;
  - (f) assist the Applicants with any deliverables owed to the Plan Sponsor pursuant to the Term Sheets;
  - (g) assist with these proceedings on the Applicants’ behalf, including dealing with the administration of financing, any insolvency-related claims and other related matters;



- (h) deal with the key stakeholders in these proceedings, including employees, lenders, vendors and suppliers;
- (i) participate in the Applicants' respective management and executive teams;
- (j) review all of the Applicants' planned disbursements during the Stay Period as prepared by the Applicants' officers and accounting departments; and
- (k) such other services as requested or directed by the Applicants' management, which services are subject to approval and agreement and not duplicative of work otherwise performed by the Applicants,

provided that each of the foregoing actions, agreements, expenses and obligations shall be construed to be those of the Applicants and not of the CRO nor any of his employees, representatives or agents.

- 44. In addition to the rights and protections afforded to the CRO by this Court, the CRO shall not be deemed to be a director, officer or trustee of the Applicants.
- 45. The CRO shall not take possession of the Property and shall not, by fulfilling his obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.
- 46. In addition to the rights and protections afforded to the CRO by this Court, the CRO shall not incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save an except for any liability or obligation incurred as a result of the CRO's gross negligence or wilful misconduct.
- 47. No action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO, and all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with: (i) written consent of the CRO and the Monitor; or (ii) leave of this Court. Notice of any such application seeking leave of this Court shall be served upon the CRO and the Monitor at least seven (7) days prior to the return date of any such application for leave.
- 48. The CRO's fees shall be secured by the Interim Financing Charge provided for herein.

## PLAN SPONSOR PROTECTION CHARGE

49. Pursuant to the provisions of the Restructuring Term Sheet (as defined in the Second Arbuthnot Affidavit), the Plan Sponsor shall receive a break fee of \$1,500,000.00 (the “**Break Fee**”) that shall become due and payable immediately upon the occurrence of the following events: (i) the Court approves any plan of compromise or arrangement or any other transaction that would have the effect of precluding the consummation of the Acquisition Transaction (as defined in the Restructuring Term Sheet); or (ii) the Applicants otherwise enter into any agreement that would have the effect of precluding the consummation of the Acquisition Transaction.
50. The Plan Sponsor is entitled to the benefit of, and is hereby granted, a charge (the “**Plan Sponsor Protection Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$1,500,000 as security for the amounts payable by way of the Break Fee. The Plan Sponsor Protection Charge shall have the validity and priority set out in paragraphs 51 and 53.

## VALIDITY AND PRIORITY OF CHARGES

51. The priorities of the Directors’ Charge, the Administration Charge, the Interim Financing Charge, the KERP Charge and the Plan Sponsor Protection Charge as among them, shall be as follows:
- First – Administration Charge (to the maximum amount of \$750,000);
  - Second – Directors’ Charge (to the maximum amount of \$900,000);
  - Third – KERP Charge (to the maximum amount of \$655,000);
  - Fourth – Interim Financing Charge (to the maximum amount set out in paragraph 35); and
  - Fifth – Plan Sponsor Protection Charge (to the maximum amount of \$1,500,000).
52. The filing, registration or perfection of the Administration Charge, the Directors’ Charge, the KERP Charge, the Interim Financing Charge, and the Plan Sponsor Protection Charge (collectively, the “**Charges**”) shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

53. Each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA, such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, provided, however, that: (i) the registrations in favour of SNDL for only the CFCU Loan and the CFCU Outstanding Indebtedness (both as defined in the First Arbuthnot Affidavit) shall rank in priority to the KERP Charge, the Interim Financing Charge and the Plan Sponsor Protection Charge; and (ii) all other registrations in favour of SNDL shall rank in priority to the Interim Financing Charge and the Plan Sponsor Protection Charge, but will remain subordinate to the Administration Charge, the Directors’ Charge and the KERP Charge.
54. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the Plan Sponsor, and the beneficiaries of the Administration Charge, Directors’ Charge or KERP Charge or further order of this Court.
55. The Charges, the Interim Financing Term Sheet and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Plan Sponsor thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
  - (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications;
  - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
  - (d) the provisions of any federal or provincial statutes; or
  - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement

(collectively, an “**Agreement**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof including the Interim Financing Term Sheet or the Definitive Documents shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which it is a party;
- (ii) none of the Chargees or the Plan Sponsor shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Interim Financing Term Sheet or the execution, delivery or performance of the Definitive Documents; and
- (iii) the payments made by the Applicants pursuant to this Order, including the Interim Financing Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

## **ALLOCATION**

56. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

## **CORPORATE MATTERS**

57. The Applicants are hereby relieved of any obligation to call and hold an annual meeting of their shareholders until further Order of this Court.

## **RELIEF FROM SECURITIES REPORTING AND FILING OBLIGATIONS**

58. D9 Parent is hereby directed to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the “**Securities Filings**”) that may be required by any federal, provincial or other law

respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, *The Securities Act* (Manitoba), CCSM c S50 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange and the Toronto Stock Exchange (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of D9 Parent failing to make any Securities Filings required by the Securities Provisions

59. None of the directors, officers, employees, and other representatives of D9 Parent, nor the Monitor, shall have any personal liability for any failure by D9 Parent to make any Securities Filings required by the Securities Provisions.

## **SERVICE AND NOTICE**

60. The Monitor shall, if not already completed pursuant to the Initial Order: (i) without delay, publish in *Insolvency Insider*, *The Globe and Mail*, the *Calgary Herald*, and the *Winnipeg Free Press* a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
61. The Monitor shall establish a case website in respect of the within proceedings at: [www.alvarezandmarsal.com/delta9](http://www.alvarezandmarsal.com/delta9).
62. The Applicants and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, recorded mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent

by ordinary mail or recorded mail, on the seventh day after mailing. Any person that wishes to be served with any application and other materials in these proceedings must deliver to the Applicants or the Monitor by way of ordinary mail, courier, or electronic transmission, a request to be added to the service list (the “**Service List**”) to be maintained by the Monitor.

63. Any party to these proceedings may serve any court materials in these proceeding by emailing a PDF or other electronic copy of such materials to counsel’s email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Monitor’s website.
64. The Applicants and, where applicable, the Monitor, are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by sending true copies thereof by prepaid ordinary mail, recorded mail, courier, personal delivery or electronic transmission to the Applicants’ creditors or other interested parties at their respective addresses last shown on the records of the Appilcants, or as otherwise updated on the Service List.

## **GENERAL**

65. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.
66. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor’s reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
67. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicants, the Business or the Property.
68. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative

bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

69. Each of the Applicants and the Monitor 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 and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
70. Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
71. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.



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The Honourable Associate Chief Justice K.G Nielsen  
Justice of the Court of King's Bench of Alberta

July 26, 2024