

**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 HERITAGE CANNABIS HOLDINGS CORP.,
1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION,
MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST
CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS
REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS
EXCHANGE CORP., AND PREMIUM 5 LTD.**

Applicants

**MOTION RECORD OF THE APPLICANTS
(returnable April 11, 2024)**

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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Applicants

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TAB 1

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CANNABIS EXCHANGE CORP., and PREMIUM 5 LTD.**

Applicants

**NOTICE OF MOTION
(Returnable April 11, 2024)
(Amended and Restated Initial Order and SISP Order)**

The Applicants will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Thursday, April 11, 2024 at 9:30 a.m. (Toronto Time) or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference. Zoom details will be provided by the Court on CaseLines.

THE MOTION IS FOR:

1. An amended and restated initial order (the “**ARIO**”) substantially in the form included in the Applicants’ Motion Record, *inter alia*:
 - (a) abridging the time for service of the Notice of Motion and the Motion Record and dispensing with service on any person other than those served;

- (b) extending the Stay of Proceedings to June 30, 2024 (the “**Stay Extension**”);
- (c) approving the Applicants’ ability to borrow under a debtor-in-possession (“**DIP**”) facility term sheet (the “**DIP Term Sheet**”) with BJK Holdings Ltd. (“**BJK**”) as lender (in such capacity the “**DIP Lender**”) to finance the Applicants’ working capital requirements and other general corporate purposes, post-filing expenses and costs over the course of the CCAA proceedings;
- (d) granting the DIP Lender’s Charge (as defined below) in favour of the DIP Lender to secure all obligations outstanding under the DIP Term Sheet;
- (e) granting an extension of time limit to call and hold the annual general meeting of shareholders (the “**AGM**”) of Heritage Cannabis Holdings Corp. (“**Heritage**”) until after the conclusion of the CCAA proceedings;
- (f) approving a Key Employee Retention Plan (“**KERP**”) and authorizing the Applicants to make payments in accordance with the terms of the KERP; and
- (g) approving increases to the following charges granted in the Initial Order:
 - (i) First – the Administration Charge increased to \$500,000; and
 - (ii) Second – the Directors’ Charge increased to \$1,900,000;(the DIP Lender’s Charge, the Administration Charge and the Directors’ Charge collectively referred to herein as the “**Charges**”).

2. An order (the “**SISP Order**”) substantially in the form attached to the Motion Record, *inter alia*:

- (a) approving the sale and investment solicitation process (the “**SISP**”) in which the Stalking Horse Purchase Agreement (as defined below) will serve as the “**Stalking Horse Bid**”;
- (b) authorizing the Applicants and the Monitor (as defined below) to immediately commence the SISP;
- (c) authorizing and directing the Monitor and the Applicants to take any and all actions as may be necessary or desirable to implement and carry out the SISP in accordance with its terms and the SISP Order;
- (d) authorizing and approving execution of the Stalking Horse Subscription Agreement (the “**Stalking Horse Agreement**”) among Heritage, Heritage Cannabis West Corporation (“**Heritage West**” and together with Heritage, the “**Companies**”) BJK, and HAB Cann Holdings Ltd. (the “**Stalking Horse Purchaser**”), as purchaser, *nunc pro tunc*; and
- (e) approving the Break and Expense Reimbursement Fee (as defined below).

3. Such further and other relief as this Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

- 4. All capitalized terms not otherwise defined herein have the meaning ascribed to them in:
 - (a) the Initial Order of the Honourable Justice Cavanagh dated April 2, 2024 (the “**Initial Order**”) granted pursuant the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCA**”);

- (b) the affidavit of David Schwede sworn April 2, 2024, in support of the Initial Order (the “**Initial Affidavit**”);
- (c) the affidavit of David Schwede sworn April 9, 2024 (the “**Second Affidavit**”); and
- (d) the SISP, a copy of which is appended to the proposed SISP Order;

A. Introduction and Background

5. Heritage is a vertically integrated licensed cannabis producer which operates two Health Canada licensed manufacturing facilities in Canada and focuses on extraction and the creation of extract and extract-derivative products and brands for adult use and cannabis-based medical solutions;

6. On April 2, 2024, the Honourable Justice Cavanagh granted the Initial Order, which, *inter alia*, appointed KPMG as Monitor of the Applicants (in such capacity, the “**Monitor**”);

B. Relief Sought Under the ARIO

Extension of the Stay Period

7. Pursuant to the Initial Order, a 10-day stay of proceedings was granted;

8. The Stay Extension is required to provide stability and allow sufficient time to implement and carry out the SISP, and is in the best interests of the Applicants and their stakeholders;

9. With the approval of the DIP Facility (as defined below), it is forecasted that the Applicants will have sufficient liquidity during the Stay Extension to fund obligations and costs of the CCAA proceedings;

10. The Applicants have acted, and continue to act, in good faith and with due diligence to, among other things, operate in the ordinary course, communicate with stakeholders, and develop the SISP;

11. The Monitor supports this relief and no creditor will be materially prejudiced by the Stay Extension;

Approval of the DIP Term Sheet and the DIP Lender's Charge

12. The Applicants require interim financing in order to maintain operations and fund the CCAA proceedings through the proposed Stay Extension;

13. The DIP Lender and the Applicants are finalizing the terms of the DIP Term Sheet, which will be attached to the Monitor's First Report. The DIP Term Sheet contemplates a super-priority non-revolving loan (the "**DIP Facility**") up to a maximum principal amount of \$1,500,000;

14. The DIP Facility is conditional upon, among other things: (i) the granting of a charge over the Property in favour of the DIP Lender to secure the amounts borrowed under the DIP Facility (the "**DIP Lender's Charge**"), (ii) approval of the SISP by the Court, and (iii) the entering into of the Stalking Horse Agreement;

15. The DIP Facility includes a commitment fee in the amount of \$45,000 (the "**Commitment Fee**"), representing 3% of the Maximum Amount, which will be fully earned upon Court approval of the DIP Term Sheet, and secured by the DIP Lender's Charge;

16. The DIP Lender's Charge will not secure obligations incurred prior to the CCAA Proceedings;

17. The Monitor is supportive of the approval of the DIP Term Sheet and the DIP Lender's Charge;

Extension of Time to Hold the AGM

18. It is in the best interest of the Applicants and their stakeholders to suspend the holding of the AGM until after the conclusion of the CCAA proceedings as the Applicants' resources and time are better directed towards their restructuring efforts;

Approval of the KERP

19. The Applicants have developed a KERP with input from the Monitor to facilitate and encourage the continued participation of eleven (11) employees (the "**KERP Beneficiaries**") who are required to guide the business through these CCAA proceedings and preserve value for stakeholders;

20. The KERP Beneficiaries will receive their respective KERP payments upon closing of a successful transaction within the SISP or otherwise at the termination of the KERP Beneficiary's employment with the Applicants;

21. The KERP is important for the stability of the business as the KERP Beneficiaries have significant experience and specialized expertise that cannot be easily replicated or replaced;

22. The Applicants will not be able to maintain their operations during the SISP and through to a successful closing of a transaction without offering these employees an incentive;

23. The KERP amounts have been approved by the Monitor and the DIP Lender;

Approving Increases to the Administration Charge and the Directors' Charge

24. The Administration Charge and the Directors' Charge in the Initial Order were limited to those amounts reasonably necessary for the Applicants' ordinary course operations during the initial ten-day Stay of Proceedings;

25. The Applicants now seek to increase the amount of the Administration Charge from \$250,000 to \$500,000, and the Directors' Charge from \$900,000 to \$1,900,000;

26. The requested increase to the Administration Charge and the Directors' Charge reflects an amount reasonably necessary during the CCAA proceedings and recommended by the Monitor;

Priority of the Charges

27. The Applicants seek to have the Administration Charge, Directors' Charge and DIP Lenders' Charge (collectively, the "**Charges**") rank in priority to all Encumbrances;

28. Secured parties who may be affected by the Charges will be given notice of the within motion;

C. Relief Sought Under the SISP Order

Stalking Horse Purchase Agreement

29. The Applicants are negotiating with both BJK (in its capacity as both the secured creditor of the Applicants, and the DIP Lender) and the Stalking Horse Purchaser regarding a potential "stalking horse bid". These discussions contemplate BJK, the Stalking Horse Purchaser and the Applicants entering into the Stalking Horse Agreement.

30. Pursuant to the Stalking Horse Purchase Agreement, the Stalking Horse Purchaser will: (i) act as the Stalking Horse Bidder in the SISP; and (ii) become the sole owner of 100% of the issued and outstanding shares of Heritage and Heritage West by way of a reverse approval and vesting order;

31. Pursuant to the Stalking Horse Agreement, the Purchaser will be entitled to a break and expense reimbursement fee of \$400,000 (the “**Break and Expense Reimbursement Fee**”) if the Stalking Horse Bidder is not the Successful Bidder (as defined in the SISP);

32. Inclusion of the Stalking Horse Agreement as part of the SISP will set a baseline price and commercial terms for a transaction involving the shares and/or the business and assets of the Applicants, and provide a process to canvass the market in order to maximize the value obtained for the shares and/or business and assets of the Applicants;

33. The consideration provided under the Stalking Horse Agreement is both fair and reasonable in the circumstances, and reflects the product of extensive, good faith negotiations;

34. The Monitor supports the approval of the Stalking Horse Agreement for the purpose of acting as the Stalking Horse Bid under the SISP;

The SISP

35. The SISP is intended to solicit interest in the sale of the Applicants’ business and/or assets, and to implement one or a combination of such proposals, including a potential sale of the business as a going-concern;

36. The key deadlines under the SISP are as follows:

- (a) Binding Offer Deadline of May 10, 2024;
- (b) Auction (if needed) of May 17, 2024;
- (c) Selection of Successful Bid and Back-Up Bidder of May 18, 2024; and
- (d) Outside Date for closing of Successful Bid of August 2, 2024;

37. The Monitor will select the Successful Bid on the basis of a number of factors set out in the SISP, including the highest or otherwise best bid at an auction if necessary;

38. The Monitor supports the request to approve and implement the SISP;

OTHER GROUNDS:

39. Sections 11 and 36, as well as any other relevant provisions of the CCAA and the inherent and equitable jurisdiction of this Court;

40. Rules 1.04, 2.03, 3.02, 14.05(2), 16, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and sections 106 and 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and

41. Such further and other grounds as counsel may advise and this Court may permit;

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this motion:

- (a) the affidavit of David Schwede, sworn on April 9, 2024 and the exhibits attached thereto;
- (b) the First Report of the Monitor, to be filed;

- (c) the Factum of the Applicants, to be filed; and
- (d) such further and other evidence as counsel may advise and this Court may permit.

April 9, 2024

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Proceeding commenced at Toronto

**NOTICE OF MOTION
(returnable April 11, 2024)**

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(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 HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

Applicants

**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 9, 2024)**

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**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 9, 2024)**

I, **DAVID SCHWEDE**, of the city of Kelowna, in the Province of British Columbia,

MAKE OATH AND SAY:

1. I am the Chief Executive Officer of Heritage Cannabis Holdings Corp. ("**Heritage**" and together with certain of its direct and indirect Subsidiaries (as defined below), the "**Applicants**" or the "**Heritage Group**").

2. 1005477 B.C. Ltd. ("**1005**"), Mainstrain Market Ltd. ("**Mainstrain**"), Purefarma Solutions Inc. ("**Purefarma**"), 333 Jarvis Realty Inc. ("**333**"), 5450 Realty Inc. ("**5450**"), Premium 5 Ltd. ("**Premium**"), Heritage Cannabis Exchange Corp. ("**HCEC**"), Heritage Cannabis East Corporation (formerly CannaCure Corporation) ("**Heritage East**"), and Heritage Cannabis West Corporation (formerly Voyage Cannabis Corp.) ("**Heritage West**"), are certain direct or indirect wholly-owned subsidiaries of Heritage (individually, a "**Subsidiary**" and together, the

“**Subsidiaries**”). Heritage also has certain direct or indirect non-Applicant subsidiaries that are incorporated or registered in the United States of America (“**U.S.**”).¹

3. I have been the Chief Executive Officer of Heritage since August 3, 2021. As such, I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true.

4. Heritage is a vertically integrated licensed cannabis producer, operating two Health Canada licensed manufacturing facilities in Canada. Under the licenses, Heritage offers products to the medical and recreational legal cannabis markets in Canada and the U.S. Heritage also offers products to the medical cannabis markets internationally under a Health Canada license. It focuses on extraction and the creation of extract and extract-derivative products and brands for adult use and cannabis-based medical solutions.

5. Capitalized terms used herein and not otherwise defined have the meaning ascribed to them in my affidavit sworn on April 2, 2024 (the “**Initial Affidavit**”), a copy of which is attached (without Exhibits) as **Exhibit “A”**. All references to currency in this affidavit are in Canadian dollars unless noted otherwise.

I. RELIEF REQUESTED

6. This affidavit is in support of a motion by the Applicants for relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), seeking:

¹ These entities are as follows: (1) Heritage (US) Colorado Corp; (2) Opticann, Inc.; (3) Heritage (US) Cali Corp.; (4) Heritage US Holdings Corp.; and (5) Heritage (US) Oregon Corp.

- (a) an amended and restated initial order (the “**Amended and Restated Initial Order**”) substantially in the form attached to the Motion Record which, *inter alia*:
- (i) abridges the time for the service of the Notice of Motion and Motion Record and dispenses with further service thereof;
 - (ii) extends the Stay of Proceedings (as defined below) to June 30, 2024 (the “**Stay Extension**”);
 - (iii) approves the Applicants’ ability to borrow under a debtor-in-possession facility term sheet (the “**DIP Term Sheet**”) with BJK Holdings Ltd. (“**BJK**”) as lender (in such capacity the “**DIP Lender**”) to finance their working capital requirements and other general corporate purposes, post-filing expenses and costs over the course of the CCAA proceedings;
 - (iv) grants a DIP Lender’s Charge (as defined below) in favour of the DIP Lender to secure all obligations outstanding under the DIP Term Sheet;
 - (v) grants an extension of the time limit to call and hold the annual general meeting of shareholders of Heritage (the “**AGM**”) until after the conclusion of the CCAA proceedings;
 - (vi) approves a Key Employee Retention Plan (“**KERP**”) and authorizes the Applicants to make payments in accordance with the terms of the KERP;
 - (vii) grants the following increases to the priority Charges against the Property, which were granted in the Initial Order (as defined below):

First – the Administration Charge increased to \$500,000 from \$250,000; and

Second – the Directors’ Charge increased to \$1,900,000 from \$900,000;

- (b) an order (the “**SISP Order**”) substantially in the form attached to the Motion Record which, *inter alia*, grants:
- (i) approval of the sale and investment solicitation process (the “**SISP**”) in a form substantially similar to the form attached to the SISP Order in which the Stalking Horse Agreement (as defined below) will serve as the “**Stalking Horse Bid**”;
 - (ii) authority for the Applicants and the Monitor (as defined below) to immediately commence the SISP;
 - (iii) authority and direction to the Monitor, and the Applicants to take any and all actions as may be necessary or desirable to implement and carry out the SISP in accordance with its terms and the SISP Order; and
 - (iv) authority and approval for Heritage’s execution of the Stalking Horse Subscription Agreement (the “**Stalking Horse Agreement**”) among Heritage and Heritage West, as Companies (as defined below), BJK, and HAB Cann Holdings Ltd., as purchaser (the “**Stalking Horse Purchaser**”), *nunc pro tunc*.

7. The Initial Affidavit should be referred to for additional background about the Heritage Group and the events leading up to these CCAA proceedings.

II. BACKGROUND AND STATUS OF THE CCAA PROCEEDINGS

8. The Applicants applied for relief under the CCAA as a result of its insolvency and obtained the Initial Order on April 2, 2024 (the “**Initial Order**”). The Initial Order, a copy of which is attached hereto as **Exhibit “B”**, *inter alia*, contains the following heads of relief (terms as defined in the Initial Order):

- (a) abridging the time for service of the Application and the materials filed in support thereof, and dispensing with further service thereof;
- (b) declaring that the Applicants are parties to which the CCAA applies;
- (c) appointing KPMG Inc., CCAA monitor of the Applicants, and directing and authorizing it to, *inter alia*, monitor the assets, business, and affairs of the Applicants;
- (d) staying, for an initial period of not more than ten (10) days, all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor, the Applicants’ Directors and Officers (as defined in the Initial Order), or affecting the Applicants’ Business (as defined in the Initial Order) or the Property (as defined below), except as otherwise set forth in the Initial Order or as otherwise permitted by law (the “**Stay of Proceedings**”);

- (e) extending the benefit of the Stay of Proceedings and other aspects of the Initial Order to the Non-Applicant Stay Parties (as defined in the Initial Order) and their respective Directors and Officers;
- (f) seeking relief from certain securities reporting obligations under federal, provincial or other laws until further Order of this Court;
- (g) granting the following limited priority charges (collectively, the “**Charges**”) over the Applicants’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”):
 - (i) the Administration Charge (as defined in the Initial Order) in favour of the Monitor, counsel to the Monitor, insolvency counsel to the Applicants (Chaitons LLP), and corporate counsel to the Applicants (Owens Wright LLP); and
 - (ii) the Directors’ Charge (as defined in the Initial Order) in favour of the Directors and Officers;
- (h) authorizing the Applicants to (i) make payment to certain suppliers who are critical to the business and operations of the Applicants for pre-filing expenses, or to (ii) honour cheques issued to providers of goods and services prior to the Initial Order, in each case with consent of the Monitor and BJK and in accordance with the terms of the Cash Flow Forecast (as defined in the Initial Affidavit) which are necessary

to facilitate the Applicants' ongoing operations and to preserve value during the CCAA proceedings, up to a maximum aggregate amount of \$1,500,000;

- (i) ordering that the status quo in respect of the Applicants' Health Canada and cannabis excise licenses shall be preserved and maintained during the pendency of the Stay of Proceedings and to the extent any such licenses may expire during the Stay of Proceedings, the terms of such licenses shall be deemed to be extended by a period equal to the Stay of Proceedings; and
- (j) authorizing the Heritage Group to continue to use the Cash Management System.

9. Copies of the materials filed in the CCAA proceedings are available on the website of the Monitor at: <https://kpmg.com/ca/heritage>.

10. Following the issuance of the Initial Order, the Heritage Group has continued its business operations in the ordinary course. Since the Initial Order was granted, the Heritage Group has been working with the Monitor to stabilize operations and begin its restructuring initiatives as well as engaging with stakeholders. Immediately after obtaining CCAA protection, the Applicants published a press release to inform its various stakeholders of the granting of the Initial Order. A copy of the press release is attached hereto as **Exhibit "C"**.

11. The Applicants' activities since the date of the Initial Order, with the assistance of its advisors and the Monitor, include:

- (a) communicating with, providing information to, and answering questions of, various stakeholders and employees;

- (b) managing key relationships with customers and suppliers, and operating the business in accordance with the terms of the Initial Order;
- (c) working with the Monitor to manage their cash flows and making payments to suppliers in accordance with the Initial Order;
- (d) arranging payment, in consultation with the Monitor and BJK, to certain suppliers on account of pre-filing amounts which are critical to the Applicants' business and operations continuing as a going concern;
- (e) working with and corresponding regularly with representatives of the Monitor regarding numerous issues in the CCAA proceedings, including planned disbursements and the Updated Cash Flow Forecast (as defined below);
- (f) engaging in discussions with the DIP Lender about the Business and next steps in the CCAA proceedings;
- (g) continued discussions with the DIP Lender, the Stalking Horse Purchaser and the Monitor, as applicable, towards finalizing the DIP Term Sheet and the Stalking Horse Agreement; and
- (h) engaging in discussions with the Monitor and DIP Lender regarding the development of the SISP.

12. The Heritage Group continues to work with the Monitor in good faith to respond to numerous creditor and stakeholder inquiries on a daily basis.

III. RELIEF UNDER THE AMENDED AND RESTATED INITIAL ORDER

13. The Initial Affidavit provides the primary evidence in support of the vast majority of relief sought in the proposed Amended and Restated Initial Order. The sections below address issues that are not addressed in the Initial Affidavit.

A. Extension of the Stay of Proceedings

14. The extension of the Stay of Proceedings is necessary and appropriate in the circumstances to provide the Applicants with continued breathing space while they attempt to maximize value for the benefit of their stakeholders through the CCAA proceedings and the SISP sought herein.

15. The Monitor and the Applicants will need time to properly and diligently implement and carry out the SISP in accordance with its terms and the SISP Order, to obtain the maximum value possible for all stakeholders.

16. I understand that the Monitor will provide comment that, subject to the approval of the DIP Facility (as defined below) sought herein, the Applicants will have sufficient liquidity during the Stay Extension to fund obligations and costs of the CCAA proceedings.

17. The Applicants have acted, and are acting, in good faith and with due diligence in advancing these CCAA proceedings.

18. I do not believe any creditor will suffer material prejudice as a result of the extension of the Stay of Proceedings. The Applicants' stakeholders will benefit from the extension of the Stay of Proceedings, and the Monitor is supportive of this relief.

B. Approval of the DIP Term Sheet

19. As appears from the updated cash flow forecast attached to the Monitor's First Report (the "**Updated Cash Flow Forecast**") to be filed with the Court in support of the Applicants' motion (the "**First Report**"), the Applicants expect the need for interim financing in order to maintain operations and fund these CCAA proceedings through the proposed extension of the Stay of Proceedings.

20. As discussed below, the DIP Lender and the Applicants are finalizing the terms of the DIP Term Sheet. A copy of the DIP Term Sheet will be attached to the First Report.

21. The draft DIP Term Sheet is among the following parties:

- (a) the Applicants (in such capacity, the "**Borrowers**" and each a "**Borrower**");
- (b) each Borrower as guarantor of all amounts outstanding under the DIP Term Sheet including accrued interest and legal fees (the "**DIP Obligations**") and all existing and future indebtedness owing under the DIP Term Sheet by each other Borrower; and
- (c) the DIP Lender.

22. The DIP Term Sheet provides for a super-priority non-revolving loan (the "**DIP Facility**") up to a maximum principal amount of \$1,500,000 (the "**Maximum Amount**"). Interest on the principal outstanding of advances made to the Borrowers under the DIP Facility ("**DIP Advances**") will bear interest at a rate of 12.5% *per annum*, calculated daily and compounded

monthly. Interest shall accrue and be added to the principal amount of the DIP Advances on the first day of each month.

23. The DIP Facility includes a commitment fee in the amount of \$45,000 (the “**Commitment Fee**”), representing 3% of the Maximum Amount, which will be fully earned upon Court approval of the DIP Term Sheet, and debited from the first DIP Advance. The Commitment Fee shall be secured by the DIP Lender’s Charge (as defined below).

24. The DIP Advances are to be used in accordance with the Cash Flow Projections (as defined in the DIP Term Sheet) to fund the Borrowers’ working capital and general corporate needs during, and costs and expenses incurred by the Borrowers in connection with, the CCAA proceedings.

25. The DIP Facility is subject to customary covenants, conditions precedent, representations and warranties, and events of default. The DIP Facility is conditional upon, among other things: (a) the granting of a Court-ordered charge over the Property in favour of the DIP Lender to secure the amounts borrowed under the DIP Facility; (b) approval of the SISP by the Court; and (c) the entering into of the Stalking Horse Agreement.

26. The DIP Facility matures on the earliest of (the “**Maturity Date**”): (a) August 2, 2024; (b) the date on which the Stay of Proceedings is lifted without the consent of the DIP Lender or the CCAA Proceedings are terminated for any reason; (c) closing of a sale or similar transaction for all or substantially all of the assets and business of the Borrowers pursuant to the SISP, which has been approved by an order entered by the Court; (d) implementation of a plan of compromise or arrangement within the CCAA Proceedings which has been approved by the Borrowers’ creditors and the Court; and (e) conversion of the CCAA Proceedings into a proceeding under the *BIA*. DIP Advances under the DIP Facility will be made available until the Maturity Date in accordance with

the then applicable Cash Flow Projections (as defined in the DIP Term Sheet) approved by the DIP Lender from time to time.

27. I understand that the Monitor is supportive of this relief and will provide further comment in the First Report.

C. Approval of the DIP Lender's Charge

28. The DIP Term Sheet provides, among other things, that the DIP Facility is conditional upon the granting of a Court-ordered charge over the Property in favour of the DIP Lender to secure the amounts borrowed under the DIP Facility (the "**DIP Lender's Charge**"). The proposed DIP Lender's Charge being sought is for the maximum amount of the DIP Obligations at the relevant time.

29. The DIP Facility will be provided by BJK, who already benefits from a security interest over the Applicants' Property. Accordingly, I do not expect any material prejudice to any of the other existing secured creditors of the Applicants, should the Court approve the DIP Term Sheet and grant the DIP Lender's Charge.

30. The DIP Lender's Charge will not secure obligations incurred prior to the CCAA Proceedings. The DIP Lender's Charge is proposed to rank subordinate to the Administration Charge and the Directors' Charge.

31. The Monitor has advised that it is supportive of the approval of DIP Lender's Charge. I believe that it is appropriate in these circumstances for the Court to approve the DIP Lender's Charge.

D. Extension of time to hold AGM

32. Heritage must call an annual meeting of shareholders by within fifteen (15) months of the last AGM, which was held on June 7, 2023. The Applicants seek an extension of the time limit for Heritage to call and hold the AGM.

33. In the circumstances, the Applicants have determined that holding the AGM is not appropriate at this juncture. The Applicants' resources and time are better directed towards their restructuring efforts. Further, there is no prejudice to stakeholders given that detailed financial information and other information regarding Heritage will continue to be made publicly available through the materials filed in these CCAA proceedings.

E. Approval of the Key Employee Retention Plan

34. The Applicants have developed a KERP with input from the Monitor.

35. The purpose of the KERP is to facilitate and encourage the continued participation of certain senior management and key employees of the Applicants who are required to guide the business through these CCAA proceedings and preserve value for stakeholders.

36. The KERP will provide participants with additional payments (payable, as further described below upon the successful closing of a transaction within the SISF) as an incentive to continue their employment through the CCAA proceedings. These employees have significant experience and specialized expertise that cannot be replicated or replaced. There is also a recognition that these employees will likely have other, more certain employment opportunities, and may be faced with significantly increased workload during the CCAA proceedings.

37. I believe that the KERP is important for the stability of the business. The KERP has been designed to provide the necessary incentives for identified employees to remain in their current positions throughout the intended SISP. If approved, the KERP should ensure a level of employee continuity and stability that could otherwise be placed at risk by key employee departures.

38. Eleven (11) employees of the Applicants are the proposed beneficiaries of the KERP (the “**KERP Beneficiaries**”). I believe that the Applicants will not be able to maintain their operations during the SISP and through to a successful closing of a transaction without offering these employees an incentive. The KERP Beneficiaries will receive their respective KERP payments upon closing of a successful transaction within the SISP or otherwise at the termination of the KERP Beneficiary’s employment with the Applicants.

39. The aggregate amount that would be payable to the KERP Beneficiaries, in accordance with the terms and conditions of the KERP, is approximately \$76,000.

40. The KERP amounts are built into the Updated Cash Flow Forecast and have been approved by the Monitor and the DIP Lender.

F. Increase to the Charges

41. Pursuant to the Initial Order, the Charges were granted in the following amounts: (a) Administration Charge: \$250,000; and (b) Directors’ Charge: \$900,000.

42. The Administration Charge and Directors’ Charge were required to ensure the participation of the Applicants’ counsel, financial advisors, and Directors & Officers (as defined in the Initial Order) in the ongoing CCAA proceedings.

43. In the Initial Order, the Charges were each limited to only what was reasonably necessary during the initial Stay of Proceedings. Pursuant to the Amended and Restated Initial Order, the Applicants now seek to increase the Administration Charge and the Directors' Charge up to a maximum of \$500,000 and \$1,900,000, respectively, all in line with the Updated Cash Flow Forecast.

44. The Applicants understand that the Monitor is supportive of this relief.

G. Priming of the Charges

45. The Initial Affidavit sets out the evidentiary basis for the appropriateness and necessity of the Charges (and their quantum) in the circumstances.

46. The proposed Charges in the Amended and Restated Initial Order rank ahead of all Encumbrances (as defined in the Amended and Restated Initial Order). The proposed Amended and Restated Initial Order provides that the Charges, as among them, shall be in the following order:

- (a) First – Administration Charge;
- (b) Second – Directors' Charge; and
- (c) Third – DIP Lender's Charge.

47. I am advised by the Applicants' counsel, that all secured parties who may be affected by the Charges will be given notice of this motion.

IV. RELIEF UNDER THE SISP ORDER²

48. As was set out in the Initial Affidavit, the Heritage Group intends to, among other things, conduct a court approved SISP to obtain a going concern solution to maximize value for their stakeholders. Accordingly, the SISP has been developed by the Heritage Group and the Monitor, in consultation with the DIP Lender, as a means of seeking to maximize the value of the Heritage Group's business and assets.

49. The Applicants are also negotiating with both BJK (in its capacity as both the secured creditor of the Applicants, and the DIP Lender) and the Stalking Horse Purchaser regarding a potential "stalking horse bid". These discussions contemplate BJK, the Stalking Horse Purchaser and the Applicants entering into the Stalking Horse Agreement.

50. While the SISP has been developed to identify and consummate a value-maximizing transaction, the Stalking Horse Agreement also ensures that the Applicants will emerge from these CCAA proceedings on a going-concern basis. The SISP and the Stalking Horse Agreement are described in greater detail immediately below.

A. The SISP³

51. The SISP was designed to be broad and flexible, and to be led by the Monitor. The SISP is intended to solicit interest for the sale of the Heritage Group's Business and/or assets.

² Capitalized terms used in this section and not otherwise defined have the meaning ascribed to them in the SISP.

³ Capitalized terms used in this section but not defined shall have the meanings given to them in SISP.

52. A summary of the key dates pursuant to the SISP are outlined below. These dates may be extended by the Monitor, with the consent of the DIP Lender, as the Monitor deems necessary or appropriate, acting reasonably, or by order of the Court:

Milestone	Date
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA (each as defined below), Confidential Information Memorandum and access to VDR	No later than two (2) Business Days (i.e. April 15, 2024)
Binding Offer Deadline (as defined below)	May 10, 2024 at 5:00 p.m. EST
<i>If no Qualified Bids are received other than Stalking Horse Bid</i>	
Selection of Stalking Horse Bid as Successful Bid	May 10, 2024 at 5:15 p.m. EST
Hearing of Approval Motion (as defined below)	May 27, 2024 or the earliest date available thereafter
Closing of Stalking Horse Bid	As soon as possible but no later than August 2, 2024.
<i>If Qualified Bids are received other than Stalking Horse Bid</i>	
Deadline to notify Qualified Bidders of Auction	No later than May 14, 2024
Auction, if needed	May 17, 2024
Selection of Successful Bid and Back-Up Bidder, if needed	May 18, 2024 or such later date immediately thereafter if the Auction is not completed in one day
Execution of Definitive Transaction Documentation reflecting changes to Qualified Bid arising from Auction	No later than May 21, 2024
Hearing of Approval Motion	No later than June 7, 2024
Closing of the Successful Bid	As soon as possible but no later than August 2, 2024

53. The key dates in the above table are described in further detail below. I believe that the timelines and terms of the SISP are reasonable. I have also been advised by the Monitor that it believes the timelines and terms are reasonable as well. In developing the timelines and process

for the SISP, the Heritage Group, in consultation with the Monitor, considered that the DIP Facility matures on August 2, 2024.

Solicitation of Interest

54. The SISP prescribes certain requirements and timelines for the Monitor, in consultation with the Heritage Group, to solicit interest and provide notice of the SISP after the SISP Order. Following the issuance of the SISP Order, the Monitor (in consultation with the Heritage Group) will do the following:

- (a) prepare a list of potential bidders, including (i) parties that have approached the Heritage Group, the Monitor or the DIP Lender indicating an interest in the Opportunity (as defined in the SISP), and (ii) strategic and financial parties who the Monitor, in consultation with the Heritage Group, believe may be interested in purchasing all or part of the Business or the Property or investing in the Heritage Group pursuant to the SISP;
- (b) cause a notice of the SISP (the “**Notice**”) to be published in one or more trade industry and/or insolvency-related publication as may be considered appropriate by the Monitor;
- (c) prepare, with the assistance of the Heritage Group, a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP;
and

- (d) prepare, with the assistance of the Heritage Group, a form of non-disclosure agreement (“**NDA**”).

55. In addition to the above, the Heritage Group will issue a press release setting out the information contained in the Notice and such other relevant information which the Monitor and the Applicants determine is appropriate.

56. The Monitor will cause the Teaser Letter and NDA to be sent to each Known Potential Bidder by no later than two (2) Business Days after the granting of the SISP Order, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

57. A confidential virtual data room (“**VDR**”) in relation to the Opportunity will be made available by the Heritage Group and the Monitor to Participating Bidders (as defined below). The Monitor may, in consultation with the Heritage Group, limit the access of any Potential Bidder (as defined below) to any confidential information in the VDR where the Monitor, in consultation with the Heritage Group, reasonably determines that such access could negatively impact the SISP, the ability to maintain confidentiality of the information, the Business, the Property of their value.

Participating Bidders

58. Any party who wishes to participate in the SISP (a “**Potential Bidder**”) must provide an executed NDA, written confirmation of the identity of the Potential Bidder, the contact information for such Potential Bidder, full disclosure of the direct and indirect principals of the Potential Bidder, and documentary evidence of such Potential Bidder’s financial wherewithal and ability to

consummate a sale or investment transaction pursuant to the SISP, in the form of proof of cash-on-hand and/or unconditionally committed financing. A Potential Bidder who satisfies the foregoing requirements will be deemed a “**Participating Bidder**”. All Participating Bidders will receive a confidential information memorandum and be granted access to the VDR. The Stalking Horse Bidder is, and will be deemed to be, a Participating Bidder.

59. Participating Bidders must rely solely on their own independent review, diligence, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with one or more of the Applicants. At any time during the SISP, the Monitor may, in its reasonable judgment, and in consultation with the Heritage Group, eliminate a Participating Bidder from the SISP.

Formal Binding Offers

60. Any Participating Bidder (other than the Stalking Horse Bidder) that wishes to make a formal offer to (a) acquire all or substantially all of the Property or Business, whether through an asset purchase, a share purchase or a combination thereof (either one, a “**Sale Proposal**”) or a portion of the Property or the Business (a “**Partial Sale Proposal**”); or (b) make an investment in, restructure, recapitalize or refinance the Heritage Group or the Business or a portion thereof (an “**Investment Proposal**” together with a Sale Proposal and a Partial Sale Proposal, a “**Binding Offer**”) shall:

- (i) in the case of a Sale Proposal, provide its offer in the form of a template purchase agreement provided in the VDR, along with a marked version showing edits to the original form of the template provided in the VDR, and a marked version compared to the Stalking Horse Agreement; or

- (ii) in the case of an Investment Proposal, provide a plan or restructuring support agreement (the “**Binding Offer Bidder**”),

in each case to the Monitor, by no later 5 p.m. EST on May 10, 2024 (the “**Binding Offer Deadline**”).

61. A Binding Offer will be considered a “**Qualified Bid**”, and the Binding Offer Bidder making such Binding Offer a “**Qualified Bidder**” if it, *inter alia*:

- (a) provides net cash proceeds on closing via provisions that meet the following requirements, that are not less than the aggregate total of: (i) the amount of cash payable under the Stalking Horse Agreement; plus (ii) the “Credit Bid Consideration” (as defined in the Stalking Horse Agreement); plus (iii) the Break and Expense Reimbursement Fee (as defined in the Stalking Horse Agreement); plus (iii) a minimum overbid amount of \$100,000 (collectively, the “**Minimum Purchase Price**”); provided, however, that the Monitor may, in its reasonable judgment, and in consultation with the Heritage Group, deem this criterion satisfied if the Binding Offer, together with one or more other non-overlapping Binding Offers, in the aggregate, meet or exceed the Minimum Purchase Price and such Minimum Purchase Price is payable in full in cash on closing;
- (b) is submitted on or before the Binding Offer Deadline;
- (c) is made by way of binding, definitive transaction document(s) that is/are executed by the Binding Offer Bidder;

- (d) is not subject to any financing condition, diligence condition or internal or board approval;
- (e) contains or identifies the key terms and provisions to be included in any Approval Order, including whether such order will be a “reverse vesting order”;
- (f) contains the proposed treatment of employees of the applicable Applicant;
- (g) provides for any anticipated corporate, licensing, securityholder, Health Canada, legal or other regulatory approvals required to close the transaction; and
- (h) does not provide for any break or termination fee, expense reimbursement or similar type of payment.

62. Specific requirements are also set out for a Sale Proposal or Partial Sale Proposal and an Investment Proposal in the SISP.

Selection of Successful Bid

63. The Monitor and the Heritage Group will review and evaluate each Qualified Bid, taking into account various factors including factors affecting the speed and certainty of closing, the value and nature of the consideration provided for in the Binding Offer (including any assumed liabilities), and any licensing, Health Canada, regulatory or legal approvals, assignments or third party contractual arrangements required to close the transactions. The cash consideration provided for in any Qualified Bid shall not be the only criteria on which Qualified Bids are evaluated, and the “highest and best” Qualifying Bid may not be the Qualifying Bid with the highest cash purchase price.

64. In the event that no Qualified Bid is received (other than the Stalking Horse Bid), or any Qualified Bids received are determined by the Monitor, in consultation with the Heritage Group, to be inferior to the Stalking Horse Bid, then the Stalking Horse Bid will be deemed the Successful Bid (as defined below) and the Heritage Group will promptly seek Court approval of the Stalking Horse Agreement and the transactions contemplated therein.

65. In the event there is at least one Qualified Bid in addition to the Stalking Horse Bid, and such Qualified Bid is not determined by the Monitor, in consultation with the Heritage Group, to be inferior to the Stalking Horse Bid, then a Successful Bid will be identified through an auction (the “**Auction**”).

Auction – If Necessary

66. The Auction (if necessary) shall be conducted in accordance with the following procedures, among others and as more fully set out in the SISP:

- (a) The Monitor shall be entitled, in consultation with the Heritage Group, to designate some or all Qualified Bidders (in addition to the Stalking Horse Bidder) as eligible to participate in the Auction, taking into account the relative terms of the Qualified Bidders (including but not limited to purchase price) and the factors set out in the SISP. Qualified Bidders who are invited to participate in the Auction are referred to as “**Auction Bidders**”.
- (b) the Auction will commence on May 17, 2024, and may, in the discretion of the Monitor, be held virtually, via teleconference, or other reasonable means;

- (c) prior to the Auction, the Monitor will identify the highest and best of the Qualifying Bids received (which may be an Aggregate Bid) and such Qualifying Bid(s) will constitute the opening bid for the purposes of the Auction (the “**Opening Bid**”). Subsequent bidding will continue in minimum increments valued at not less than \$100,000 cash in excess of the Opening Bid;
- (d) each Auction Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Auction Bidder. The Monitor and the Heritage Group shall determine which Auction Bidders have submitted (i) the highest and best Binding Offer of the Auction (the “**Successful Bid**”, and the bidder making such Successful Bid, the “**Successful Bidder**”), and (ii) the next highest and otherwise second-best Binding Offer of the Auction (the “**Back-Up Bid**”, and the bidder making such Back-Up Bid, the “**Back-Up Bidder**”); and
- (e) upon selection of a Successful Bidder and a Back-Up Bidder, if any, the Successful Bidder and the Back-Up Bidder, if any, shall each deliver to the Monitor and the Heritage Group, an amended and executed transaction document that reflects their final bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the motion material for the hearing to approve the Successful Bid.

67. The Successful Bid and the Back-Up Bid will be selected by no later than 5:00 p.m. (Eastern Time) on May 18, 2024 and the completion and execution of definitive documentation in respect of the Successful Bid and the Back-Up Bid, as applicable, must be finalized and executed

no later than May 21, 2024, which definitive documentation will provide that the Successful Bidder will use all reasonable efforts to close the proposed transaction by no later than twenty-one (21) days from the date of the Approval Order approving such bid or such earlier date as is practical for the parties to close the transaction (the “**Target Closing Date**”) or such longer period as may be agreed to by the Monitor, in consultation with the Applicants and the Successful Bidder, subject to the terms of the SISP.

68. In any event, the Successful Bid must be closed by no later than August 2, 2024 (the “**Outside Date**”). If a Back-Up Bid is identified in accordance with the SISP, then such Back-Up Bid shall remain open until the date (the “**Back-Up Bid Outside Date**”) on which the transaction contemplated by the applicable Successful Bid is consummated or such earlier date as the Monitor, in consultation with the Heritage Group, determines.

69. If the transactions contemplated by the applicable Successful Bid have not closed by the Outside Date, or the applicable Successful Bid is terminated for any reason prior to the Outside Date, the Heritage Group and the Monitor, in consultation with the DIP Lender, may elect to seek to complete the transactions contemplated by the applicable Back-Up Bid, and will promptly seek to close the transaction contemplated by such Back-Up Bid, which will be deemed to be a Successful Bid. The Heritage Group will be deemed to have accepted such Back-Up Bid only when the Heritage Group has made such election, with the Monitor’s consent.

70. The Monitor, in consultation with the Heritage Group, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Participating Bidders, Binding Offer Bidders, Qualified Bidders, the Successful Bidder(s) or the Back-Up Bidder(s), provided that such modification,

amendment, variation or supplement is expressly limited to changes that do not alter, amend or prejudice the rights of such bidders and is necessary or useful in order to give effect to the substance of the SISP, the Bidding Procedures or the SISP Order.

B. The Stalking Horse Agreement⁴

71. The Applicants, BJK, and the Stalking Horse Purchaser, with the assistance of the Monitor, have been negotiating the Stalking Horse Agreement pursuant to which the Stalking Horse Purchaser will: (i) act as the Stalking Horse Bidder in the SISP; and (ii) become the sole owner of 100% of the issued and outstanding shares of Heritage and Heritage West by way of a reverse approval and vesting order. I understand that, although not an affiliate or related directly or indirectly to BJK, the Stalking Horse Purchaser is being financed by BJK and BJK intends to, as an Implementation Step under the Stalking Horse Agreement, enter into an assignment of indebtedness and security agreement, pursuant to which the Senior Loan Agreement, DIP Term Sheet and all security and ancillary documents granted in favour of BJK in connection therewith will be assigned to the Stalking Horse Purchaser. A copy of the Stalking Horse Agreement will be attached to the First Report.

72. If finalized prior to the Comeback Hearing, approval of the Stalking Horse Agreement will be sought for the purposes of approving it as the Stalking Horse Bid under the SISP. To the extent the Stalking Horse Agreement is ultimately designated as the Successful Bid in the SISP, further approval will be sought from the Court to consummate the transactions contemplated therein.

73. The principal terms of the Stalking Horse Agreement are summarized below:

⁴ Capitalized terms used in this subsection and not otherwise defined have the meaning ascribed to them in the Stalking Horse Agreement.

Term	Details
<i>Seller</i>	Heritage Cannabis Holdings Corp. and Heritage Cannabis West Corporation (collectively, the “ Companies ”)
<i>Purchaser</i>	HAB Cann Holdings Ltd.
<i>Purchased Entities</i>	Heritage Cannabis Holdings Corp., Heritage Cannabis West Corporation, Heritage Cannabis East Corporation, and Purefarma Solutions Inc.
<i>Transaction Structure</i>	<p>Reverse-vesting share purchase transaction structure.</p> <p>At Closing of the transaction, <i>inter alia</i>:</p> <p>(a) the Excluded Assets (described below) and Excluded Liabilities (described below) shall be transferred from the Purchased Entities to Residual Co.;</p> <p>(b) the Companies will issue to the Purchaser shares in the share capital of the Companies (the “Purchased Shares”); and</p> <p>(c) all outstanding Equity Interest in the Companies shall be cancelled.</p>
<i>Purchase Price</i>	<p>The total aggregate consideration payable by the Purchaser for the Purchased Shares is equal to:</p> <p>(a) a release of all amounts outstanding and obligations payable by the Applicants under the Senior Loan Agreement and all related loan and security documents, which amount as of April 4, 2024 is \$6,871,782 (excluding legal fees and expenses);</p> <p>(b) release of all amounts outstanding and obligations payable by the Applicants as of the Closing date pursuant to the DIP Term Sheet and all related loan and security documentation (the amounts in (a) and (b) together, the “Credit Bid Consideration”);</p> <p>(c) the CCAA Process Expense Amount, consisting of cash in an amount of the Administrative Expense Costs (as defined in the Stalking Horse Agreement) and CCAA Charge Amount (as defined in the Stalking Horse Agreement); and</p> <p>(d) the Priority Payment Amount (as defined in the Stalking Horse Agreement) consisting of an amount sufficient to pay those priority payments prescribed under subsections 6(3), 6(5)(a) and 6(6) of the CCAA (the amounts in (c) and (d) together, the “Cash Consideration”).</p>
<i>Excluded Assets</i>	<p>As of Closing, the assets of the Purchased Entities shall not include the following:</p> <p>(a) the Cash Consideration;</p> <p>(b) the Tax records and returns, and book and records pertaining thereto and other documents that solely relate to the Excluded Liabilities or Excluded Assets;</p> <p>(c) the Excluded Contracts⁵;</p> <p>(d) any rights which accrue to Residual Co. under the transaction documents; and</p>

⁵ Excluded Contracts means the contracts of the Purchase Entities as specified in Schedule 2.2(c) of the Stalking Horse Agreement.

	(e) any other asset, including contracts and leases, identified by the Purchaser to the Company in writing as an Excluded Assets at least two (2) days prior to Closing.
<i>Retained Liabilities</i>	<p>As of Closing Time, the only obligations and liabilities of the Purchased Entities (the “Retained Liabilities”) shall consist of the items specifically set forth below:</p> <p>(a) all post-filing Claims set out in Schedule 2.3 of the Stalking Horse Agreement;</p> <p>(b) all liabilities of Purchased Entities arising from and after Closing;</p> <p>(c) tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date; and</p> <p>(d) those specific Retained Liabilities listed in Schedule 2.3 of the Stalking Horse Agreement, which include the stub-period post filing claims contemplated by the DIP Term Sheet but not yet paid on Closing Date.</p>
<i>Excluded Liabilities</i>	<p>Except for the Retained Liabilities, all Claims and all debts of the Purchased Entities shall be assigned to and become the sole obligation of Residual Co.</p> <p>The Excluded Liabilities, identified in Schedule 2.4 of the Stalking Horse Agreement, include, among other things, the following:</p> <p>(a) all pre-filing Claims and liabilities arising from the termination of leases or other contracts;</p> <p>(b) all pre-filing Claims owing in respect of pre-filing excise tax, GST/HST; and</p> <p>(c) all liabilities owing to any Terminated Employees in respect of the termination of employment of such Terminated Employee.</p>
<i>As Is, Where Is</i>	The Purchaser specifically acknowledges and agrees that, except for the representations and warranties of the Companies as expressly and specifically set forth in Article 4 of the Stalking Horse Agreement, the Purchaser is acquiring the Purchased Shares on an “as is, where is” basis.
<i>Employees</i>	The Purchaser will determine which employees it will assume and employ prior to Closing. In the event that no conditional offer of employment is made to an employee or an employee who receives an offer of employment rejects such offer, such employee shall be deemed to be a “Terminated Employee”.
<i>Mutual Conditions to Closing</i>	<p>The obligations of the Purchaser and the Companies to consummate the transactions contemplated by the Stalking Horse Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, certain conditions which include, among other things, the following:</p> <p>(a) no provision of any Applicable Law and no Order preventing or otherwise frustrating the consummation of the purchase of the Purchased Shares or any of the other transactions pursuant to the Stalking Horse Agreement shall be in effect;</p> <p>(b) each of the SISP Order and the Approval and Vesting Order shall have been issued and entered and shall be Final Orders;</p>

	<p>(c) the Stalking Horse Agreement will be the Successful Bid (as determined pursuant to the SISP); and</p> <p>(d) the Parties shall have received the required Transaction Regulatory Approvals set forth in Schedule 7.1(d), and all such Transaction Regulatory Approvals shall be in full force and effect, except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing.</p>
<i>Break and Expense Reimbursement Fee</i>	<p>In considerations for the Purchaser's expenditure of time and money (including professional fees) in connection with the preparation of the Stalking Horse Agreement, and in performing due diligence pursuant to the Stalking Horse Agreement, the Purchaser shall be entitled to a Break and Expense Reimbursement Fee of \$400,000. The Break and Expense Reimbursement Fee is subject to Court approval and shall be approved in the SISP Order and shall be payable to the Purchaser out of the sale proceeds derived from, and upon completion of, a Successful Bid other than the Stalking Horse Bid.</p>
<i>Closing Date</i>	<p>A date no later than five (5) Business Days after the conditions in Article 7 have been satisfied or waived; provided that the Closing Date shall be no later than the Outside Date.</p>

74. The Applicants are of the view that the inclusion of the Stalking Horse Agreement as part of the SISP will maximize value for the benefit of all of their stakeholders by, among other things: (i) setting a baseline price and commercial terms for a transaction involving the shares and/or the business and assets of the Heritage Group; (ii) helping to generate interest in the Heritage Group among potential purchasers; (iii) creating tension in the context of an Auction; and (iv) providing a level of certainty, stability and efficiency during the SISP, both in terms of setting a baseline price and documentation for the SISP and assuring stakeholder groups that there will be a going concern sale involving the Business.

75. While the Applicants are optimistic that the SISP will result in a competitive bidding process in furtherance of a value maximizing transaction, the Stalking Horse Agreement assures the preservation and continuity of the core business of the Applicants as a going concern.

76. The terms of the Stalking Horse Agreement have been negotiated extensively between the Applicants and Monitor on the one hand, and the Stalking Horse Purchaser and BJK on the other

hand. I believe that the consideration provided under the Stalking Horse Agreement is both fair and reasonable in the circumstances, and reflects the product of extensive, good faith negotiations. I understand that the Monitor supports the approval of the Stalking Horse Agreement for the purpose of acting as the Stalking Horse Bid under the SISP.

V. RELIEF SOUGHT

77. For the reasons set out herein, the Heritage Group respectfully requests that this Court grant the Amended and Restated Initial Order and the SISP Order. I swear this Affidavit in support of the motion for the relief set out above, and for no improper purpose.

SWORN REMOTELY by David Schwede stated as being located in the City of Kelowna, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on April 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DANISH AFROZ

Commissioner for Taking Affidavits
(or as may be)



DAVID SCHWEDE

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

Court File No.: CV-24-00717664-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF DAVID
SCHWEDE (Sworn April 9, 2024)**

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Lawyers for the Applicants

***THIS IS EXHIBIT "A" TO THE
AFFIDAVIT OF DAVID
SCHWEDE SWORN BEFORE ME
THIS 9th DAY OF APRIL, 2024***

A handwritten signature in blue ink, consisting of a stylized, cursive script that is difficult to decipher but appears to be a name.

A Commissioner Etc.

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 HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

Applicants

**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 2, 2024)**

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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 HERITAGE CANNABIS HOLDINGS CORP.,
1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION,
MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST
CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY
INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP.,
AND PREMIUM 5 LTD.**

Applicants

**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 2, 2024)**

I, **DAVID SCHWEDE**, of the city of Kelowna, in the Province of British Columbia,

MAKE OATH AND SAY:

1. I am the Chief Executive Officer of Heritage Cannabis Holdings Corp. ("**Heritage**" and together with certain of its direct and indirect Subsidiaries (as defined below), the "**Applicants**" or the "**Heritage Group**").

2. 1005477 B.C. Ltd. ("**1005**"), Mainstrain Market Ltd. ("**Mainstrain**"), Purefarma Solutions Inc. ("**Purefarma**"), 333 Jarvis Realty Inc. ("**333**"), 5450 Realty Inc. ("**5450**"), Premium 5 Ltd. ("**Premium**"), Heritage Cannabis Exchange Corp. ("**HCEC**"), Heritage Cannabis East Corporation (formerly CannaCure Corporation) ("**Heritage East**"), and Heritage Cannabis West Corporation (formerly Voyage Cannabis Corp.) ("**Heritage West**"), are certain direct or indirect wholly-owned subsidiaries of Heritage (individually, a "**Subsidiary**" and together, the

“**Subsidiaries**”). Heritage also has certain direct or indirect non-Applicant subsidiaries that are incorporated or registered in the United States of America (“**U.S.**”).¹

3. I have been the Chief Executive Officer of Heritage since August 3, 2021. As such, I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true.

4. All references to currency in this affidavit are in Canadian dollars unless noted otherwise. The Applicants do not waive or intend to waive any applicable privilege by any statement herein.

I. RELIEF REQUESTED

5. This affidavit is in support of an application by the Applicants for an order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), *inter alia*:

- (a) abridging the time for the service of the Application and the materials filed in support thereof, and dispensing with further service thereof;
- (b) declaring that the Applicants are parties to which the CCAA applies;
- (c) appointing KPMG Inc. (“**KPMG**” or the “**Proposed Monitor**”) CCAA monitor of the Applicants, and direct and authorize it to, *inter alia*, monitor the assets,

¹ As described further herein, these entities are as follows: (1) Heritage (US) Colorado Corp; (2) Opticann, Inc.; (3) Heritage (US) Cali Corp.; (4) Heritage US Holdings Corp.; (5) Heritage (US) Oregon Corp.;

business, and affairs of the Applicants (once appointed in such capacity, the “**Monitor**”);

- (d) staying, for an initial period of not more than ten (10) days, all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor, the Applicants’ Directors and Officers (as defined below), or affecting the Applicants’ business or the Property (as defined below), except as otherwise set forth in the Initial Order or as otherwise permitted by law (the “**Stay of Proceedings**”);
- (e) extending the benefit of the Stay of Proceedings and other aspects of the Initial Order to the Non-Applicant Stay Parties (as defined below) and their respective Directors and Officers;
- (f) seeking relief from certain securities reporting obligations under federal, provincial or other laws until further Order of this Court;
- (g) granting the following limited priority charges (collectively, the “**Charges**”) over the Applicants’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”):
 - (i) the Administration Charge (as defined below) in favour of the Monitor, counsel to the Monitor, insolvency counsel to the Applicants (Chaitons LLP), and corporate counsel to the Applicants (Owens Wright LLP); and
 - (ii) the Directors’ Charge (as defined below) in favour of the Directors and Officers;

- (h) authorizing the Applicants to (i) make payment to certain suppliers who are critical to the business and operations of the Applicants for pre-filing expenses, or to (ii) honour cheques issued to providers of goods and services prior to the Initial Order, in each case with consent of the Monitor and BJK (as defined below), and in accordance with the terms of the Cash Flow Forecast (as defined below) which are necessary to facilitate the Applicants' ongoing operations and to preserve value during the CCAA proceedings, up to a maximum aggregate amount of \$1,500,000;
- (i) ordering that the status quo in respect of the Applicants' Health Canada and cannabis excise licenses shall be preserved and maintained during the pendency of the Stay of Proceedings and to the extent any such licenses may expire during the Stay of Proceedings, the terms of such licenses shall be deemed to be extended by a period equal to the Stay of Proceedings;
- (j) authorizing the Heritage Group to continue to use the Cash Management System (as defined below).

6. If the Initial Order is granted, the Applicants intend to return to Court within ten (10) days (the "**Comeback Hearing**") to seek an amended and restated Initial Order (the "**ARIO**") in order to, *inter alia*:

- (a) extend the Stay of Proceedings;
- (b) increase the quantum of the Charges and increase the priming of the Charges (to rank ahead of encumbrances in favour of any person that was not served with the notice of this application);

- (c) approving the Applicants' ability to borrow under a debtor-in-possession ("**DIP**") facility term sheet (the "**DIP Loan**") to finance their working capital requirements and other general corporate purposes, post-filing expenses and costs;
- (d) granting a Court ordered charge (the "**DIP Lender's Charge**") in favour of BJK (as defined below) in its capacity as debtor-in-possession financing lender (the "**DIP Lender**") to secure all obligations outstanding under the DIP facility term sheet; and
- (e) seek such other relief as may be required to advance the Applicants' restructuring efforts.

7. In addition, the Applicants also intend to seek an Order at the Comeback Hearing (the "**SISP Approval Order**") which, among other things, would:

- (a) authorize and approve Heritage's execution of a stalking horse subscription agreement (the "**Stalking Horse Purchase Agreement**") among Heritage, BJK Holdings Ltd. ("**BJK**"), and Hab Cann Holdings Ltd. (the "**Stalking Horse Purchaser**"), *nunc pro tunc*;
- (b) grant a Court ordered charge (the "**Bid Protections Charge**") over the Property in favour of the Stalking Horse Purchaser as security for payment of the Bid Protections, with the priority set out therein;
- (c) approve a sale and investment solicitation process (the "**SISP**") in which the Stalking Horse Purchase Agreement will serve as the "**Stalking Horse Bid**", and

authorize the Applicants and the Monitor to implement the SISP pursuant to its terms; and

- (d) authorize and direct the Applicants and the Monitor to perform their respective obligations and do all things necessary to perform their obligations under the SISP.

II. OVERVIEW AND NEED FOR RELIEF

8. Heritage is a reporting issuer listed on the Canadian Securities Exchange (“CSE”) under the symbol “CANN” and on the OTC Pink², operated by OTC Markets Group, under the symbol “HERTF”. Heritage is the ultimate parent company to several companies operating in the cannabis industry in Canada and the U.S.

9. In Canada, Heritage’s business is primarily carried out through two of the Subsidiaries, Heritage East and Heritage West, which hold licenses under the *Cannabis Act*, S.C. 2018, c. 16 (the “*Cannabis Act*”) and are regulated by Health Canada. Heritage East operates out of a leased facility located in Fort Erie, Ontario, and Heritage West operates out of a leased facility located in Falkland, British Columbia. Heritage has its corporate offices in Ontario and British Columbia, and its registered office is located in Toronto, Ontario.

10. Heritage’s directly and indirectly owned subsidiaries in the U.S. are not Applicants in these CCAA Proceedings. However, the Applicants are seeking to extend the Stay of Proceedings to these non-Applicant subsidiaries due to the integration of the business of the Heritage Group and to prevent uncoordinated realization and enforcement attempts in various jurisdictions. At this time, it is not expected that a Chapter 15 or other proceedings under the U.S. Bankruptcy Code

² OTC PK means the services provided by the OTD Market Group, including, over-the-counter trading services, to companies listed as “Pink”.

will be commenced in respect of the Heritage Group's U.S. subsidiaries, including as a result of the prohibitive administrative costs of such a proceeding.

11. The Applicants are in default under certain material operating agreements including their secured loans with BJK and the lease agreements in respect of their two operating facilities located in Fort Erie, Ontario and Falkland, British Columbia.

12. BJK has delivered demand letters demanding repayment of amounts owing under the BJK Loan (as defined below) as well as Notices of Intention to Enforce Security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act* ("**BIA**"). BJK is no longer willing to continue supporting the Heritage Group in its current financial circumstances. In addition, the Canada Revenue Agency ("**CRA**") has delivered requirements to pay notices to a major customer of the Applicants requiring the customer to remit to CRA certain amounts that would otherwise be payable the Applicants.

13. The Applicants are facing a liquidity crisis and, absent these CCAA proceedings, will not be able to continue to carry on their business in the ordinary course or meet their obligations as they become due. Accordingly, there is significant urgency to this CCAA application and the relief sought pursuant to the Initial Order.

14. As of March 28, 2024, the Applicants' liabilities include a balance of approximately \$11,770,310 owing to CRA on account of unremitted excise taxes. As described in greater detail below, in September 2024, Heritage East and Heritage West entered into repayment plans with CRA pursuant to which Heritage East and Heritage West must make monthly payments to repay the entire excise tax arrears over a specified time period. The scheduled payments commenced on October 1, 2023 at approximately \$268,000 in the aggregate and such payments escalate over the

repayment period. Heritage East and Heritage West have made all scheduled payments, including all overdue payment amounts, to CRA under the payment arrangements through to March 1, 2024. The Applicants' monthly payments in respect of excise tax arrears under the payment arrangements with CRA will increase to approximately \$618,000 by October 2024 (and will further increase thereafter).

15. As a result of the foregoing, the Applicants are seeking protection under the CCAA to, among other things, protect their assets for the benefit of their creditors, and obtain the necessary breathing room to implement a SISP that would see the Applicants restructured and/or all or a portion of the Applicants' business and assets sold as a going concern.

16. Subject to certain conditions, including court approval, the Applicants' secured lender, BJK (in such capacity, the "**DIP Lender**"), has agreed to provide additional financing through the DIP Loan to, among other things, provide the Applicants with access to funding needed to continue to operate and preserve the value of their operations while the SISP is conducted. As noted above, the relief in respect of the DIP Loan, the DIP Lender's Charge, and the SISP is intended to be sought at the Comeback Hearing; no relief related to the DIP Loan, the DIP Lender's Charge or the SISP is being sought at this time.

17. The CCAA filing, and the proposed SISP are intended to benefit all of the Applicants' stakeholders in Canada and abroad, including employees, customers, suppliers and contracting parties, Health Canada, CRA, and the federal and relevant provincial cannabis regulators, among others.

18. For these reasons and the reasons set out herein, I do verily believe that the Applicants are insolvent and are companies to which the CCAA applies.

III. CORPORATE STRUCTURE AND HISTORY

19. A copy of Heritage Group's current corporate chart is attached hereto as **Exhibit "A"** and is reproduced below for ease of reference:

A. The Applicants – Heritage and the Subsidiaries

1. Heritage Cannabis Holdings Corp.

20. Heritage (i.e. Heritage Cannabis Holdings Corp.) is a public corporation that was incorporated pursuant to the British Columbia *Business Corporations Act*, S.B.C. 2002, c. 57, as amended (the "**BCBCA**") on October 25, 2007 as "Trijet Mining Corp". Effective March 8, 2013, Trijet Mining Corp. consolidated its share capital and changed its name to Umbral Energy Corp. On January 9, 2018, the company completed a fundamental "change of business" pursuant to CSE

Policy 8, and changed its name to its present name, “Heritage Cannabis Holdings Corp.” and currently operates as a licensed cannabis producer.

21. Effective on November 2, 2019, Heritage continued into Ontario under the *Business Corporations Act*, R.S.O. 1990, c. B. 16, as amended (the “**OBCA**”). Heritage’s head office is 1450 St. Paul Street, Kelowna, British Columbia, and its registered office is located at Suite 300-20 Holly Street, Unit 300, Toronto, Ontario. The directors of Heritage are Clinton Sharples, Celine Arsenault and David Schwede. The officers of Heritage are David Schwede, Eoin Hegarty, Cory Larsen and Jasmine Paige.

22. Heritage is the direct or indirect owner of all of the Subsidiaries. Below is a brief description of each Subsidiary, all of which are Applicants in this CCAA proceeding.

2. 1005477 B.C. Ltd.

23. 1005 (i.e. 1005477 B.C. Ltd.) was incorporated pursuant to the BCBCA on June 16, 2014. 1005’s registered office is located at 1665 Ellis Street, Unit 301, Kelowna, British Columbia, B1Y 2B3. The sole director of 1005 is David Schwede. The sole officer of 1005 is Jasmine Paige. Heritage is the sole shareholder of 1005.

3. Heritage Cannabis West Corporation

24. Heritage West (i.e. Heritage Cannabis West Corporation) was incorporated pursuant to the BCBCA on July 4, 2014. Heritage West’s registered office is located at 1665 Ellis Street, Unit 301, Kelowna, British Columbia, V1Y 2B3. The sole director of Heritage West is David Schwede. The officers of Heritage West are David Schwede and Jasmine Paige. 1005 is the sole shareholder of Heritage West.

4. Mainstrain Market Ltd.

25. Mainstrain (i.e. Mainstrain Market Ltd.) was incorporated pursuant to the BCBCA on March 8, 2018. Mainstrain's registered office is located at 1665 Ellis Street, Unit 301, Kelowna, BC, B1Y 2B3. The sole director and officer of Mainstrain is David Schwede. Heritage West is the sole shareholder of Mainstrain.

5. Heritage Cannabis East Corporation

26. Heritage East (i.e. Heritage Cannabis East Corporation) was formed by an amalgamation of Cannacure Corporation and 2659938 Ontario Limited pursuant to the OBCA on January 25, 2023. Heritage East's registered office is located at 20 Holly Street, Suite 300, Toronto, Ontario, M4S 3B1. The sole director of Heritage East is David Schwede. The officers of Heritage East are David Schwede and Jasmine Paige. Heritage is the sole shareholder of Heritage East.

6. Purefarma Solutions Inc.

27. Purefarma (i.e. Purefarma Solutions Inc.) was formed by an amalgamation of Calyx Life Sciences Corp. and Purefarma Solutions Inc. pursuant to the BCBCA on November 1, 2022. Purefarma's registered office is located at 1665 Ellis Street, Unit 301, Kelowna, British Columbia, V1Y 2B3. The sole director of Purefarma is David Schwede. The officers of Purefarma are David Schwede, and Jasmine Paige. Heritage is the sole shareholder of Purefarma.

7. 333 Jarvis Realty Inc.

28. 333 (i.e. 333 Jarvis Realty Inc.) was incorporated pursuant to the OBCA on June 18, 2019. 333's registered office is located at 20 Holly Street, Suite 300, Toronto, Ontario, M4S 3B1. The

sole director of 333 is David Schwede. The sole officer of 333 is Jasmine Paige. Heritage is the sole shareholder of 333.

8. 5450 Realty Inc.

29. 5450 (i.e. 5450 Realty Inc.) was incorporated pursuant to the BCBCA on November 1, 2019. 5450's registered office is located at 1665 Ellis Street, Unit 301, Kelowna, British Columbia, V1Y 2B3. The sole director of 5450 is David Schwede. The sole officer of 5450 is Jasmine Paige. Heritage is the sole shareholder of 5450.

9. Heritage Cannabis Exchange Corp.

30. HCEC (i.e. Heritage Cannabis Exchange Corp.) was incorporated pursuant to the OBCA on October 6, 2020. HCEC's registered office is located at 20 Holly Street, Suite 300, Toronto, Ontario, M4S 3B1. The sole director of HCEC is David Schwede. The officers of HCEC are David Schwede and Jasmine Paige. Heritage is the sole shareholder of HCEC.

10. Premium 5 Ltd.

31. Premium (Premium 5 Ltd.) was formed by an amalgamation of 2274629 Alberta Ltd. and Premium 5 Ltd. pursuant to the Alberta *Business Corporations Act*, R.S.A. 2000, c B-9 on January 25, 2021. Premium's registered office is located at #168, 11602 – 88 Avenue, Fort Saskatchewan, Alberta, T8L 0K1. In 2023, Premium was noted in default due to its failure to file an annual return. However, Premium was revived on March 22, 2024, and an annual return in respect of Premium for the year ending 2024 was filed as of March 22, 2024. The sole director of Premium is David Schwede. The officers of Premium are David Schwede and Jasmine Paige. Heritage is the sole shareholder of Premium.

B. The Non-Applicant Stay Parties

32. The five (5) companies set out in the table below are direct or indirect subsidiaries of Heritage which are not Applicants in these CCAA proceedings (collectively, the “**Non-Applicants Stay Parties**”). Notwithstanding that the Non-Applicant Stay Parties are not Applicants in these CCAA proceedings (the “**CCAA Proceedings**”), the Applicants believe it is critical to the best interests of the Applicants and their stakeholders to extend the benefits of the Stay of Proceedings to the Non-Applicant Stay Parties.

33. The extension of the Stay of Proceedings to the Non-Applicant Stay Parties is intended to, among other things, prevent uncoordinated realization and enforcement attempts being made in different jurisdictions, and thereby preventing immediate loss of value for the Heritage Group and its stakeholders. For example, Heritage US Holdings, a Non-Applicant Stay Party, is a Guarantor (as defined below) under the BJK Loan (as defined below). As discussed below, BJK has demanded repayment of the BJK Loan and has delivered Notices of Intention to Enforce Security pursuant to Section 244(1) of the *BIA*.

34. The Heritage Group operates as an integrated business. The Non-Applicant Stay Parties are integral to and integrated with the Heritage Group’s business insofar that they process and/or facilitate business done by the Applicants with U.S. customers. Given that the Non-Applicant Stay Parties are highly integrated with the Applicants, they will benefit from the Stay of Proceedings, the CCAA Proceedings and the SISP, which will maintain going concern operations and will maximize value for the entirety of the Heritage Group.

35. The name and jurisdiction of incorporation or formation, as applicable, of each Non-Applicant Stay Party is as follows:

Name of Non-Applicant Stay Party	Jurisdiction of Incorporation
Heritage (US) Colorado Corp.	Delaware
Opticann, Inc.	Colorado
Heritage US Holdings Corp.	Delaware
Heritage (US) Cali Corp.	California
Heritage (US) Oregon Corp.	Oregon

1. Opticann, Inc.

36. Opticann, Inc. (“**Opticann**”) was incorporated as Opticann, LLC by articles of organization in the State of Colorado on May 5, 2019. Opticann was converted to a for-profit company on August 2, 2019. The registered and records office for Opticann is 20 Holly Street, Suite 300, Toronto, Ontario M4S 3B1. Heritage indirectly owns 100% of the issued and outstanding shares of Opticann. In the U.S., Heritage’s business is primarily carried out through Opticann, which is a Colorado-based oral and topical cannabinoid company.

2. Heritage (US) Colorado Corp.

37. Heritage (US) Colorado Corp. was incorporated on September 24, 2020 as a Delaware company. The registered office of Heritage (US) Colorado Corp. is Suite 300-20 Holly Street, Unit 300, Toronto, Ontario. Heritage indirectly owns 100% of the issued and outstanding shares of Heritage (US) Colorado Corp.

3. Heritage US Holdings Corp.

38. Heritage US Holdings Corp. was incorporated on June 21, 2019 as a Delaware company. The principal office of Heritage US Holdings Corp. is Suite 300-20 Holly Street, Unit 300,

Toronto, Ontario. Heritage owns 100% of the issued and outstanding shares of Heritage (US) Holdings Corp.

4. Heritage (US) Cali Corp.

39. Heritage (US) Cali Corp. was incorporated on June 25, 2019 as a California company. The principal office of Heritage (US) Cali Corp. is Suite 300-20 Holly Street, Unit 300, Toronto, Ontario. Heritage indirectly owns 100% of the issued and outstanding shares of Heritage (US) Cali Corp.

5. Heritage (US) Oregon Corp.

40. Heritage (US) Oregon Corp. was incorporated on March 24, 2020 as an Oregon company. The registered and records office of Heritage (US) Oregon Corp. is Suite 300-20 Holly Street, Unit 300, Toronto, Ontario. Heritage indirectly owns 100% of the issued and outstanding shares of Heritage (US) Oregon Corp.

IV. BUSINESS OF THE APPLICANTS

A. Cannabis Industry in Canada

41. The cannabis industry continues to rapidly evolve in Canada. Licenses for cultivating, processing and/or selling cannabis, among other things, are regulated under the *Cannabis Act* and through the *Cannabis Regulations*, SOR/2018-144 (the “*Cannabis Regulations*”).

42. Recreational use of cannabis was legalized in Canada on October 17, 2018. The *Cannabis Act*, which regulates retail cannabis for recreational adult-use, medical cannabis and industrial hemp in Canada, came into effect on that day. Cannabis was removed as a controlled substance

from the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 and the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 was repealed.

43. The *Cannabis Act* was amended on October 17, 2019 to broaden the scope of legal cannabis products to include certain edible cannabis, cannabis extracts and cannabis topicals.

44. The cannabis industry continues to be a highly regulated industry, with the *Cannabis Act* regulating the possession, cultivation, production, distribution, sale, research, testing, import, export and promotion of cannabis.

B. Physical Operations of the Applicants

45. Heritage is a vertically integrated licensed cannabis producer, operating two Health Canada licensed manufacturing facilities in Canada. Under the licenses, Heritage offers products to the medical and recreational legal cannabis markets in Canada and the U.S. Heritage also offers products to the medical cannabis markets internationally under a Health Canada license. It focuses on extraction and the creation of extract and extract-derivative products and brands for adult use and cannabis-based medical solutions.

46. While the *Cannabis Act* provides for the regulation of the commercial production of cannabis for recreational purposes and related matters by the federal government, the *Cannabis Act* also provides that the provinces and territories of Canada have authority to regulate other aspects of recreational cannabis (similar to what is currently the case for liquor and tobacco products), such as sale and distribution, minimum age requirements, places where cannabis can be consumed, and a range of other matters. At present, the Applicants have entered into third-party supply agreements with distributors in the provinces of Ontario, Manitoba, Alberta, British

Columbia, Saskatchewan, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador, Yukon, and Northwest Territories.

47. In Canada, Heritage primarily operates through its two wholly-owned subsidiaries - Heritage West and Heritage East.

48. As described further below, Heritage West holds a Health Canada issued cultivation, processing, and medical sales license, as well as an industrial hemp and research license. It operates out of a 15,500 square foot processing facility in Falkland, British Columbia (the “**Falkland Facility**”), which has been outfitted with extraction, downstream processing, formulation and packaging areas and an approved security-level vault.

49. As described further below, Heritage East holds a Health Canada issued cultivation, processing, and medical sales license, as well as an industrial hemp and research license. It operates out of a 122,000 square foot facility in Fort Erie, Ontario (the “**Fort Erie Facility**”, and together with the Falkland Facility, the “**Licensed Facilities**”), which formerly operated as a manufacturing plant for a pharmaceutical white labeler. Presently, approximately 87,525 square feet of the facility has been licensed for cannabis activities.

1. The Licensed Facilities

(a) *Fort Erie Lease*

50. 333 was previously the registered owner of the lands and premises municipally known as 333 Jarvis Street, Fort Erie, Ontario on which the 122,000 square foot Fort Erie Facility is situated. Pursuant to an agreement of purchase and sale dated October 30, 2023, between 333, as vendor, and BJK Developments Ltd. (“**BJK Developments**”), as purchaser, 333 sold the buildings and

improvements located at 333 Jarvis Street, Fort Erie, including the Fort Erie Facility (the “**Fort Erie Property**”), to BJK Developments.

51. Pursuant to a lease agreement dated October 31, 2023 between Heritage East, as tenant, and BJK Developments, as landlord for the Fort Erie Property (the “**Fort Erie Lease**”), BJK Developments leased the Fort Erie Property, together with the buildings and improvements thereon, including the Fort Erie Facility, to Heritage East. The terms of the Fort Erie Lease include a rent-free period until October 31, 2024, with escalating monthly lease payments of \$60,500 to \$79,599 until October 2026 and monthly lease payments as determined by the fair market rent until October 2033. There is an option by either party to terminate the lease after two (2) years. A copy of the Fort Erie Lease is attached hereto as **Exhibit “B”**.

52. The Fort Erie Lease is currently in default.

(b) *Falkland Lease*

53. 5450 was previously the registered owner of the lands and premises municipally known as 5450 Highway 97, Falkland, British Columbia on which the 15,500 square foot Falkland Facility is situated. Pursuant to an agreement of purchase and sale dated October 30, 2023, between 5450, as vendor, and BJK Developments, as purchaser, 5450 sold the buildings and improvements located at 5450 Highway 97, Falkland, British Columbia, including the Falkland Facility (the “**Falkland Property**”), to BJK Developments.

54. Pursuant to a lease agreement dated October 31, 2023 between Heritage West, as tenant, and BJK Developments, as landlord, for the Falkland Property (the “**Falkland Lease**”), BJK Developments leased lands, together with the buildings and improvements thereon, including the

Falkland Facility, to Heritage West. The terms of the Falkland Lease include a rent-free period until October 31, 2024, with escalating monthly lease payments of \$39,500 to \$51,970 until October 2026 and monthly lease payments as determined by the fair market rent until October 2033. There is an option by either party to terminate the lease after two (2) years. A copy of the Falkland Lease is attached hereto as **Exhibit “C”**.

55. The Falkland Lease is currently in default.

56. The sale to BJK Developments by 333 of the Fort Erie Property and by 5450 of the Falkland Property, and the leaseback of those lands and premises by Heritage East and Heritage West, respectively, is referred to in this Affidavit as the **“Sale and Leaseback Transaction”**.

2. Leased Office Space

(a) Kelowna Lease

57. Pursuant to a lease dated March 1, 2021 between Heritage and St. Paul Street Holding Ltd. (the **“Kelowna Lease”**), Heritage is leasing office space located at 1450 St. Paul Street, Kelowna, British Columbia comprising of approximately 3,670 square feet. The Kelowna Lease provides for an escalating monthly lease payment of \$5,811 to \$6,432 until April 30, 2026 (the end of the initial term), with a subsequent renewal through April 30, 2031.

(b) Fort Saskatchewan Lease

58. Pursuant to a lease dated November 30, 2019 between Premium and Heartland II Ltd. (as amended, the **“Fort Saskatchewan Lease”**), Premium leases the premises located at 11602 88 Avenue, Fort Saskatchewan, Alberta comprising of approximately 6050 square feet. The Fort

Saskatchewan Lease provides for an escalating monthly lease payment of \$7,123 to \$7,700 until April 22, 2031.

C. Licenses

59. Heritage East and Heritage West hold certain cannabis licenses issued by Health Canada. They also hold cannabis licenses issued by CRA pursuant to the *Excise Act, 2001*, SC 2002, c 22 (“*Excise Act*”). Such licenses, discussed further below, are key assets, are non-transferrable, and are critical to the Applicants’ overall operations and going concern value.

1. Health Canada Licenses

60. Pursuant to the *Cannabis Act* and *Cannabis Regulations*, Heritage East and Heritage West hold certain cannabis licenses from Health Canada (collectively, the “**Health Canada Licenses**”). The Health Canada Licenses include licenses issued in respect of Industrial Hemp Sale Activities (defined below) which are regulated under the Industrial Hemp Regulations, SOR/2018-145 (“**IHR**”) pursuant to subsection 139(1) of the *Cannabis Act*. The IHR set out the regulatory framework for controlling and authorizing activities involving Industrial Hemp.³ A license issued by Health Canada under the IHR is required to conduct various activities involving Industrial Hemp.

61. The Health Canada Licenses held by Heritage East and Heritage West permit them to undertake the following activities at the Fort Erie Facility and Falkland Facility, respectively:

³ The IHR defined Industrial Hemp as “a cannabis plant – or any part of the plant—in which the concentration of THC is 0.3% or less in the flowering heads and leaves”.

- (a) standard cultivation activities, including: (i) to possess cannabis; (ii) to obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting; (iii) to alter its chemical or physical properties by any means; and (iv) to sell cannabis (collectively, “**Standard Cultivation Activities**”);
- (b) standard processing activities, including: (i) to possess cannabis; (ii) to produce cannabis at the licensed site, other than to obtain it by cultivating, propagating or harvesting; and (iii) to sell cannabis (collectively, “**Standard Processing Activities**”);
- (c) Industrial Hemp sale activities, including: (i) selling flowering heads, leaves, and branches of Industrial Hemp to a holder of a license issued under the *Cannabis Act* in relation to Industrial Hemp or non-hemp cannabis; and (ii) importing and exporting grain (collectively, “**Industrial Hemp Sale Activities**”);
- (d) activities related to the sale of cannabis for medical purposes, including: (i) to possess cannabis; and (ii) to sell cannabis (“**Medical Purpose Activities**”); and
- (e) research activities, including possession and production of cannabis for use in accordance with any research protocols submitted to Health Canada (“**Research Purpose Activities**”).

(a) **Heritage East’s Health Canada Licenses**

62. Health Canada has issued the following licenses to Heritage East:

- (a) Health Canada issued an Industrial Hemp Sale Activities license to Heritage East, effective January 20, 2023, under license number LIC-IOFZ019P4Z-2023 (in respect of the Fort Erie Facility. This license has a current term ending on January 20, 2028.
- (b) Health Canada issued a Standard Cultivation Activities, Standard Processing Activities (defined below), and Medical Purpose Activities (defined below) license to Heritage East, effective March 15, 2023, under license number LIC-1WWUVE76T8-2021-12 in respect of the Fort Erie Facility. This has a current term ending on October 6, 2026.
- (c) Health Canada issued a Research Purpose Activities license to Heritage East, effective March 23, 2023, under license number LIC-LYJVQCPT3O-2022-2 in respect of the Fort Erie Facility. This license has a current term ending on July 14, 2027.

(b) Heritage West's Health Canada Licenses

63. Health Canada has issued the following licenses to Heritage West:
- (a) Health Canada issued an Industrial Hemp Sale Activities license to Heritage West, effective March 3, 2023, under license number LIC-TUFEZWBC14-2023-1 in respect of the Falkland Facility. This license has a current term ending on January 20, 2028.
 - (b) Health Canada issued a Standard Cultivation Activities, Standard Processing Activities (defined below), and Medical Purpose Activities (defined below) license

to Heritage West, effective March 16, 2023, under license number LIC-81WQTM2WBL-2021-9 in respect of the Falkland Facility. This license has a current term ending on July 19, 2024.

- (c) Health Canada issued a Research Purposes license to Heritage West effective, March 23, 2023, under license number LIC-SQ9HMLUT2P-2021-2 in respect of the Falkland Facility. This license has a current term ending on June 3, 2026.

64. Copies of the Health Canada Licenses issued to Heritage East and Heritage West are attached hereto as **Exhibit “D”**.

2. Excise Licenses

65. Heritage East and Heritage West each hold cannabis licenses issued pursuant to the *Excise Act* which require them to apply cannabis excise stamps to their cannabis products in accordance with the *Excise Act*.

(a) East Excise Cannabis License

66. Heritage East holds a cannabis license (license no. 82674 1035 RD0001) under the *Excise Act* (the “**East Excise Cannabis License**”). The expiry date for the East Excise Cannabis License is April 12, 2024.

(b) East Excise Alcohol License

67. Heritage East holds an alcohol license (license no. 82674 1035 RD0002) under the *Excise Act* (the “**East Excise Alcohol License**”) which authorizes Heritage East to use bulk alcohol, non-

duty-paid packaging alcohol or a restricted formulation at the Fort Erie Facility. The expiry date for the East Excise Alcohol License is April 12, 2024.

(c) West Excise Cannabis License

68. Heritage West holds a cannabis license (license no. 80553 2975 RD0001) under the *Excise Act* (the “**West Excise Cannabis License**”). The expiry date for the West Excise Cannabis License is April 15, 2024.

(d) West Excise Alcohol License

69. Heritage West holds an alcohol license (license no. 52-UK-1343) under the *Excise Act* (the “**West Excise Alcohol License**”). This license authorizes Heritage West to use bulk alcohol, non-duty-paid packaging alcohol or a restricted formulation at the Falkland Facility. The expiry date for the West Excise Alcohol License is October 31, 2025.

D. Supply Agreements

(i) Brand License Agreements

70. Certain of the Applicants have brand license agreements, in their capacity as holders of standard processing licenses pursuant to the *Cannabis Act*, pursuant to which the licensors have licensed certain intellectual property relating to cannabis products for the Applicants’ use in certain commercialization, manufacturing and ancillary activities in Canada.

(ii) Raw Material Supply Agreements

71. Certain of the Applicants have active raw material supply agreements, in their capacities as holders of standard processing licenses pursuant to the *Cannabis Act*, pursuant to which such

Applicants have agreed to provide the counterparties with cannabis raw materials for such counterparties to process into finished cannabis products.

(iii) Contract and Manufacturing Agreements

72. Certain of the Applicants have active manufacturing services agreements, in their capacities as holders of standard processing licenses pursuant to the *Cannabis Act*, pursuant to which such Applicants have agreed to provide the counterparties with certain manufacturing and ancillary services in connection with the supply chain management, manufacturing, and shipment of certain products.

(iv) Service Provider and Distribution Agreements

73. Certain of the Applicants have active service and distribution agreements pursuant to which such Applicants produce and supply certain products to the counterparty which provides supply management, sale, distribution and marketing support services for those products.

E. Employees

74. As of March 11, 2024, the Applicants had approximately 162 employees, of which 155 were full-time employees, 2 were part-time employees, and 5 were casual employees or co-op students. The Applicants' employees are distributed geographically as follows:

Province	Employees
British Columbia	50
Ontario	97
Alberta	14
Nova Scotia	1

75. As previously noted, in Canada, Heritage operates through its wholly owned subsidiaries Heritage West and Heritage East and out of the Falkland Facility and Fort Erie Facility, respectively. As of March 11, 2024, thirty-one (31) employees were employed at the Falkland Facility and eighty-three (83) employees were employed at the Fort Erie Facility.

76. Certain of the Applicants' employees are designated responsible persons or possess the security clearances required under the *Cannabis Act*. Such persons are essential to the Applicants' business. As of March 11, 2024, there were thirty (30) such employees that were designated responsible persons or possessed the security clearance required under the *Cannabis Act* and the regulations thereunder that were employed either at the Falkland Facility or the Fort Erie Facility.

77. All of the Applicants' salaried and hourly employees are paid bi-weekly. The Applicants' aggregate bi-weekly payroll obligations includes wages of approximately \$363,293, plus the employer portion of employee source deductions in the amount of approximately \$29,287, for an aggregate total of \$392,580. As of the date of this affidavit, the Applicants are current on their payroll obligations, including all source deductions.

78. The Applicants' employees are non-unionized and there are no pension, retirement or deferred compensation plans for their benefit. Through their benefits provider, Canada Life, the Applicants sponsor a group benefit plan offering health care, dental care, life insurance, accidental death and dismemberment insurance and long-term disability insurance for their employees.

79. In addition to the Applicants' employees, the Applicants use the services of six (6) consultants. Such consultants bill the Applicants for services rendered on a monthly basis. As of April 2, 2024, there were no amounts outstanding to any of the consultants.

80. The compensation of named executive officers (collectively, the “**NEOs**”) consists of a consulting fee component and a performance-based variable incentive compensation, which may be comprised of cash bonuses or stock option grants under the Stock Option Plan (defined below) or restricted share unit awards under the RSU Plan (defined below).

81. Heritage has in place a 10% rolling stock option plan (the “**Stock Option Plan**”), pursuant to which the board of directors can grant stock options (“**Options**”) to directors, officers, employees, management and others who provide services to Heritage. The Stock Option Plan provides compensation to participants and an additional incentive to work toward long-term performance. Heritage also has in place a fixed restricted share unit (“**RSU**”) plan designed to provide certain directors, employees, officers, other key employees and consultants of the Applicants with the opportunity to acquire RSUs of Heritage in order to enable them to participate in the long-term success of the company (the “**RSU Plan**”).

82. The Applicants do not have a pension plan that provides for payments or benefits to the NEOs, directors or employees at, following, or in connection with retirement.

F. Intellectual Property

83. Members of Heritage Group own certain intellectual property used in connection with their business operations. Heritage Group has a portfolio of cannabis products under the brands *Purefarma*, *Pura Vida*, *Really Awesome Dope (RAD)*, *Premium 5*, *Adults Only*, *feelgood.*, *ArthroCBD*, *CB4*, *Opticann*, *Dank Drops*, *Thrifty*, *Chillbilly*, and *Juicy Hoots*. The Applicants also produce products under license for various third-party brands and suppliers as described above.

G. Cash Management System

84. In the ordinary course of business, the Applicants use a cash management system (the “**Cash Management System**”) to, among other things, collect funds and pay expenses associated with operations. This Cash Management System provides Heritage Group with the ability to efficiently and accurately track and control corporate funds and to ensure cash availability.

85. As part of this Cash Management System, Heritage Group maintains approximately four (4) bank accounts, which are summarily described below:

- (a) Community Savings Credit Union: one (1) account, which is the operating account for Heritage West;
- (b) ATB Financial: two (2) accounts, including the operating account for Premium; and
- (c) Alterna Savings: one (1) account, which is the operating account for Heritage East.

86. Certain Applicants maintain unsecured intercompany loans with other Subsidiaries. The intercompany loans and cash transfers are recorded and tracked through the Applicants’ “due to/from” intercompany accounts, with corresponding offset entries in the respective Subsidiaries’ General Ledger, ensuring that all intercompany balances are eliminated upon consolidation. The intercompany accounts are reconciled and balanced on a monthly or quarterly basis.

V. FINANCIAL CIRCUMSTANCES AND CASH FLOW FORECAST

87. Heritage’s fiscal year end is October 31. A copy of Heritage’s Management Discussion and Analysis for the fiscal year ended October 31, 2023 and audited consolidated financial

statements from SEDAR+ for the fiscal year ended October 31, 2023 and 2022 (the “**Financial Statements**”) are attached hereto as **Exhibit “E”**.

88. All material public disclosure made by Heritage to the CSE and OTC Markets Group can be found either at OTC Markets Group: <https://www.otcmarkets.com/stock/HERTF/disclosure> or by searching “Heritage Cannabis Holdings Corp.” at SEDAR+: <https://www.sedarplus.ca/>.

89. Below tables referring to Heritage Group’s “Assets” and “Liabilities” are compiled from reference to the Financial Statements and were audited by an external third party.

A. Assets

90. Assets are as follows:

Current Assets		
	<i>As at October 31, 2023 (\$)</i>	<i>As at October 31, 2022 (\$)</i>
Cash	3,924,713	5,107,617
Short-term investments	950,000	950,000
Sales tax recoverable	266,891	210,457
Accounts receivable	6,760,532	7,488,117
Inventories	17,259,565	16,788,609
Prepaid expenses	2,263,015	2,013,977
Current portion of notes receivable	754,449	302,171
Total Current Assets	32,179,165	32,860,948
Non-Current Assets		
Notes receivable	2,506,972	1,712,303
Other investments and deposits	1,095,000	799,812
Investment in associate	3,196,000	3,214,393
Intangible assets and goodwill	6,643,700	19,784,401
Property, plant and equipment	10,231,774	20,040,335
Total Non-Current Assets	23,673,446	45,551,244
Total Assets	55,852,611	78,412,192

B. Liabilities

91. Liabilities are as follows:

Current Liabilities		
	<i>As at October 31, 2023 (\$)</i>	<i>As at October 31, 2022 (\$)</i>
Accounts payable and accrued liabilities	20,338,063	15,197,496
Sales tax payable	1,233,408	519,275
Deferred revenue	502,044	681,548
Current portion of lease liabilities	182,214	89,591
Current portion of long-term debt	6,493	5,878
Current portion of derivative liabilities	2,817,368	1,636,766
Total Current Liabilities	25,079,590	18,130,554
Non-Current Liabilities		
Lease liabilities	1,862,825	639,406
Long-term debt	7,305,367	16,815,481
Derivative liabilities	48,117	945,530
Deferred tax liability	704,000	1,931,000
Total Non-Current Liabilities	9,920,309	20,331,417
Total Liabilities	34,999,899	38,461,971

1. PPSA Registrations

92. Copies of the Personal Property Registry search results for each of the Applicants (collectively, the “**PPR Searches**”) in British Columbia, Alberta and Ontario, as applicable, are attached hereto as **Exhibit “F”**. A summary of the PPR Searches for each of the Applicants, including all prior names of each Applicant where applicable, is attached hereto as **Exhibit “G”**.

93. Heritage Group’s secured debt relates primarily to, *inter alia*, liability to BJK pursuant to the BJK Loan Agreement (defined below). The following parties hold PPSA registrations against the Applicants, in no particular order:

Debtor	Secured Parties	Jurisdiction
Heritage	<ul style="list-style-type: none"> ▪ BJK ▪ Metro Leasing Corp. 	British Columbia
	<ul style="list-style-type: none"> ▪ Bank of Montreal ▪ BJK ▪ NFS Leasing Canada Ltd. and Peoples United Bank, N.A. ▪ NFS Leasing Canada Ltd. ▪ NFS Leasing Canada Ltd. c/o NFS Leasing, Inc. and M&T Bank Corporation ▪ NFS Leasing Canada Ltd. c/o NFS Leasing Inc. 	Ontario
1005	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
Heritage West	<ul style="list-style-type: none"> ▪ BJK ▪ Brown Bros Motor Lease Canada Ltd. ▪ Metro Leasing Corp. 	British Columbia
Heritage East	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
Purefarma Solutions Inc.	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
333	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
5450	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
HCEC	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
Premium	<ul style="list-style-type: none"> ▪ BJK 	Ontario
	<ul style="list-style-type: none"> ▪ BJK 	British Columbia
	<ul style="list-style-type: none"> ▪ BJK 	Alberta

94. BJK also holds PPSA registrations against the prior names or predecessor entities of Heritage East (i.e. Cannacure Corporation), Heritage West (i.e. Voyage Cannabis Corp.) and Purefarma (i.e. Calyx Life Sciences Corp.), respectively.

95. Although there is a PPSA registration in favour of Bank of Montreal against Heritage, there are currently no amounts owed by Heritage to Bank of Montreal. That PPSA registration relates to a Bank of Montreal credit card held by Heritage which was secured by guaranteed investment certificates. All amounts owed in respect of the Bank of Montreal credit card were paid and all accounts at Bank of Montreal were closed.

96. Details regarding the BJK Loan Agreement (defined below) with BJK, the principal secured lender to the Applicants, is summarized for the convenience of the reader below.

2. Secured Liabilities

(a) The BJK Loan Agreement

97. On March 29, 2021, Heritage, Cannacure Corporation (former name of Heritage East), 333, Voyage Cannabis Corp. (former name of Heritage West), and 5450, (together, the “**Borrowers**”) entered into a loan agreement with BJK, as lender (the “**Original BJK Loan Agreement**”) pursuant to which BJK provided a non-revolving loan in the sum of \$7,000,000 (the “**BJK Loan**”). The Borrowers were required to pay monthly interest at the Royal Bank of Canada prime lending rate plus 1.25% until the entire indebtedness was repaid. The principal amount of the BJK Loan, together with interest thereon, was to be repaid within 18 months of the effective date of the BJK Loan Agreement.

98. 1005, Purefarma, (by its predecessor entities, Calyx Life Sciences Corp. and Purefarma Solutions Inc.), HCEC, Premium, and Heritage US Holdings Corp. (together, the “**Guarantors**”) provided a joint and several guarantee, inclusive of assignments and postponements of creditors’ claims, to BJK in connection with the BJK Loan.

99. As security for the Borrowers' obligations pursuant to the Original BJK Loan Agreement, the Borrowers provided the following security, among other things (the "**BJK Security**"): (a) mortgages and assignments of rents over the Falkland Property owned by 5450 and the Fort Erie Property owned by 333 (as further described below, the mortgages and assignments of rents in favour of BJK were subsequently assigned to BJK Developments, as chargor, in connection with the Sale and Leaseback Transaction); (b) an encumbrance and charge of all of the Borrowers' and Guarantors' (with the exception of Heritage US Holdings Corp.) right, title and interest in the Borrowers' and applicable Guarantors' present and future personal property by way of a general security agreement; (c) an assignment of proceeds from the Borrowers' sales; (d) assignments and postponements of creditors' claims from creditors of the Borrowers; (e) general security agreements from Heritage, Cannacure Corporation (former name of Heritage East) and 333 inclusive of site-specific and serial specific registration on certain assets; and (g) a pledge of securities by Heritage of the shares of each of its subsidiaries and all the investees (with the exception of the Borrowers and Guarantors) in which Heritage held interests at the time of entry into the Original Loan Agreement; and (h) a pledge of securities by HCEC of its shares in Heritage (US) Colorado Corp.

100. The Original BJK Loan Agreement was amended pursuant to the first amending agreement dated October 6, 2021 (the "**First Amendment**") by establishing three credit facilities for a maximum amount of \$14,775,000 as follows:

- (a) Facility 1: the amount of the initial BJK Loan was increased from \$7,000,000 to \$7,175,000, and the due date for repayment extended to February 1, 2023;

- (b) Facility 2: an additional loan of \$2,600,000 was advanced at the Royal Bank of Canada's prime rate plus 1.25% adjusted automatically with each quoted or published change in rate; and
- (c) Facility 3: a revolving line of credit up to a maximum of \$5,000,000 was established at an interest rate of 18% per annum, payable monthly.

101. The Original BJK Loan Agreement, as amended by the First Amendment, was further amended pursuant to the second amending agreement dated September 29, 2022, the (the “**Second Amendment**”) by establishing four credit facilities for a maximum amount of \$19,760,000 as follows:

- (a) Facility 1: \$7,175,000. The interest rate was (i) the Royal Bank of Canada rate minus 1.75% from October 1, 2022 to July 31, 2023; (ii) the Royal Bank of Canada rate plus 10% from August 1, 2023 to November 30, 2024, but in no case less than 14% or greater than 18% per annum;
- (b) Facility 2: \$2,600,000. The interest rate was (i) the Royal Bank of Canada rate minus 1.75% from October 1, 2022 to July 31, 2023; (ii) the Royal Bank of Canada rate plus 10% from August 1, 2023 to November 30, 2024, but in no case less than 14% or greater than 18% per annum;
- (c) Facility 3: A revolving line of credit up to a maximum of \$5,000,000. The interest rate was (i) 15% per annum from October 1, 2022 to July 31, 2023; (ii) the greater of the Royal Bank of Canada rate plus 10% and 15% per annum from August 1, 2023 to November 30, 2024; and

- (d) Facility 4: an additional loan of \$4,985,000. The interest rate is (i) the Royal Bank of Canada rate minus 1.75% from October 1, 2022 to July 31, 2023; (ii) the Royal Bank of Canada rate plus 10% from August 1, 2023 to November 30, 2024, but in no case less than 14% or greater than 18% per annum.

102. Pursuant to the Second Amendment, the term of the BJK Loan was extended to November 30, 2024, with an option to extend to November 30, 2025. As of October 31, 2022, the Company had received a total of \$16,807,261 in principal, with the remaining line of credit available for advance.

103. On October 31, 2023, Heritage repaid BJK \$9,503,536 using the proceeds of the Sale and Leaseback Transaction for the Fort Erie Property, and the Falkland Property.⁴ Furthermore, BJK forgave \$431,860 of interest expense incurred.

104. The Original BJK Loan Agreement, as amended by the First Amendment and Second Amendment, was further amended pursuant to a third amending agreement dated October 31, 2023 (the “**Third Amendment**” and collectively with the Original BJK Loan Agreement, First Amendment and Second Amendment, as further amended, modified or restated, the “**BJK Loan Agreement**”) by consolidating Facility 1, Facility 2, and Facility 4 and establishing two credit facilities for a maximum of \$10,256,379 as follows:

- (a) Facility 3: A revolving line of credit up to a maximum of \$5,000,000. The interest rate is the greater of the Royal Bank of Canada rate plus 10% and 15% per annum to January 31, 2025; and

⁴ The Sale and Leaseback Transaction is described in this Affidavit under the subheading “The Licensed Facilities”.

- (b) Facility 5: A term facility up to a maximum of \$5,256,379. The interest rate is the Royal Bank of Canada rate minus 1.75% per annum to January 31, 2025.

105. Pursuant to the Third Amendment, the term of the BJK Loan was extended to January 31, 2025, with an option to extend to January 31, 2026. If the Borrowers exercise the extension option, all facilities will bear an interest rate at the maximum of either the Royal Bank of Canada prime rate of plus 10% or 15% per annum during the one-year extension period. A copy of the BJK Loan Agreement is attached hereto as **Exhibit “H”**.

106. On April 1, 2024 and April 2, 2024, Heritage made payments in the aggregate amount of \$1,500,000 in respect of Facility 3 under the BJK Loan (collectively, the “**Facility 3 Repayment**”). The Facility 3 Repayment was negotiated with BJK in conjunction with the DIP Loan and the Stalking Horse Agreement.

107. As of April 2, 2024, the indebtedness of the Borrowers under Facility 3 of the BJK Loan Agreement, following the Facility 3 Repayment, was approximately \$1,547,261. As of April 2, 2024, the total indebtedness under the BJK Loan Agreement (inclusive of both facilities) was approximately \$6,803,640 (comprising of \$5,256,379 owing in respect of Facility 5 and \$1,547,261 owing in respect of Facility 3).

3. Unsecured Liabilities

108. As per the Applicants’ books and records, the Applicants’ unsecured trade debt as of March 28, 2024 totalled approximately \$2,779,512. This amount excludes any amounts owing in respect of the Merida Funding (as defined below).

(a) Trade Creditors

109. The Applicants incur obligations in the ordinary course of business to various trade creditors. Given the nature of their business, the Applicants rely on a number of vendors and third-party service providers and, as such, are party to a number of agreements for the provision of certain essential services in connection with operating a business in the cannabis industry.

(b) The Merida Funding

110. On October 18, 2021, Heritage entered into a note and warrant purchase agreement (the “**Merida Warrant Agreement**”) with Merida Capital Partners III LP, and Merida Capital Partners IV LP (each a “**Merida Purchaser**” collectively, the “**Merida Purchasers**”) pursuant to which each Merida Purchaser agreed to fund to Heritage \$750,000 USD for an aggregate funding of \$1,500,000 USD (the “**Merida Funding**”). The aggregate amount of the Merida Funding (i.e. \$1,500,000 USD) was to be disbursed in four tranches from October 18, 2021 through December 31, 2021. Pursuant to the Merida Warrant Agreement, at closing of each disbursement, Heritage would issue to the lender a convertible promissory note (each, a “**Note**” and together, the “**Notes**”) and a warrant (each, a “**Warrant**” and together, the “**Warrants**”).

111. As at October 31, 2022, Heritage received all tranches of \$1,500,000 USD (equivalent to \$1,855,270 CDN) in total principal, and issued a Note and Warrant upon the cash receipt per tranche. A copy of the Merida Warrant Agreement, together with the Notes issued to the Merida Purchasers, is attached hereto as **Exhibit “I”**.

112. Heritage issued Notes to the Merida Purchasers on October 18, 2021 (in the principal amount of USD \$660,000), October 29, 2021 (in the principal amount of USD \$375,000),

November 30, 2021 (in the principal amount of USD \$375,000) and December 31, 2021 (in the principal amount of USD \$90,000). Each Note had a maturity date that was twenty-four (24) months following the date of issuance (each a “**Note Maturity Date**”). In general, the Notes provide for payment of the interest owing in common shares of Heritage, and on the Maturity Date, if the Notes have not been paid in full, the Merida Purchaser may elect to either require payment in cash of the entire outstanding balance under the Note or convert the entire outstanding balance into common shares of Heritage.

113. As at March 26, 2024, CAD \$2,608,475 is outstanding under the Merida Funding.

C. Employee Source Deductions, Excise Duty, GST/HST, and Health Canada liabilities

1. Employee Source Deductions

114. The Applicants utilize the payroll management services of Automatic Data Processing, Inc. (“**ADP**”). ADP pays the employee source deductions on the Applicants’ behalf. The payment of employee source deductions is current.

2. Health Canada Liabilities

115. Each of Heritage East and Heritage West have certain debts owing to Health Canada in respect of which they have entered into the payment instalment agreements described below.

(a) East-HC Instalment Agreement

116. On October 16, 2023, Health Canada and Heritage East entered into a Payment Instalment Agreement (the “**East-HC Instalment Agreement**”) in connection with an overdue invoice for a sum of \$94,557.71. Pursuant to the East-HC Instalment Agreement, Heritage East must make

minimum monthly payments of \$8,529.31 for a twelve (12) month period and is required to pay all outstanding accumulated interest in the final monthly payment. As of the date of this Affidavit, Heritage East is indebted to Health Canada in the approximate amount of \$60,000. A copy of the East-HC Instalment Agreement is attached hereto as **Exhibit “J”**.

(b) West-HC Instalment Agreement

117. On October 23, 2023, Health Canada and Heritage West entered into a Payment Instalment Agreement (the “**West-HC Instalment Agreement**”) in connection with an overdue invoice for a sum of \$417,679.26. Pursuant to the West-HC Instalment Agreement, Heritage West must make minimum monthly payments of \$37,538.41 for a twelve (12) month period and is required to pay all outstanding accumulated interest in the final monthly payment. As of the date of this Affidavit, Heritage West is indebted to Health Canada in the approximate amount of \$225,000. A copy of the West-HC Instalment Agreement is attached hereto as **Exhibit “K”**.

3. Excise Duty

118. A federal excise duty is payable by a licensed cannabis producer when cannabis products are packaged, based on the quantity of flowers and non-flowering materials, viable seeds or vegetative cannabis plants included in the dried/fresh cannabis, cannabis plant and cannabis europlant seed product. The federal excise duty is to be paid monthly.

119. I understand that, as at March 28, 2024, the aggregate amount owed to CRA in respect of excise tax arrears was approximately \$11,770,310 (“**Excise Tax Arrears**”), comprising of approximately \$6,541,557 owed by Heritage East and \$5,228,753 owed by Heritage West. The excise tax arrears owed by Heritage East and Heritage West to CRA are for the periods October

2023 through to August 2023. Certain material correspondence with CRA regarding the Excise Tax Arrears is described below.

(b) Excise Tax Arrears Payment Arrangements

120. The substantial excise tax arrears owed by Heritage East and Heritage West have been the subject of correspondence with CRA. Those discussions with the CRA ultimately culminated in Heritage East and Heritage West entering into payment arrangements with CRA's Collections Branch with respect to the payment of the Excise Tax Arrears (the "**Excise Tax Arrears Payment Arrangements**"). The Excise Tax Arrears Payment Arrangements are described below.

121. Following discussions and negotiations with the CRA's Collection Branch, the parties entered into the Excise Tax Arrears Payment Arrangements which required Heritage East and Heritage West to: (a) make monthly payments towards full payment of Excise Tax Arrears within a specified time frame; and (b) ensure that monthly excise duty payable is paid by the due date (i.e. the last day of the calendar month following the relevant reporting period). Copies of letters sent by CRA, dated February 28, 2024 and February 26, 2024 sent to Heritage East and Heritage West, respectively, which make reference to the Excise Tax Arrears Payment Arrangements are attached hereto as **Exhibit "L"**.

122. In order to further renew the East Excise Cannabis License, CRA maintains that Heritage East must continue to satisfy its statutory obligations under the *Excise Act* and the conditions under the East Excise Cannabis License. For example, in a letter dated January 22, 2024 sent by CRA to Heritage East concerning the East Excise Cannabis License (the "**CRA January 22 Letter**"), CRA noted that Heritage East must comply fully with all terms and conditions of the payment arrangement agreed to with CRA's Collections branch, including: (a) making the monthly payment

towards the Excise Tax Arrears for the term of the payment arrangement; and (b) ensuring that monthly excise duty payable is paid by the due date (i.e. the last day of the calendar month following the relevant reporting period). A copy of the CRA January 22 Letter is attached hereto as **Exhibit “M”**.

123. Under the Excise Tax Arrears Payment Arrangements, as of April 1, 2024, the Applicants are expected to make amortized monthly payments totalling approximately \$322,481 in respect of Excise Tax Arrears, comprising of approximately \$189,524 per month on account of Heritage East’s excise tax arrears, and \$132,956 per month on account of Heritage West’s excise tax arrears. As discussed further below, these monthly payments increase substantially over the term of the payment arrangement.

4. GST/HST

124. As of March 28, 2024, the outstanding GST/HST obligations to CRA owed by Heritage East was approximately \$98,325, and by Heritage West was approximately \$1,529,622.

125. On or about March 12, 2024, the BC Liquor Distribution Branch sent a letter to Heritage West (“**LDB-HW Letter**”) advising that the BC Liquor Distribution Branch had received a Requirement to Pay notice from CRA for Heritage West requiring BC Liquor Distribution Branch to send any money that would otherwise be payable to Heritage West at a rate of 40% of all payments directly to CRA. A copy of the LDB-HW Letter is attached hereto as **Exhibit “N”**.

126. On or about March 12, 2024, the BC Liquor Distribution Branch also sent a letter to Heritage East (“**LDB-HE Letter**”) advising that the BC Liquor Distribution Branch had received a Requirement to Pay notice from CRA for Heritage East requiring BC Liquor Distribution Branch

to send any money that would otherwise be payable to Heritage East at a rate of 40% of all payments directly to CRA. A copy of the LDB-HE Letter is attached hereto as **Exhibit “O”**.

127. As of March 28, 2024, approximately \$298,141 was owing from BC Liquor Distribution Branch to Heritage West. As of March 28, 2024, approximately \$16,091 was owing from BC Liquor Distribution Branch to Heritage East.

D. Cash Flow Forecast

128. With the assistance of the Proposed Monitor, the Applicants have undertaken a cash flow analysis to determine the quantum of funding required to finance their operations, assuming the Initial Order is granted, over a 13-week period (the “**Cash Flow Forecast**”). I understand that the Cash Flow Forecast will be attached to the pre-filing report of the Proposed Monitor.

129. The Cash Flow Forecast indicates that the Applicants will require DIP financing during the pendency of the CCAA Proceedings to ensure that they have the liquidity required to, among other things, continue their business operations, meet their obligations as they come due, and implement the SISP during the CCAA Proceedings.

VI. CHALLENGES AND LIQUIDITY ISSUES FACED BY THE APPLICANTS

A. Challenges

130. Notwithstanding the consistent growth of the Applicants’ business due to the Applicants’ focus on, among other things, product innovation, additional product launches within existing brands, increasing sales and service revenues, and operational improvements, and notwithstanding the Applicants’ increase in net revenue for the year ended October 31, 2023, and over the previous

quarter, the Applicants remain unable to resolve certain issues which have contributed to large comprehensive losses for the Applicants for several years.

131. Generally speaking, there are a number of sector-specific challenging factors which impact the cannabis industry including, among other things:

- (a) The cannabis industry is highly regulated, and is experiencing rapid change amid a heavily saturated market.
- (b) A complex and administrative-heavy regulatory and licensing regime, alongside competition from the illicit market, has caused significant uncertainty in the industry space.
- (c) An increased taxation burden from excise taxes, as well as the need for remitting same in advance of collected of related receivables, has detrimentally impacted growth potential within the sector.
- (d) The challenging conditions in the cannabis industry have negatively affected the ability of cannabis companies to obtain investment or financing for operations and capital expenditures.

132. More specifically, the Applicants' gross margins remain adversely impacted by the effects of high excise duty rates imposed by the federal and provincial governments in Canada. The Applicants currently maintain an overall excise duty rate of approximately 30% of gross revenues. After deducting payment of excise duties from the Applicants' gross revenue, and after taking into account the cost of sales, the Applicants' gross margin is insufficient to satisfy the general and administrative expenses of the Applicants.

133. The Applicants' revenues are also negatively impacted by provincial pricing movements. While the high rates of excise duties and fees are maintained, the Applicants' net income remains under continuous pressure and these effects cannot be offset by any cost initiatives undertaken by the Applicants.

134. The Applicants are currently making aggregate monthly payments of approximately \$1,422,000, comprised of approximately \$152,000 on account of GST, \$270,000 on account of the Excise Tax Arrears, and in excess of \$1 million in respect of the Applicants' current monthly excise tax payments. These payments are expected to increase substantially in the future because, among other things, the amortized monthly payments being made under the Excise Tax Arrears Payment Arrangements will increase from \$270,000 per month to approximately \$618,000 by October 2024 (and will further increase thereafter). Although the Applicants have to date been able to meet their obligations as they come due, they do not have sufficient liquidity to satisfy their expected future payments to the federal and provincial governments and to also continue to meet all of their obligations as they come due.

135. Payments under the Excise Tax Arrears Payment Arrangements are contributing to the substantial pressure on the Applicants' cash flows. At this time, the Applicants do not generate sufficient revenue to repay the Excise Tax Arrears in full.

136. The Applicants rely on numerous vendors and third-party service providers to operate their business. If the Applicants' cash flow is further adversely impacted by the factors discussed above and/or as a result of enforcement by creditors, the Applicants will be unable to satisfy their liabilities. Any interruption in service from such third parties because of their refusal to do so on

account of unpaid amounts owed to them may prevent the Applicants from operating in the ordinary course.

137. The BJK Loan had a maturity date of January 31, 2025. The BJK Loan provided favourable interest rates as compared to other options available to the Applicants, which was advantageous to the Applicants as it freed up cash flow for the Applicants.

138. BJK has delivered demand letters to the Borrowers demanding repayment of the BJK Loan and has delivered Notices of Intention to Enforce Security pursuant to section 244(1) of the BIA (collectively, the “**Demands**”).

B. Prior Strategic Efforts

139. The Applicants, in consultation with its advisors, have pursued several strategic initiatives to improve their operations and financial position including, among other things:

- (a) entering into the Sale and Leaseback Transaction which involved selling, on October 31, 2023, the real estate properties in Ontario (previously owned by 333) and in British Columbia (previously owned by 5450) to BJK Developments for net purchase price of \$9,714,475, which was used to reduce the Applicants’ long-term debt to BJK and interest charges associated with that debt, and leasing those properties back from BJK Developments under lease terms which included 12-month rent free periods, representing approximately \$1,389,000 of savings;
- (b) negotiating an extension of the term financing under the BJK Loan Agreement pursuant to various amending agreements and most recently through the Third Amendment dated October 31, 2023 which extended the due date of the BJK Loan

through to January 31, 2025, while retaining its revolving line of credit of up to \$5,000,000 with BJK which was also extended until January 31, 2025;

- (c) entering into an equity line of credit agreement with Obsidian Global Partners, LLC in November 2022 pursuant to which Heritage sold, on a private placement basis, common shares of Heritage for aggregate gross proceeds of up to US\$20,000,000; however, given the prevailing market conditions, as of October 31, 2023, the aggregate cash consideration received for the release from escrow of 9,706,849 common shares of Heritage was approximately \$176,266. The equity line of credit with Obsidian Global Partners, LLC was subsequently cancelled;
- (d) entering into payment instalment agreements with Health Canada in respect of amounts owed by Heritage East and Heritage West to Health Canada;
- (e) entering into payment arrangements with CRA's Collections branch in connection with payment of excise tax arrears;
- (f) adding multiple new revenue channels and expanding the Applicants' business into new markets with an asset light model;
- (g) optimizing manufacturing processes, making production refinements to enable more efficient production, and improving inventory management and control systems resulting in a decrease in inventory adjustments;
- (h) reducing costs by: (i) decreasing reliance on third party service providers; (ii) rightsizing the organizational spend; and (iii) reducing headcount of employees;

- (i) attempting to engage in portfolio optimization by focusing on best-selling products for strongest gross profit margins; and
- (j) with the assistance of Beacon Securities Limited, an investment banking and mergers and acquisitions (“M&A”) advisory firm, conducting an out-of-Court sale process to solicit interest from potential qualified bidders in the Applicants and/or their assets.

140. Despite the Applicants’ best efforts, their financial circumstances and liquidity situation did not improve. The Applicants do not have access to traditional lending, leaving them with only short-term lending options that come with high interest rates. The combination of the current inflationary period and the rising interest rate environment has created additional risks and pressures on the Applicants’ financial position.

141. It is critical for the Applicants to maintain their licenses with Health Canada and CRA to ensure the business operates as a going concern in the cannabis industry. With the benefit of the protections afforded by the CCAA, the Applicants will be able to maintain their going concern value, preserve jobs for their employees, and generally stabilize their business operations for the benefit of all of their stakeholders.

VII. CCAA PROCEEDINGS AND RELIEF SOUGHT

142. There is significant, urgent, and pressing need for the relief sought through CCAA protection for the Applicants. Without the benefit of a stay of proceedings, the Heritage Group will not be able to respond to and address all of the above noted stakeholder issues.

143. In consultation with their advisors, including KPMG, the Applicants have determined that the CCAA process provides the most beneficial plan of action to maximize value for Heritage Group's stakeholders.

144. As discussed previously, at the Comeback Hearing, the Applicants will seek approval of the SISP and the DIP Loan. The Applicants are of the view that a court supervised SISP under the CCAA will be the best value maximizing strategy in the circumstances and is in the best interests of Heritage Group and its stakeholders.

145. The proposed Initial Order under the CCAA is substantially in the form of the Ontario model initial order found on the Commercial List website. Key elements of the Initial Order are described below.

A. Appointment of Monitor

146. The Applicants seek the appointment of KPMG as Monitor of the Applicants in these CCAA proceedings.

147. I have been advised by Pritesh Patel of KPMG that KPMG is a trustee within the meaning of section 2 of the BIA and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA.

148. KPMG is familiar with the operations of the Applicants, as KPMG was previously engaged as a financial advisor to assess the Applicants' strategic alternatives and restructuring initiatives. The original engagement of KPMG as financial advisor was made appropriately through a process run by the Board to ensure the independence of the eventual potential Monitor of these contemplated CCAA proceedings.

149. KPMG has reviewed and assisted in the preparation of the Cash Flow Forecast and has provided guidance and assistance in the commencement of these CCAA proceedings.

150. As a result, KPMG has developed critical knowledge about the Applicants, their business operations, financial challenges, strategic initiatives and restructuring efforts to date.

151. KPMG has not acted as the Applicants' auditor and is a licensed insolvency trustee.

152. KPMG has consented to act as the Monitor, subject to Court approval. A copy of the Consent to Act as Monitor provided by KPMG is attached hereto and marked as **Exhibit "P"**.

153. I am also advised by Mr. Patel of KPMG that the Proposed Monitor is supportive of the relief sought herein, and that the Proposed Monitor will be filing a pre-filing report in respect of such relief.

B. Stay of Proceedings

154. Given the challenges faced by the Applicants described herein, the Applicants require a stay of proceedings to maintain the *status quo* and to give the Applicants the breathing space they require to develop and execute a SISP in consultation with their advisors and the Monitor.

155. It would be detrimental to the Applicants' business if proceedings were commenced or continued, or rights and remedies were executed, against the Applicants. Absent the Stay of Proceedings, the Applicants will not be able to continue to operate their business and will be forced to initiate an abrupt disorderly shutdown.

156. The Applicants are seeking to extend the Stay of Proceedings to the Non-Applicant Stay Parties due to the integration of the business and operations of Heritage Group. Substantially all

of the strategic business affairs of the Heritage Group, including key decision-making, are conducted through personnel and supported by professional advisors who are located in Canada. The extension of the Stay of Proceedings to these entities is intended to prevent uncoordinated realization and enforcement attempts from being made in different jurisdictions, and thereby preventing immediate losses of value for Heritage Group and its stakeholders.

157. The Applicants believe that there is material value in certain of the Non-Applicant Stay Parties and that without the benefit of the Stay of Proceedings, the value of such entities could quickly erode to the detriment of the Heritage Group's stakeholders.

158. In addition to the Stay of Proceedings against the Applicants and their Property, the Applicants are seeking a stay of proceedings against the directors and officers of the Applicants and the Non-Applicant Stay Parties to ensure that they are able to focus their efforts on the Applicants' restructuring efforts and to prevent creditors and others from seeking to do indirectly what they cannot do directly by asserting claims or other relief relating to the debts and obligations of the Applicants and the Non-Applicant Stay Parties against their respective directors and officers.

159. In light of the foregoing, the Stay of Proceedings is in the best interests of the Applicants and their stakeholders. I understand that the Proposed Monitor believes that the Stay of Proceedings – including its extension to the Non-Applicant Stay Parties – is appropriate in the circumstances.

C. Ability to Pay Certain Pre-Filing Amounts

160. Pursuant to the proposed Initial Order, the Applicants are seeking authorization (but not the obligation) to pay, among other things:

- (a) all outstanding and future wages, salaries, contract amounts, employee and pension benefits, vacation pay and employee expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable prior to, on, or after the date of the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing expenses; and
- (b) with the consent of the Monitor and BJK, and in accordance with the terms of the Cash Flow Forecast, amounts owing for goods and services actually supplied to the Applicants prior to the date of the Initial Order by third party suppliers, up to a maximum aggregate amount of \$1,500,000, if such third party is critical to the business and ongoing operations of the Applicants.

161. I believe this relief is necessary to maintain ordinary course operations, particularly the highly regulated nature of the Applicants' business. The Applicants' ability to operate their business in the normal course is dependent on their ability to obtain an uninterrupted supply of certain goods and services.

162. I understand that the Monitor is supportive of that relief.

D. Administration Charge

163. It is contemplated that a Court-ordered charge over the Property would be granted in favour of the Monitor, counsel to the Monitor, insolvency counsel to the Applicants (Chaitons LLP), and corporate counsel to the Applicants (Owens Wright LLP) (the "**Administration Professionals**"),

to secure payment of their professional fees and disbursements, whether incurred before or after the date of the Initial Order (the “**Administration Charge**”).

164. The proposed Administration Charge being sought pursuant to the Initial Order is for a maximum amount of \$250,000. The Administration Charge is proposed to rank ahead of and have priority over all of the other Charges.

165. In preparation of the Cash Flow Forecast, the Applicants, in consultation with the Proposed Monitor, considered the professional fees forecasted to be incurred on a weekly basis during the cash flow period. Until the week of the Comeback Hearing (Week 2), the Applicants forecast to incur significant professional fees (including retainers) in connection with the CCAA proceedings, such as preparing for the Comeback Hearing, communicating with employees and stakeholders following the initial filing, developing a SISP and complying with statutory notices, mailings and communications.

166. Accordingly, I believe the quantum of the Administration Charge sought is reasonably necessary at this time to secure the professional fees of the Administration Professionals for the applicable period.

167. All of Administration Professionals have contributed, and will continue to contribute, to the Applicants’ restructuring efforts. Each of the beneficiaries of the Administration Charge will have distinct roles in the Applicants’ restructuring.

168. The Applicants, in consultation with the Monitor, and their respective advisors, will seek an increase to the Administration Charge at the Comeback Hearing.

169. The Monitor is supportive of the Administration Charge.

E. Directors' Charge

170. It is contemplated pursuant to the proposed Initial Order that the Applicants' directors and officers ("**Directors and Officers**") would be granted a Court-ordered Directors' Charge on the Property, up to a maximum amount of \$900,000.

171. The Directors' Charge is intended to address potential claims that may be brought against directors and officers following the commencement of the proceedings. The Applicants' ordinary course operations give rise to potential director liability, including on account of payroll obligations and sales taxes.

172. It is my understanding that the Applicants' present and former directors and officers are among the potential beneficiaries under various liability insurance policies. However, I understand from legal counsel to the Applicants that these policies may have various exceptions, exclusions and carve-outs, and may not provide sufficient coverage against potential liability that may be incurred during potential CCAA proceedings.

173. The Directors' Charge is therefore crucial to the continued involvement of the Directors and Officers during the CCAA proceeding to provide them with certainty regarding their personal liability. The Directors and Officers have skills, knowledge and expertise, as well as established relationships with various stakeholders, that are critical to a successful restructuring.

174. The quantum of the Directors' Charge was developed with the assistance and support of the Proposed Monitor taking into account the anticipated payroll, sales tax and other exposures that give rise to director liability for the applicable period.

175. The Applicants are of the view that the quantum of the Directors' Charge is reasonably necessary at this time to address circumstances that could lead to potential directors' liability prior to the Comeback Hearing.

176. The Applicants, in consultation with the Monitor, and their respective advisors, will seek an increase to the Directors' Charge at the Comeback Hearing.

177. The Applicants believe that the Directors' Charge is reasonable in the circumstances. I understand that the Proposed Monitor is supportive of the Directors' Charge and its quantum.

F. Approval of Cash Management System

178. Given the nature and scale of Heritage Group's operations through the Cash Management System, the continued use of the existing Cash Management System is required and appropriate during these CCAA proceedings. I understand that the Monitor is also supportive of this relief.

G. Relief Relating to Securities Filings

179. The Applicants seek authorization to dispense with certain securities filing requirements. In particular, the Applicants seek authorization for the Applicants 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* (Ontario), and comparable statutes enacted by other provinces of Canada, and other rules, regulations and policies of the CSE.

180. In my view, incurring the time and costs associated with preparing the Securities Filings will detract from the Applicants' successful restructuring. Further, there is no prejudice to stakeholders given that detailed financial information and other information regarding the Applicants will continue to be made publicly available through the materials filed in these CCAA proceedings.

H. Relief in respect of Licenses

181. Certain Subsidiaries hold licenses with Health Canada and cannabis licenses with CRA which are essential to the continued operation of the Applicants' business. The Applicants seek to have such licenses and the Subsidiaries' ability to receive cannabis excise stamps preserved and maintained during the CCAA Proceedings, including their ability to sell cannabis inventory in the ordinary course under those licenses. Licenses issued to the Heritage East and Heritage West by CRA are currently subject to renewal on a monthly basis. Furthermore, certain licenses issued by Health Canada and CRA could expire, if not further renewed, during the pendency of the CCAA Proceedings (including as early as April 12, 2024). The terms of such licenses must continue for the duration of the CCAA Proceedings to ensure that the relevant Subsidiaries operate as a going concern. Without the stability of customer contracts that the Applicants have developed, they would lose vital revenue streams, threatening their viability and frustrating the fundamental purpose of these CCAA Proceedings. The Applicants have included Health Canada and CRA on the service list and sent a copy of the application record to them (albeit on short notice).

VIII. RELIEF TO BE SOUGHT AT COMEBACK HEARING

182. If the Initial Order is granted, the Applicants propose to return to this Court for a Comeback Hearing.

183. At the Comeback Hearing, the Applicants intend to seek the Court's approval of an Amended and Restated Initial Order. For the benefit of this Court and the Applicants' stakeholders, this section highlights critical relief that the Applicants intend to seek at the Comeback Hearing. The Applicants may seek additional relief if determined to be necessary or advisable.

A. Extension of Stay of Proceedings

184. The Applicants intend to seek an extension of the Stay of Proceedings for a sufficient length of time to allow the Applicants to complete the SISP without having to incur additional costs during that process to return to Court to seek a further extension of the stay of proceedings.

B. Increase to Charges

185. The Applicants intend to seek to increase the quantum of the Court-ordered Charges over all other encumbrances. In accordance with the CCAA, parties affected by this relief will be served with the Notice of Application in advance of the Comeback Hearing.

186. In addition, the Applicants will also seek appropriate priming of the Charges at the Comeback Hearing, with notice given to all secured parties at that time.

C. Approval of DIP Loan and DIP Lender's Charge

187. As previously indicated, the Applicants intend to seek approval of DIP Loan and the DIP Lender's Charge in favour of the DIP Lender at the Comeback Hearing.

D. SISP

188. At the Comeback Hearing, the Applicants will likely seek the approval of the SISP and the Stalking Horse Purchase Agreement, which will give certainty to employees, customers,

regulators, suppliers and stakeholders that the Heritage Group will continue as a going concern when the SISP concludes. The terms of the SISP will be detailed in a separate report of the Proposed Monitor, or alternately within a supplemental affidavit, to be sworn.

IX. CONCLUSION

189. In the circumstances, I believe that the CCAA proceedings are the best means of restructuring the Applicants' business and operations for the benefit of their stakeholders and the relief sought in the Initial Order is limited to what is reasonably necessary to stabilize the Applicants' business in the initial ten (10) day period.

190. For the reasons set out herein, the Applicants respectfully request this Court grant the Initial Order.

SWORN REMOTELY by David Schwede stated as being located in the City of Kelowna, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on April 2, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DANISH AFROZ
Commissioner for Taking Affidavits
(or as may be)



DAVID SCHWEDE

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 HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 2, 2024)**

CHAITONS LLP

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Lawyers for the Applicants

***THIS IS EXHIBIT "B" TO THE
AFFIDAVIT OF DAVID
SCHWEDE SWORN BEFORE ME
THIS 9th DAY OF APRIL, 2024***



A Commissioner Etc.



Court File No. CV-24-00717664-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)

)

TUESDAY, THE 2ND

)

JUSTICE CAVANAGH)

)

DAY OF APRIL, 2024

**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 HERITAGE CANNABIS HOLDINGS
CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST
CORPORATION, MAINSTRAIN MARKET LTD.,
HERITAGE CANNABIS EAST CORPORATION,
PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY
INC., 5450 REALTY INC., HERITAGE CANNABIS
EXCHANGE CORP. and PREMIUM 5 LTD.**

(collectively, the "**Applicants**")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by Zoom videoconference.

ON READING the affidavit of David Schwede sworn April 2, 2024 and the Exhibits thereto (the "**Schwede Affidavit**"), and the pre-filing report of KPMG Inc. ("**KPMG**"), in its capacity as proposed monitor of the Applicants dated April 2, 2024 (the "**Pre-Filing Report**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**") and together with the Applicants, the "**Heritage Entities**"), counsel for the Proposed Monitor,

counsel for BJK Holdings Ltd., the Applicants' senior secured creditor ("**BJK**"), and such other parties listed on the Counsel Slip, and on reading the consent of KPMG to act as the Monitor (the "**Monitor**"),

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licenses, authorizations, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are 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.

4. **THIS COURT ORDERS** that the Heritage Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Schwede Affidavit or, with the consent of the Monitor and BJK, replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank or credit union 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 Heritage Entities 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 Heritage Entities, 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 any plan of compromise or arrangement (a “**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Applicants, in accordance with the cash flow forecast appended as Appendix "B" to the Pre-Filing Report (the “**Cash Flow Forecast**”) shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, contract amounts, employee and pension benefits, vacation pay and employee expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing expenses;
- (b) with the consent of the Monitor and BJK, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order by third party suppliers, up to a maximum aggregate amount of \$1,500,000, if such third party is critical to the Business and ongoing operations of the Applicants; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and in accordance with the Cash Flow Forecasts, 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 on, or after this Order, 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 on or following the date of this Order.

7. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes;
- (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 date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, the "**Cannabis Taxes**"), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and
- (d) 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall 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 to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, 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 this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to operate the Business in the ordinary course pending the return hearing on the Comeback Date (as defined below).

NO PROCEEDINGS AGAINST THE HERITAGE ENTITIES OR THEIR RESPECTIVE PROPERTY

11. **THIS COURT ORDERS** that until and including April 12, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of any Heritage Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Heritage Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any Heritage Entity or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the Heritage Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that 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**") against or in respect of any Heritage Entity or the Monitor, or their respective representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Heritage Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any Heritage Entity to carry on any business which such Heritage Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

13. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour or renew, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence, authorization or permit in favour of or held by any Heritage Entity, except with the written consent of the Heritage Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with a Heritage Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or any Heritage Entity, 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 Heritage Entities, and that the Heritage Entities 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 normal prices or charges for all such goods or services received after

the date of this Order are paid by the Heritage Entities in accordance with normal payment practices of the Heritage Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Heritage Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to a Heritage Entity. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any Heritage Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of a Heritage Entity 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.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

17. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

18. **THIS COURT ORDERS** that the directors and officers 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, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 29 and 31 herein.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer or indemnitor 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 director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that KPMG is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Heritage Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Heritage Entities 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.

21. **THIS COURT ORDERS** that 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 and the Applicants' compliance with the Cash Flow Forecasts;
- (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;
- (c) advise the Applicants in their preparation of the Applicants' cash flow statements;

- (d) assist the Applicants in communications with their stakeholders, including creditors and governmental authorities;
- (e) 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 Heritage Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (f) 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; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

22. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property, nor be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act* S.C. 2018, c. 16, as amended, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, the *Excise Act, 2001*, S.C. 2002, c. 22, as amended, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, as amended, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, as amended, the *Ontario Cannabis Retail Corporation Act*, 2017, S.O. 2017, c. 26, as amended, the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, as amended, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, as amended, the *Alberta Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, as amended, the *Alberta Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/996, as amended, the *The Cannabis Control (Saskatchewan) Act*, S.S. 2018, c. C-2.111, as amended, the *Saskatchewan Cannabis Control (Saskatchewan) Regulations*, R.R.S. c. C-2.111 Reg. 1, the *Manitoba The Liquor, Gaming and Cannabis Control Act*, C.C.S.M. c. L153, as amended, the *Manitoba Cannabis Regulation*, M.R. 120/2018, as amended, the *Newfoundland and Labrador Cannabis Control Act*, S.N.L. 2018, c. C-4.1, as amended, the *Newfoundland and Labrador Cannabis Control Regulations*, NLR. Reg. 93/18, as amended, the *Newfoundland and Labrador Cannabis Licensing and Operations Regulations*, NLR. Reg. 94/18, as amended, the *Nova Scotia Cannabis Control Act*, S.N.S. 2018, c 3, as

amended, the Nova Scotia *Cannabis Retail Regulations*, NS. Reg. 203/2019, the Prince Edward Island *Cannabis Control Act*, R.S.P.E.I. 1998, c. C-1.2, as amended, the Prince Edward Island *Cannabis Control Regulations*, PEI. Reg. EC575/18, as amended, the New Brunswick *Cannabis Control Act*, S.N.B. 2018, c. 2, the Yukon *Cannabis Control and Regulation Act*, S.Y. 2018, c. 4, as amended, the Yukon *Cannabis Control and Regulation*, YOIC. 2018/139, the Yukon *Cannabis Control and Regulation General Regulation*, YOIC. 2018/184, the Yukon *Cannabis Licensing Regulation*, YOIC. 2019/43, the Yukon *Cannabis Remote Sales Regulation*, YOIC. 2022/29, the Northwest Territories *Cannabis Legalization and Regulation Implementation Act*, S.N.W.T. 2018, c. 6, as amended, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* or the *British Columbia Riparian Areas Protection Act* and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. 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 Environmental Legislation, unless it is actually in possession.

24. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants 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.

25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, 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.

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, 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 and counsel for the Applicants on a bi-weekly basis or on such other terms as the parties may agree.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' corporate counsel (Owens Wright LLP) and insolvency counsel (Chaitons LLP) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their professional

fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 29 and 31 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

29. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$250,000); and

Second – Directors' Charge (to the maximum amount of \$900,000).

30. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be effective as against the Property and 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.

31. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person; provided that the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of this application. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion on notice to those parties.

32. **THIS COURT ORDERS** that 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 and the beneficiaries of the Charges, or further Order of this Court.

33. **THIS COURT ORDERS** that the Charges 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**") thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, 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.

34. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property leases.

RELIEF FROM REPORTING OBLIGATIONS

35. **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (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* (Ontario), R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and the rules, regulations and policies of the Canadian Securities Exchange and OTCQB® (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 the Applicants failing to make Securities Filings required by the Securities Provisions.

36. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants, nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Legislation during the Stay Period, 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 against the directors, officers, employees and other representatives of the Applicants of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "**Regulators**") in the matter of regulating the conduct of market participants and to issue or maintain cease trader orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the Court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

"STATUS QUO" OF APPLICANTS' LICENSES

37. **THIS COURT ORDERS** that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "**Licenses**") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell

cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in *The Globe and Mail*, National Edition, a notice containing the information prescribed under the CCAA; and (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, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, and former employees), 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; provided that the Monitor shall not be required to make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

39. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/heritage> (the "**Website**").

40. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in

satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

41. **THIS COURT ORDERS** that, except with respect to any motion to be heard on the Comeback Date (as defined below), and subject to further Order of this Court in respect of urgent motions, any interest party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its object to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

42. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

GENERAL

43. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on April 11, 2024 at 9:30 a.m. (Toronto Time) or such other date as may be set by this Court upon the granting of this Order (the "**Comeback Date**") and any such interested party shall give not less than two (2) business days' notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the Comeback Date; provided however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 29 and 31 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

44. **THIS COURT ORDERS** that, notwithstanding paragraph 43 of this Order, each of the Applicants or the Monitor may, from time to time, apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties under this Order or in the interpretation of this Order hereunder.

45. **THIS COURT ORDERS** that 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.

46. **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 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.

47. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

48. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 4:30 p.m. (Toronto Time) on the date of this Order.



Digitally signed by
Mr. Justice
Cavanagh

SCHEDULE "A"
NON-APPLICANT STAY PARTIES

Heritage (US) Colorado Corp.

Opticann, Inc.

Heritage US Holdings Corp.

Heritage (US) Cali Corp.

Heritage (US) Oregon Corp.

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 HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

**INITIAL ORDER
(returnable April 2, 2024)**

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

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Tel: (416) 218-1137

E-mail: dafroz@chaitons.com

Lawyers for the Applicants

***THIS IS EXHIBIT "C" TO THE
AFFIDAVIT OF DAVID
SCHWEDE SWORN BEFORE ME
THIS 9th DAY OF APRIL, 2024***

A handwritten signature in blue ink, consisting of a stylized, cursive script that is difficult to decipher but appears to be a name.

A Commissioner Etc.



Heritage Cannabis Obtains Creditor Protection to Pursue Restructuring and Sales Process

Toronto, ON, April 2, 2024 – Heritage Cannabis Holdings Corp. (CSE: CANN) (OTCQX: HERTF) ("**Heritage**" or the "**Company**"), today announces that the Company and its subsidiaries sought and obtained an order for creditor protection (the "**Initial Order**") from the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**").

The difficult but necessary decision to commence CCAA proceedings was made after careful consideration of the Company's financial position, while evaluating all available alternatives and engaging in significant consultation with legal and financial advisors. Additionally, on April 1, 2024, the Company's senior secured lender, BJK Holdings Ltd. (the "**Lender**"), made demand to the Company for payment in full of certain indebtedness owing by the Heritage Group to the Lender in the amount of \$8,421,088.87, excluding legal fees of the Lender's counsel.

The Initial Order includes, among other things: (i) a stay of proceedings in favour of the Company and its Canadian subsidiaries; and (ii) the appointment of KPMG Inc. as monitor of the Company (in such capacity, the "**Monitor**"). The Initial Order also extends the stay of proceedings to certain U.S. affiliates of the Company who are not applicants in the CCAA proceedings.

The board of directors of the Company will remain in place and management will remain responsible for the day-to-day operations of the Company, under the general oversight of the Monitor.

Heritage intends to seek approval of a sale and investment solicitation process (the "**SISP**"), which, if approved, would allow interested parties to participate in the process in accordance with the SISP procedures. Additional details in respect of the SISP will be disclosed in due course.

It is anticipated that the Canadian Securities Exchange (the "**CSE**") will place the Company under delisting review and that there can be no assurance as to the outcome of such review or the continued qualification for listing on the CSE.

Additional information regarding the CCAA proceeding can be found on the Monitor's website at <https://kpmg.com/ca/heritage>.

About Heritage Cannabis Holdings Corp.

Heritage is a leading cannabis company offering innovative products to both the medical and recreational legal cannabis markets in Canada and the U.S., operating two licensed manufacturing facilities in Canada. The company has an extensive portfolio of high-quality cannabis products under the brands Purefarma, Pura Vida, RAD, Adults Only, Juicy Hoots, Premium 5, Thrifty, feelgood., the CB4 suite of medical products in Canada and ArthroCBD in the U.S.

ON BEHALF OF THE BOARD OF DIRECTORS OF HERITAGE CANNABIS HOLDINGS CORP.

"David Schwede"

David Schwede
CEO

For more information contact:

Kelly Castledine
Tel: 647-660-2560

kcastledine@heritagecann.com

The Canadian Securities Exchange does not accept responsibility for the adequacy or accuracy of this release.

Forward-Looking Statements

This press release contains certain "forward-looking information" within the meaning of applicable Canadian securities legislation and may also contain statements that may constitute "forward-looking statements" within the meaning of the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995. Such forward-looking information and forward-looking statements are not representative of historical facts or information or current condition, but instead represent only the Company's beliefs regarding future events, plans or objectives, many of which, by their nature, are inherently uncertain and outside of the Company's control. Generally, such forward-looking information or forward-looking statements can be identified by the use of forward-looking terminology such as "plans", "expects" or "does not expect", "is expected", "budget", "scheduled", "estimates", "forecasts", "intends", "anticipates" or "does not anticipate", or "believes", or variations of such words and phrases or may contain statements that certain actions, events or results "may", "could", "would", "might" or "will be taken", "will continue", "will occur" or "will be achieved".

By identifying such information and statements in this manner, the Company is alerting the reader that such information and statements are subject to known and unknown risks, uncertainties and other factors that may cause the actual results, level of activity, performance or achievements of the Company to be materially different from those expressed or implied by such information and statements.

An investment in securities of the Company is speculative and subject to several risks including, without limitation, the risks discussed under the heading "Risks and Uncertainties" in the Company's annual management discussion and analysis for the year ended October 31, 2023. Although the Company has attempted to identify important factors that could cause actual results to differ materially from those contained in the forward-looking information and forward-looking statements, there may be other factors that cause results not to be as anticipated, estimated or intended.

In connection with the forward-looking information and forward-looking statements contained in this press release, the Company has made certain assumptions. Although the Company believes that the assumptions and factors used in preparing, and the expectations contained in, the forward-looking information and statements are reasonable, undue reliance should not be placed on such information and statements, and no assurance or guarantee can be given that such forward-looking information and statements will prove to be accurate, as actual results and future events could differ materially from those anticipated in such information and statements. The forward-looking information and forward-looking statements contained in this press release are made as of the date of this press release, and the Company does not undertake to update any forward-looking information and/or forward-looking statements that are contained or referenced herein, except in accordance with applicable securities laws. All subsequent written and oral forward-looking information and statements attributable to the Company or persons acting on its behalf are expressly qualified in their entirety by this notice.

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

Court File No.: CV-24-00717664-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF DAVID SCHWEDE
(Sworn April 9, 2024)**

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Toronto, ON M2N 7E9

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Lawyers for the Applicants

TAB 3

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

THE HONOURABLE MR.)	THURSDAY, THE 11 TH
)	
JUSTICE CAVANAGH)	DAY OF APRIL, 2024

**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 HERITAGE CANNABIS HOLDINGS
CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST
CORPORATION, MAINSTRAIN MARKET LTD.,
HERITAGE CANNABIS EAST CORPORATION,
PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY
INC., 5450 REALTY INC., HERITAGE CANNABIS
EXCHANGE CORP. and PREMIUM 5 LTD.**

(collectively, the "**Applicants**")

**AMENDED AND RESTATED INITIAL ORDER
(amending Initial Order Dated April 2, 2024)**

THIS MOTION, made by the Applicants, for an order amending and restating the initial order of Justice Cavanagh issued on April 2, 2024 (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day by Zoom videoconference.

ON READING the affidavit of David Schwede sworn April 2, 2024 and the Exhibits thereto (the "**Initial Affidavit**"), the affidavit of David Schwede sworn April 9, 2024 and the Exhibits thereto (the "**Second Affidavit**"), the pre-filing report of KPMG Inc. ("**KPMG**"), in its capacity as proposed monitor of the Applicants dated April 2, 2024 (the "**Pre-Filing Report**"), and the First Report of KPMG as Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") to be filed (the "**First Report**"), and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-**

Applicant Stay Parties" and together with the Applicants, the "**Heritage Entities**"), counsel for the Monitor, counsel for BJK Holdings Ltd. ("**BJK**"), the Applicants' senior secured creditor and the debtor-in-possession lender (in such capacity, the "**DIP Lender**"), and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of ● sworn April ●, 2024,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that each of 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 (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licenses, authorizations, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are 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.

5. **THIS COURT ORDERS** that the Heritage Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Initial Affidavit or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank or credit union 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 Heritage Entities 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 Heritage Entities, 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 any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants, subject to compliance with the Definitive Documents (as defined below), shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing expenses;
- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order by third party suppliers, up to a maximum aggregate amount of \$1,500,000, if such third party is critical to the Business and ongoing operations of the Applicants; and

- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to the Definitive Documents (as defined below), 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 on, or after this Order, 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 on or following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes;
- (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 date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, the "**Cannabis Taxes**"), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and

- (d) 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall 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 to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, 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 this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that each of 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 defined below), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,0000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and

- (c) 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 materials refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the applicable Applicant shall provide each relevant landlord with notice of such Applicant's 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 and, if the landlord disputes such Applicant's 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 applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If any Applicant disclaims a lease governing such leased premises in accordance with Section 32 of the CCAA, it 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 Subsection 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer 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 applicable Applicant 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 applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE HERITAGE ENTITIES OR THEIR RESPECTIVE PROPERTY

14. **THIS COURT ORDERS** that until and including June 30, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) (each, a "**Proceeding**") shall be commenced or continued against or in respect of any Heritage Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Heritage Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any Heritage Entity or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the Heritage Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) 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**") against or in respect of any Heritage Entity or the Monitor, or their respective representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Heritage Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any Heritage Entity to carry on any business which such Heritage Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour or renew, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence, authorization or permit in

favour of or held by any Heritage Entity, except with the written consent of the Heritage Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with a Heritage Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or any Heritage Entity, 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 Heritage Entities, and that the Heritage Entities 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 normal prices or charges for all such goods or services received after the date of this Order are paid by the Heritage Entities in accordance with normal payment practices of the Heritage Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Heritage Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to a Heritage Entity. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any Heritage Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations

of a Heritage Entity 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.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers 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 \$1,900,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer or indemnitor 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 director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that KPMG is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Heritage Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Heritage Entities 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.

24. **THIS COURT ORDERS** that 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 and the Applicants' compliance with the Cash Flow Projections (as defined in the DIP Term Sheet), including the management and deployment/use of any funds advanced by the DIP Lender to the Applicants under the DIP Term Sheet;
- (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;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on a weekly basis of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicants in the development of any Plan and any amendments to any 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 any Plan;
- (g) assist the Applicants in communications with their stakeholders, including creditors and governmental authorities;
- (h) 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 Heritage

Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

- (i) 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; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property, nor be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act* S.C. 2018, c. 16, as amended, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, the *Excise Act, 2001*, S.C. 2002, c. 22, as amended, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, as amended, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, as amended, the *Ontario Cannabis Retail Corporation Act*, 2017, S.O. 2017, c. 26, as amended, the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, as amended, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, as amended, the *Alberta Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, as amended, the *Alberta Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/996, as amended, the *The Cannabis Control (Saskatchewan) Act*, S.S. 2018, c. C-2.111, as amended, the *Saskatchewan Cannabis Control (Saskatchewan) Regulations*, R.R.S. c. C-2.111 Reg. 1, the *Manitoba The Liquor, Gaming and Cannabis Control Act*, C.C.S.M. c. L153, as amended, the *Manitoba Cannabis Regulation*, M.R. 120/2018, as amended, the *Newfoundland and Labrador Cannabis Control Act*, S.N.L. 2018, c. C-4.1, as amended, the *Newfoundland and Labrador Cannabis Control Regulations*, NLR. Reg. 93/18, as amended, the *Newfoundland and Labrador Cannabis Licensing and Operations Regulations*, NLR. Reg. 94/18, as amended, the *Nova Scotia Cannabis Control Act*, S.N.S. 2018, c 3, as amended, the *Nova Scotia Cannabis Retail Regulations*, NS. Reg. 203/2019, the *Prince Edward Island Cannabis Control Act*, R.S.P.E.I. 1998, c. C-1.2, as amended, the *Prince Edward Island Cannabis Control Regulations*, PEI. Reg. EC575/18, as amended, the *New Brunswick Cannabis Control Act*, S.N.B. 2018, c. 2, the *Yukon Cannabis Control and Regulation Act*, S.Y. 2018, c. 4,

as amended, the Yukon *Cannabis Control and Regulation*, YOIC. 2018/139, the Yukon *Cannabis Control and Regulation General Regulation*, YOIC. 2018/184, the Yukon *Cannabis Licensing Regulation*, YOIC. 2019/43, the Yukon *Cannabis Remote Sales Regulation*, YOIC. 2022/29, the Northwest Territories *Cannabis Legalization and Regulation Implementation Act*, S.N.W.T. 2018, c. 6, as amended, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* or the *British Columbia Riparian Areas Protection Act* and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. 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 Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lender, 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. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, 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. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, 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 and counsel for the Applicants on a bi-weekly basis or on such other terms as the parties may agree.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' corporate counsel (Owens Wright LLP) and insolvency counsel (Chaitons LLP) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

DIP FINANCING

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that initial borrowings under such credit facility shall not exceed \$1,500,000 unless permitted by further Order of this Court.

33. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the Debtor-In-Possession Facility Term Sheet between the DIP Lender and the Applicants, as appended to the First Report (as may be amended from time to time, the "**DIP Term Sheet**").

34. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the DIP Term Sheet, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP 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 DIP Lender under and pursuant to the Definitive Documents (collectively, the "**DIP Obligations**") as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property as security for the DIP Obligations, which DIP Lender's Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 39 and 41 hereof.

36. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 3 business 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 Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender's 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 DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

37. **THIS COURT ORDERS AND DECLARES** that, unless otherwise agreed to in writing by the DIP Lender, the DIP Lender shall be treated as unaffected in any Plan filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the *Bankruptcy and Insolvency Act of Canada* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

38. **THIS COURT ORDERS** that the Applicants' key employee retention plan (the "**KERP**") described in the Second Affidavit, be and is hereby approved and the Applicants are authorized and directed to make payments contemplated thereunder should the employees become entitled thereto in accordance with the terms and conditions of the KERP.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

39. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge, to a maximum amount of \$500,000;

Second – Directors' Charge, to a maximum amount of \$1,900,000; and

Third – DIP Lender's Charge.

40. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be effective as against the Property and 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.

41. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

42. **THIS COURT ORDERS** that 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 DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

43. **THIS COURT ORDERS** that the Charges 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**") thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order 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.

44. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property leases.

CORPORATE MATTERS

45. **THIS COURT ORDERS** that Heritage is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

RELIEF FROM REPORTING OBLIGATIONS

46. **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (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* (Ontario), R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and the rules, regulations and policies of the Canadian Securities Exchange and OTCQB® (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 the Applicants failing to make Securities Filings required by the Securities Provisions.

47. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants, nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Legislation during the Stay Period, 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 against the directors, officers, employees and other representatives of the Applicants of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "**Regulators**") in the matter of regulating the conduct of market participants and to issue or maintain cease trader orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the Court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

"STATUS QUO" OF APPLICANTS' LICENSES

48. **THIS COURT ORDERS** that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "**Licenses**") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell

cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

49. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in *The Globe and Mail*, National Edition, a notice containing the information prescribed under the CCAA; and (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, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, and former employees), 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; provided that the Monitor shall not be required to make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

50. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/heritage> (the "**Website**").

51. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in

satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

52. **THIS COURT ORDERS** that subject to further Order of this Court in respect of urgent motions, any interest party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its object to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

53. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

GENERAL

54. **THIS COURT ORDERS** that each of the Applicants, the Monitor or the DIP Lender may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

55. **THIS COURT ORDERS** that 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.

56. **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 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.

57. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

58. **THIS COURT ORDERS** that any interested party (including each of 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; provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 39 and 41 hereof with respect to any fees, expenses and disbursements incurred, or advances made pursuant to the DIP Term Sheet, as applicable, until the date of this Order may be amended, varied, or stayed.

59. **THIS COURT ORDERS** that with the exception of Paragraph 41, references in this Order to the “date of this Order” or similar phrases refer to the date of the Initial Order granted in these Proceedings on April 2, 2024. The effective date of the Initial Order shall be 4:30 p.m. (Toronto Time) on April 2, 2024. The amendment of the Initial Order effected by the provisions of this Amended and Restated Initial Order (including the foregoing sentence of this Paragraph 59) shall be effective as of 12:01 a.m. (Toronto Time) on April 11, 2024, without the need for entry or filing.

SCHEDULE "A"
NON-APPLICANT STAY PARTIES

Heritage (US) Colorado Corp.

Opticann, Inc.

Heritage US Holdings Corp.

Heritage (US) Cali Corp.

Heritage (US) Oregon Corp.

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

Court File No.: CV-24-00717664-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER
(returnable April 11, 2024)**

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

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Lawyers for the Applicants

TAB 4

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

THE HONOURABLE MR.)	THURSDAY, THE 11 TH
)	
JUSTICE CAVANAGH)	DAY OF APRIL, 2024

**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 HERITAGE CANNABIS HOLDINGS
CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST
CORPORATION, MAINSTRAIN MARKET LTD.,
HERITAGE CANNABIS EAST CORPORATION,
PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY
INC., 5450 REALTY INC., HERITAGE CANNABIS
EXCHANGE CORP. and PREMIUM 5 LTD.**

(collectively, the "**Applicants**")

SISP ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, *inter alia*, (i) approving the Bidding Procedures for Sale and Investment Solicitation Process in the form attached hereto as Schedule "B" (the "**SISP**"); and (ii) the Stalking Horse Agreement (as defined herein) was heard this day by Zoom videoconference.

ON READING the affidavit of David Schwede sworn April 2, 2024 and the Exhibits thereto (the "**Initial Affidavit**"), the affidavit of David Schwede sworn April 9, 2024 and the Exhibits thereto (the "**Second Affidavit**"), and the First Report of KPMG Inc. ("**KPMG**") in its capacity as Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") to be filed (the "**First Report**"), and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**") and together with the Applicants, the "**Heritage Entities**"), counsel for the Monitor, counsel for

BJK Holdings Ltd. ("**BJK**"), the Applicants' senior secured creditor and the debtor-in-possession lender (in such capacity, the "**DIP Lender**"), and HAB Cann Holdings Ltd. (the "**Stalking Horse Purchaser**") and such other parties that attended the hearing of the motion

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record 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 meanings ascribed to them in the Amended and Restated Initial Order of this Court dated April 11, 2024 (the "**ARIO**"), the SISP or the Stalking Horse Purchase Agreement (as defined below).

APPROVAL OF THE SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS AND DECLARES** that the SISP (subject to any amendments thereto that may be made in accordance with the terms therewith and with this Order) is hereby approved and the Applicants and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicants and the Monitor are hereby authorized and directed to take any and all actions as may be necessary or desirable to implement and carry out the SISP in accordance with its terms and this Order.

4. **THIS COURT ORDERS** that the Applicants, the Monitor, and their respective affiliates, partners, directors, officers, employees, counsel, representatives, agents and controlling persons 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 implementing or otherwise in connection with the SISP, except to the extent such losses, claims, damages or liabilities that arise or result from their respective gross negligence or wilful misconduct, as applicable, as determined by this Court in a final order that is not subject to appeal or other review.

5. **THIS COURT ORDERS** that pursuant to section 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS), the Monitor and the Applicants are authorized and permitted to send, or cause or permit to be sent, commercial electronic messages

to an electronic address of prospective bidders or offerors and to their advisors, but only to the extent required to provide information with respect to the SISP.

6. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the SISP, and in no way limiting the protections provided to the Monitor in the ARIO, the Monitor shall not take possession of any Property or be deemed to take possession of any Property, including pursuant to any provision of the Cannabis Legislation (as defined in the ARIO).

APPROVAL OF THE STALKING HORSE AGREEMENT

7. **THIS COURT ORDERS** that Heritage Cannabis Holdings Corp. ("**Heritage**") and Heritage Cannabis West Corporation ("**Heritage West**") are hereby authorized and empowered to enter into the Stalking Horse Subscription Agreement (the "**Stalking Horse Agreement**") among Heritage and Heritage West, as companies (the "**Companies**"), BJK, and the Stalking Horse Purchaser, in the form attached to the Second Affidavit, *nunc pro tunc*, with such minor amendments as may be acceptable to the Companies, BJK and the Stalking Horse Purchaser, with the approval of the Monitor.

8. **THIS COURT ORDERS** that the Stalking Horse Agreement is hereby approved and accepted solely for the purposes of being the Stalking Horse Bid under the SISP; provided that, nothing herein approves the transactions contemplated in the Stalking Horse Bid, and the approval of any transactions contemplated by the Stalking Horse Agreement shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Agreement is the Successful Bid pursuant to the SISP.

9. **THIS COURT ORDERS** that the Break and Expense Reimbursement Fee (as defined in the Stalking Horse Agreement) is hereby approved and the Applicants party to the Stalking Horse Agreement are hereby authorized and directed to pay the Break and Expense Reimbursement Fee to Stalking Horse Purchaser (or as it may otherwise direct) subject to and in accordance with the terms of the Stalking Horse Agreement.

PROTECTION OF PERSONAL INFORMATION

10. **THIS COURT ORDERS** pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other

applicable jurisdictions, the Monitor, the Applicants and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants (each a "**SISP Participant**") and their respective advisors personal information of identifiable individuals ("**Personal Information**"), records pertaining to the Applicants' past and current employees, and information on specific customers, but only to the extent desirable or required to negotiate or attempt to complete a transaction under the SISP (a "**Transaction**"). Each SISP Participant to whom such Personal Information is disclosed shall maintain and protect the privacy of such Personal Information and limit the use of such Personal Information to its evaluation of a Transaction, and, if it does not complete a Transaction, shall return all such information to the Monitor or the Heritage Entities, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Applicants or the Monitor. The Successful Bidder(s) (as defined in the SISP) shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property (as defined in the SISP) acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants or the Monitor, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the Applicants.

GENERAL

11. **THIS COURT ORDERS** that each of the Applicants or the Monitor may, from time to time, apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties under this Order or in the interpretation of this Order.

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

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 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.

14. **THIS COURT ORDERS** that 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

15. **THIS COURT ORDERS** that this Order all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

SCHEDULE "A"
Non-Applicant Stay Parties

Heritage (US) Colorado Corp.

Opticann, Inc.

Heritage US Holdings Corp.

Heritage (US) Cali Corp.

Heritage (US) Oregon Corp.

SCHEDULE "B"

**Bidding Procedures for
the Sale and Investment Solicitation Process
[Attached]**

Schedule “B”

Bidding Procedures for the Sale and Investment Solicitation Process

Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on April 2, 2024 (as amended and restated, the “**Initial Order**”), Heritage Cannabis Holdings Corp. (“**Heritage Cannabis**”), 1005477 B.C. Ltd., Heritage Cannabis West Corporation, Mainstrain Market Ltd., Heritage Cannabis East Corporation, Purefarma Solutions Inc., 333 Jarvis Realty Inc., 5450 Realty Inc., Heritage Cannabis Exchange Corp. and Premium 5 Ltd. (collectively, the “**Applicants**” or the “**Heritage Group**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and the proceedings thereunder, the “**CCAA Proceedings**”), and KPMG Inc. (“**KPMG**”) was appointed monitor of the Applicants (in such capacity, the “**Monitor**”).

On April 11, 2024, the Court granted an order (the “**SISP Order**”), authorizing the Monitor, with the assistance of the Heritage Group’s management team, to undertake a sale and investment solicitation process (“**SISP**”) for the sale of the Heritage Group’s (i) property, assets and undertaking or shares in the capital of one or more of the Applicants (collectively, the “**Property**”), and (ii) business operations (the “**Business**”). The SISP will be conducted by the Monitor in the manner set forth herein and in accordance with the SISP Order.

Among other things, the SISP Order also: (a) approved the procedures set out in this Schedule (the “**Bidding Procedures**”) for the solicitation of offers or proposals (each, a “**Bid**”) for the acquisition of the Property and the Business or some portion thereof; and (b) approved the form of stalking horse agreement (as same may be amended from time to time pursuant to its terms and the SISP Order, the “**Stalking Horse Agreement**”) to be entered into between each of Heritage Cannabis, BJK Holdings Ltd. (in such capacity, the “**Stalking Horse Bidder**”) and Hab Cann Holdings Inc. for the purposes of serving as the stalking horse bid in the SISP (the “**Stalking Horse Bid**”). For the avoidance of doubt, the implementation of the transactions contemplated by the Stalking Horse Agreement is conditional upon the Stalking Horse Bid being selected as a Successful Bid (as defined below) in accordance with the Bidding Procedures, and Court approval of the Stalking Horse Agreement and the transactions contemplated therein on a subsequent motion to be brought by the Applicants following the completion of the SISP.

Defined Terms

1. Capitalized terms used in these Bidding Procedures and not otherwise defined herein have the meanings given to them in **Appendix “A”** hereto.

Bidding Procedures

Opportunity

2. The SISP is intended to solicit interest in and opportunities for a sale of, or investment in, all or part of the Heritage Group’s Property and Business (the “**Opportunity**”). The Opportunity may include one or more of a restructuring, refinancing, recapitalization or other form of reorganization of the business and affairs of one or more entity comprising the Heritage Group as a going concern, or a sale of all, substantially all or one or more

components of the Heritage Group's Property and Business as a going concern or otherwise.

3. The Stalking Horse Agreement constitutes a Binding Offer and a Qualified Bid (each as defined below) by the Stalking Horse Bidder (which constitutes a Binding Offer Bidder and a Qualified Bidder (each as defined below)) for all purposes and at all times under this SISP, and will serve as the Stalking Horse Bid for purposes of this SISP and the Bidding Procedures. The Stalking Horse Bidder shall have the right to participate in the Auction (as defined below), if any. Notwithstanding the Stalking Horse Agreement and proposed transactions therein, all interested parties are encouraged to submit bids based on any form of Opportunity that they may elect to advance pursuant to the SISP, including as a Sale Proposal (as defined below), a Partial Sale Proposal (as defined below), or an Investment Proposal (as defined below). A copy of the Stalking Horse Agreement will be made available to all Qualified Bidders (as defined below) and a form of such agreement, to be uploaded to the VDR (as defined below), shall be used as the basis for any Binding Offer made in the SISP.
4. The Bidding Procedures describe (a) the manner in which prospective bidders may gain access to due diligence materials concerning the Heritage Group, the Property and the Business, (b) the manner in which bidders may participate in the SISP, (c) the terms of the requirements, delivery and negotiation of bids received, (d) the ultimate selection of a Successful Bidder (as defined below), and (e) the requisite approvals to be sought from the Court in connection therewith.
5. Subject to Paragraph 22 below, the Monitor, in consultation with the Heritage Group, may at any time and from time to time, modify, amend, vary or supplement the Bidding Procedures, without the need for obtaining an order of the Court or providing notice to Participating Bidders, Binding Offer Bidders, Qualified Bidders, the Successful Bidder(s) or the Back-Up Bidder(s) (each as defined below), provided that such modification, amendment, variation or supplement is (a) expressly limited to changes that do not alter, amend or prejudice the rights of such bidders (including the rights of the Stalking Horse Bidder, except with the authorization of the Stalking Horse Bidder) and (b) necessary or useful in order to give effect to the substance of the SISP, the Bidding Procedures or the SISP Order. Notwithstanding the foregoing, the dates or time limits indicated in the table contained below may be extended by the Monitor, with the consent of the DIP Lender, as the Monitor deems necessary or appropriate, acting reasonably, or by order of the Court.
6. The Monitor will post on the Monitor's website and serve on the service list maintained in the CCAA Proceedings, as soon as practicable, any such modification, amendment, variation or supplement to these Bidding Procedures and inform the bidders impacted by such modifications.
7. In the event of a dispute as to the interpretation or application of the SISP Order or these Bidding Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute. For the avoidance of doubt, all bidders shall be deemed to have consented to the jurisdiction of the Court in connection with any disputes relating to the SISP, including the qualification of bids, the construction and enforcement of the SISP, and closing of a Successful Bid, as applicable.

8. A summary of the key dates pursuant to the SISP is as follows:¹

Milestone	Date
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA (each as defined below), Confidential Information Memorandum and access to VDR	No later than two (2) Business Days after Court Approval of the SISP (i.e. April 15, 2024)
Binding Offer Deadline (as defined below)	May 10, 2024 at 5:00 p.m. EST
<i>If no Qualified Bids are received other than Stalking Horse Bid</i>	
Selection of Stalking Horse Bid as Successful Bid	May 10, 2024 at 5:15 p.m. EST
Hearing of Approval Motion (as defined below)	May 27, 2024 or the earliest date available thereafter
Closing of Stalking Horse Bid	As soon as possible but no later than August 2, 2024.
<i>If Qualified Bids are received other than Stalking Horse Bid</i>	
Deadline to notify Qualified Bidders of Auction	No later than May, 14, 2024
Auction, if needed	May 17, 2024
Selection of Successful Bid and Back-Up Bidder, if needed	May 18, 2024 or such later date immediately thereafter if the Auction is not completed in one day
Execution of Definitive Transaction Documentation reflecting changes to Qualified Bid arising from Auction	No later than May 21, 2024
Hearing of Approval Motion	No later than June 7, 2024

¹ This summary is provided for illustrative purposes only, and the terms of these Bidding Procedures other than Paragraph 8 shall govern in the case of any inconsistency between Paragraph 8 and any other section of the Bidding Procedures.

Milestone	Date
Closing of the Successful Bid	As soon as possible but no later than August 2, 2024, or such later date as may be agreed

Solicitation of Interest: Notice of the SISP

9. As soon as reasonably practicable, but, in any event, by no later than two (2) Business Days after the granting of the SISP Order:
 - (a) the Monitor, in consultation with the Heritage Group, will prepare a list of potential bidders, including (i) parties that have approached the Applicants, the Monitor or the DIP Lender indicating an interest in the Opportunity, and (ii) strategic and financial parties who the Monitor, in consultation with the Heritage Group, believe may be interested in purchasing all or part of the Business or the Property or investing in the Heritage Group pursuant to the SISP, in each case whether or not such party has submitted a letter of intent or similar document (collectively, the **“Known Potential Bidders”**);
 - (b) the Heritage Group will issue a press release setting out the information contained in the Notice and such other relevant information which the Monitor, the Applicants determine is appropriate; and
 - (c) the Monitor, with the assistance of the Heritage Group, will prepare (i) a process summary (the **“Teaser Letter”**) describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a non-disclosure agreement in form and substance satisfactory to the Monitor and Heritage Group and their respective counsel, which shall enure to the benefit of any purchaser of the Business or Property or any part thereof (an **“NDA”**).
10. The Monitor will cause the Teaser Letter and NDA to be sent to each Known Potential Bidder by no later than two (2) Business Days after the granting of the SISP Order, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.
11. In addition to the foregoing, within five (5) Business Days after the granting of the SISP Order, the Monitor shall cause a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Heritage Group, considers appropriate) (the **“Notice”**) to be published in one or more trade industry and/or insolvency-related publications as may be considered appropriate by the Monitor.

Virtual Data Room

12. A confidential virtual data room (the **“VDR”**) in relation to the Opportunity will be made available by the Heritage Group and the Monitor to Participating Bidders (as defined below). The VDR will include all documentary materials reasonably likely to be relevant to Participating Bidders in their assessment of the Opportunity, and shall include the Teaser

Letter, the Stalking Horse Agreement and a form of asset/share purchase agreement to be used by Participating Bidders in making bids. The VDR shall be made available as soon as practicable following the granting of the SISP Order. The Monitor, in consultation with the Heritage Group, may establish or cause the Heritage Group to establish separate VDRs (including “**clean rooms**”), if the Monitor, in consultation with the Heritage Group, reasonably determines that doing so would further the Heritage Group’s and any Potential Bidder’s compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information.

13. The Monitor may, in consultation with the Heritage Group, limit the access of any Potential Bidder to any confidential information in the VDR where the Monitor, in consultation with the Heritage Group, reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business, the Property or their value.

Participating Bidders and Delivery of Confidential Information Memorandum

14. Any party who wishes to participate in the SISP (a “**Potential Bidder**”) must provide to the Monitor and counsel to the Heritage Group, at the addresses specified in **Appendix “B”** hereto (including by email transmission), in form and substance acceptable to the Monitor, in consultation with the Heritage Group (a) an NDA executed by it, (b) written confirmation of the identity of the Potential Bidder, (c) the contact information for such Potential Bidder (d) full disclosure of the direct and indirect principals of the Potential Bidder, and (e) documentary evidence of such Potential Bidder’s financial wherewithal and ability to consummate a sale or investment pursuant to the SISP, in the form of proof of cash-on-hand and/or unconditionally committed financing.
15. A Potential Bidder who has satisfied the requirements in Paragraph 14(a) through (e) will be deemed a “**Participating Bidder**”. All Participating Bidders will receive a confidential information memorandum prepared by the Monitor, in consultation with the Heritage Group (a “**Confidential Information Memorandum**”) and will be granted access to the VDR. For the avoidance of doubt, the Stalking Horse Bidder is, and will be deemed to be, a Participating Bidder.
16. The Heritage Group, the Monitor and their respective advisors make no representation or warranty as to the information contained in the VDR, Teaser Letter, Confidential Information Memorandum or otherwise made available pursuant to the SISP. Participating Bidders must rely solely on their own independent review, diligence, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with one or more of the entities comprising the Heritage Group.
17. At any time during the SISP, the Monitor may, in its reasonable judgment, and in consultation with the Heritage Group, eliminate a Participating Bidder from the SISP, in which case such bidder will be eliminated from the SISP and will no longer be a “Participating Bidder” for the purposes of the SISP.

Due Diligence

18. The Monitor and the Heritage Group, shall, subject to competitive and other business considerations, afford each Participating Bidder such access to due diligence materials

and information relating to the Property and Business as the Monitor, in consultation with the Heritage Group, may deem appropriate. Any materials provided to a Participating Bidder at such Participating Bidder's request shall also be posted in the VDR, subject to Paragraphs 12, 13 and 19. Due diligence access may include management presentations, access to the VDR, on-site inspections, and other matters which a Participating Bidder may reasonably request and as to which the Monitor, in its reasonable judgment, and in consultation with the Heritage Group, may agree. Any access or interactions with the Heritage Group's management and personnel shall be coordinated through the Monitor.

19. The Monitor shall be solely responsible for coordinating and responding to all requests for information and due diligence access from Participating Bidders; Participating Bidders with such requests shall make them to the Monitor, in writing, at the addresses specified in **Appendix "B"** hereto (including by email transmission). Neither the Monitor, nor the Heritage Group through the Monitor, will be obligated to furnish any information relating to the Property or Business to any person other than to Participating Bidders. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Participating Bidders if the Monitor, in consultation with the Heritage Group, determines such information to represent proprietary or sensitive competitive information.

Formal Binding Offers

20. Any Participating Bidder (other than the Stalking Horse Bidder) that wishes to make a formal offer to (a) acquire all or substantially all of the Property or Business, whether through an asset purchase, a share purchase or a combination thereof (either one, a "**Sale Proposal**") or a portion of the Property or the Business (a "**Partial Sale Proposal**"); or (b) make an investment in, restructure, recapitalize or refinance the Heritage Group or the Business or a portion thereof (an "**Investment Proposal**", together with a Sale Proposal and a Partial Sale Proposal, a "**Binding Offer**"): shall (i) in the case of a Sale Proposal, provide its offer in the form of a template purchase agreement provided in the VDR, along with a marked version showing edits to the original form of the template provided in the VDR, and a marked version compared to the Stalking Horse Agreement; or (ii) in the case of an Investment Proposal, provide a plan or restructuring support agreement (the "**Binding Offer Bidder**"), in each case, to the Monitor at the addresses specified in **Appendix "B"** hereto (including by email transmission), no later **5 p.m. EST on May 10, 2024** (the "**Binding Offer Deadline**").
21. A Binding Offer will be considered a "**Qualified Bid**", and the Binding Offer Bidder making such Binding Offer a "**Qualified Bidder**", if it:
 - (a) provides net cash proceeds on closing via provisions that meet the following requirements, that are not less than the aggregate total of: (a) the amount of cash payable under the Stalking Horse Agreement; plus (b) the "Credit Bid Consideration" (as defined in the Stalking Horse Agreement); plus (c) the "Break and Expense Reimbursement Fee" (as defined in the Stalking Horse Agreement), plus (d) a minimum overbid amount of \$100,000 ((a) through (d), in the aggregate, the "**Minimum Purchase Price**"); provided, however, that the Monitor may, in its reasonable judgment, and in consultation with the Heritage Group, deem this criterion satisfied if the Binding Offer, together with one or more other non-overlapping Binding Offers, in the aggregate, meet or exceed the Minimum Purchase Price and such Minimum Purchase Price is payable in full in cash on closing (such bids, "**Aggregated Bids**", and each an "**Aggregated Bid**");

- (b) is submitted on or before the Binding Offer Deadline;
- (c) is made by way of binding, definitive transaction document(s) that is/are executed by the Binding Offer Bidder;
- (d) is not subject to any financing condition, diligence condition or internal or board approval;
- (e) contains or identifies the key terms and provisions to be included in any Approval Order, including whether such order will be a “reverse vesting order”;
- (f) contains the Binding Offer Bidder’s proposed treatment of employees of the applicable Heritage Group entities (for example, anticipated employment offers and treatment of post-employment benefits);
- (g) includes acknowledgments and representations of the Binding Offer Bidder that it:
 - (i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer; (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property and/or the Business in making its Binding Offer; (iii) has not relied upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity, or the completeness of any information provided in connection therewith; and (iv) will promptly commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities, including those regulating the cannabis sector;
- (h) is accompanied by a letter that confirms that the Binding Offer: (i) may be accepted by the Heritage Group by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two (2) Business Days after the date of closing of the applicable Successful Bid; and (B) the Outside Date (as defined below);
- (i) provides for any anticipated corporate, licensing, securityholder, Health Canada, legal or other regulatory approvals required to close the transaction;
- (j) does not provide for any break or termination fee, expense reimbursement or similar type of payment;
- (k) in the case of a Sale Proposal or Partial Sale Proposal, includes:
 - (i) the specific purchase price in Canadian dollars and a description of any non-cash consideration;
 - (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 all executory contracts of the Heritage Group that the Binding Offer Bidder will assume, and clearly describes, for each contract

- or on an aggregate basis, how all monetary defaults will be remedied, as applicable; and
- (iv) a description of those liabilities and obligations (including operating liabilities) which the Binding Offer Bidder intends to assume and which such liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;
- (l) in the case of an Investment Proposal, includes:
- (i) a description of how the Binding Offer Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization, and a description of any non-cash consideration;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Business or the Applicants in Canadian dollars;
 - (iii) a description of all executory contracts of the Heritage Group that the Binding Offer Bidder will assume, and clearly describes, for each contract or on an aggregate basis, how all monetary defaults will be remedied, as applicable;
 - (iv) the underlying assumptions regarding the pro forma capital structure; and
 - (v) a description of those liabilities and obligations (including operating liabilities) which the Binding Offer Bidder intends to assume and which liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;
- (m) is accompanied by a deposit in the amount of not less than 10% of the cash purchase price, or total new investment contemplated, as the case may be (the “**Deposit**”);
- (n) is accompanied by an acknowledgement that (i) if the Binding Offer Bidder is selected as a Successful Bidder, that the Deposit will be held and dealt with as described in Paragraph 32 below; and (ii) if the Binding Offer Bidder is selected as a Back-Up Bidder, that the Deposit will be held and dealt with as described in Paragraph 32 below;
- (o) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on the date that is twenty-one (21) days from the date of the issuance of the Approval Order approving such bid, or such earlier date as is practical for the parties to close the contemplated transaction (the “**Target Closing Date**”) and in any event no later than August 2, 2024 (the “**Outside Date**”); and
- (p) includes such other information as reasonably requested or identified in writing by the Monitor in consultation with the Heritage Group, prior to the Binding Bid Deadline as being necessary or required by the Monitor.

22. Without limiting Paragraph 5, the Monitor, in its reasonable judgment, and in consultation with the Heritage Group, may waive strict compliance with any one or more of the requirements specified above (with the exception of the requirements contained in Paragraphs 21(a) and 21(m), which cannot be waived without the prior written consent of the DIP Lender) and designate a noncompliant Binding Offer as a Qualified Bid.

Selection of Successful Bid

23. The Monitor, in consultation with the Heritage Group, may, following the receipt of any Binding Offer that is not a Qualified Bid, including one or more Binding Offers comprising an Aggregated Bid, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Qualified Bid.
24. The Monitor and the Heritage Group, will (i) review and evaluate each Qualified Bid, taking into account the factors set out in Paragraph 21, including factors affecting the speed and certainty of closing, the value and nature of the consideration provided for in the Binding Offer (including any assumed liabilities), and any licensing, Health Canada, regulatory or legal approvals, assignments or third party contractual arrangements required to close the transactions. The cash consideration provided for in any Qualified Bid shall not be the only criteria on which Qualified Bids are evaluated, and the “highest and best” Qualifying Bid may not be the Qualifying Bid with the highest cash purchase price.
25. The Monitor, in consultation with the Heritage Group, may, following the receipt of any Qualified Bid, including one or more Binding Offers comprising an Aggregated Bid, seek clarification with respect to any of the terms or conditions of such Qualified Bid and/or request and negotiate one or more amendments to such Qualified Bid in order to improve the Qualified Bid, provided that no Qualified Bidder shall be required to amend its Qualified Bid.
26. In the event that no Qualified Bid is received (other than the Stalking Horse Bid), or any Qualified Bids received are determined by the Monitor, in consultation with the Heritage Group, to be inferior to the Stalking Horse Bid based on the considerations set out in Paragraph 24, then the Stalking Horse Bid shall be deemed the Successful Bid (as defined below), and the Heritage Group will promptly seek Court approval of the Stalking Horse Agreement and the transactions contemplated therein.
27. In the event there is at least one Qualified Bid in addition to the Stalking Horse Bid is received and such Qualified Bid is not determined by the Monitor, in consultation with the Heritage Group, to be inferior to the Stalking Horse Bid based on the considerations set out in Paragraph 24, then a Successful Bid will be identified through an Auction in accordance with the procedure set out below.
28. In the event that an auction (the “**Auction**”) is required in accordance with the terms of these Bidding Procedures, it will be conducted in accordance with the procedures set forth in this paragraph:
- (a) The Monitor shall be entitled, in consultation with the Heritage Group, to designate some or all Qualified Bidders (in addition to the Stalking Horse Bidder) as eligible to participate in the Auction, taking into account the relative terms of the Qualified

Bidders (including but not limited to purchase price) and the factors set out in Paragraph 24. Qualified Bidders who are invited to participate in the Auction are referred to as “**Auction Bidders**”. For the avoidance of doubt, the Stalking Horse Bidder shall be an Auction Bidder.

- (b) The Auction will commence at a time to be designated by the Monitor, on May 17, 2024, and may, in the discretion of the Monitor, be held virtually via videoconference, teleconference or such other reasonable means as the Monitor deems appropriate. The Monitor will consult with the parties permitted to attend the Auction to arrange for the Auction to be so held. Subject to the terms hereof, the Monitor, in consultation with the Heritage Group, may postpone the Auction.
- (c) Except as otherwise permitted in the Monitor’s discretion, only the Heritage Group, the Monitor and the Auction Bidders, and, in each case, their respective professionals and representatives, will be permitted to attend the Auction.
- (d) Each Auction Bidder shall designate a single individual to be its representative and spokesperson for the purposes of the Auction, and shall participate in the Auction through such duly authorized representative.
- (e) Except as otherwise set forth herein, the Monitor may waive and/or employ and announce at the Auction additional rules, including rules to facilitate the participation of parties participating in an Aggregated Bid, that are reasonable under the circumstances for conducting the Auction, provided that such rules are:
 - (i) not inconsistent with the Initial Order, the SISP, the Bidding Procedures, the CCAA, or any order of the Court issued in connection with the CCAA Proceedings;
 - (ii) disclosed to each Auction Bidder; and
 - (iii) designed, by the Monitor, in its reasonable judgment, and in consultation with the Heritage Group, to result in the highest and otherwise best offer.
- (f) Each Auction Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of the Auction, that it has not engaged in any collusion with the Heritage Group or any other person regarding the SISP. For greater certainty, communications between the Stalking Horse Bidder or the DIP Lender and either the Heritage Group or the Monitor with respect to and in preparation of the Stalking Horse Agreement, the SISP and the Bidding Procedures will not represent collusion nor communications prohibited by this paragraph.
- (g) Prior to the Auction, the Monitor will identify the highest and best of the Qualifying Bid received (which may be an Aggregate Bid), and such Qualifying Bid(s) will constitute the opening bid for the purposes of the Auction (the “**Opening Bid**”). Subsequent bidding will continue in minimum increments valued at not less than \$100,000 cash in excess of the Opening Bid. Each Auction Bidder will provide evidence of its financial wherewithal and ability to consummate the transaction at the increased purchase price, if required by the Monitor. Further, in the event that an Aggregated Bid qualifies to participate in the Auction, modifications to the

bidding requirements may be made by the Monitor, in consultation with the Heritage Group, to facilitate bidding by the participants in the Aggregated Bid.

- (h) All Auction Bidders will have the right, at any time, to request that the Monitor announce, subject to any potential new bids, the then-current highest and best bid and, to the extent requested by any Auction Bidder, use reasonable efforts to clarify any and all questions such Auction Bidder may have regarding the Monitor's announcement of the then-current highest and best bid.
 - (i) Each Auction Bidder will be given reasonable opportunity to submit an overbid at the Auction to any then-existing overbids. The Auction will continue until the bidding has concluded and there is one remaining Auction Bidder. The Monitor and the Heritage Group shall determine which Auction Bidders have submitted (i) the highest and best Binding Offer of the Auction (the "**Successful Bid**", and the bidder making such Successful Bid, the "**Successful Bidder**"), and (ii) the next highest and otherwise second-best Binding Offer of the Auction (the "**Back-Up Bid**", and the bidder making such Back-Up Bid, the "**Back-Up Bidder**").
 - (j) Upon selection of a Successful Bidder and a Back-Up Bidder, if any, the Successful Bidder and the Back-Up Bidder, if any, shall each deliver to the Monitor and the Heritage Group, an amended and executed transaction document that reflects their final bid and any other modifications submitted and agreed to during the Auction, prior to the filing of the motion material for the hearing to consider the Approval Motion.
 - (k) Any bids submitted after the conclusion of the Auction will not be considered.
 - (l) The Monitor, in consultation with the Heritage Group, shall be at liberty to modify or to set additional procedural rules for the Auction as it sees fit, including to conduct the Auction by way of written submissions.
29. A Successful Bid and Back-Up Bid, if any, will be selected by no later than 5:00 p.m. (Eastern Time) on May 18, 2024 (or such later date immediately thereafter if the Auction is conducted and not completed in one day), and the completion and execution of definitive documentation in respect of such Successful Bid and Back-Up Bid, as applicable, must be finalized and executed as soon as possible after the close of the Auction, and in any event no later than May 21, 2024, which definitive documentation will provide that the Successful Bidder will use all reasonable efforts to close the proposed transaction by no later than the Target Closing Date, or such longer period as may be agreed to by the Monitor, in consultation with the Heritage Group and the Successful Bidder, subject to the terms hereof. In any event, such Successful Bid must be closed by no later than the Outside Date. If a Back-Up Bid is identified in accordance with the SISF, then such Back-Up Bid shall remain open until the date (the "**Back-Up Bid Outside Date**") on which the transaction contemplated by the applicable Successful Bid is consummated or such earlier date as the Monitor, in consultation with the Heritage Group, determines. If the transactions contemplated by the applicable Successful Bid have not closed by the Outside Date, or the applicable Successful Bid is terminated for any reason prior to the Outside Date, the Heritage Group and the Monitor, in consultation with the DIP Lender, may elect to seek to complete the transactions contemplated by the applicable Back-Up

Bid, and will promptly seek to close the transaction contemplated by such Back-Up Bid, which will be deemed to be a Successful Bid. The Heritage Group will be deemed to have accepted such Back-Up Bid only when the Heritage Group has made such election, with the Monitor's consent.

Approval of Successful Bid

30. The Heritage Group will apply to the Court (the "**Approval Motion**") for one or more orders: (i) approving the Successful Bid(s) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby (such order shall also approve the Back-Up Bid(s), if any, should the Successful Bid(s) not close for any reason); and (ii) granting a vesting order and/or reverse vesting order to the extent that such relief is contemplated by the Successful Bid(s) so as to vest title to any purchased assets and/or shares in the name of the applicable Successful Bidder(s) and/or vesting unwanted assets and liabilities out of one or more of the Heritage Group (collectively, the "**Approval Order(s)**"). The Approval Motion will be held on a date to be scheduled by the Heritage Group and confirmed by the Court. With the consent of the Monitor and the applicable Successful Bidder(s), the Approval Motion may be adjourned or rescheduled by the Heritage Group without further notice, by an announcement of the adjourned date at the Approval Motion or in a notice to the service list maintained in the CCAA Proceedings prior to the Approval Motion. The Heritage Group will consult with the Monitor and the applicable Successful Bidder regarding the motion material to be filed by the Heritage Group for the Approval Motion.
31. All Binding Offers (other than the Successful Bid(s) but including the applicable Back-Up Bid(s)) will be deemed rejected on and as of the date of the closing of the applicable Successful Bid(s), with no further or continuing obligation of the Heritage Group to any unsuccessful Binding Offer Bidders.

Deposits

32. The Deposit(s):
 - (a) will, upon receipt from the Binding Offer Bidder(s), be retained by the Monitor and deposited in a non-interest-bearing trust account, and subsequently dealt with in accordance with subsections (b) and (c), below;
 - (b) received from the Successful Bidder(s) and the Back-Up Bidder(s), if any, will:
 - (i) be applied to the purchase price to be paid by the applicable Successful Bidder or Back-Up Bidder whose Successful Bid or Back-Up Bid, as applicable, is the subject of the Approval Order(s), upon closing of the approved transaction; and
 - (ii) otherwise be held and refunded in accordance with the terms of the definitive documentation in respect of the applicable Successful Bid or or Back-Up Bid, provided that (i) all such documentation will provide that the Deposit will be fully refunded to the Back-Up Bidder on the Back-Up Bid Outside Date; and (ii) all such documentation will provide that the Deposit will be retained by the Heritage Group and forfeited by the Successful Bidder, if its Successful Bid fails to close by the Outside Date and such

failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of its Successful Bid; and

- (c) received from the Binding Offer Bidder(s) that are not a Successful Bidder or a Back-Up Bidder will be fully refunded to the Binding Offer Bidder(s) that paid the Deposit(s) as soon as practical following the selection of the Successful Bidder and Back-Up Bidder.
33. Notwithstanding anything to the contrary herein, the Stalking Horse Bidder will not be required to provide a Deposit.

“As is, Where is”

34. Any sale (or sales) of the Property or the Business or portions thereof will be on an **“as is, where is”** basis except for representations and warranties that are customarily provided in purchase agreements for a company subject to CCAA proceedings. Any such representations and warranties provided for in the definitive documents will not survive closing.

Free of Any and All Claims and Interests

35. In the event of a sale, to the extent permitted by law, all of the rights, title and interests of the Heritage Group in and to the Property or the Business to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, the **“Claims and Interests”**) pursuant to section 36(6) of the CCAA, such Claims and Interests to attach to the net proceeds of the sale of such Property or Business and/or excluded assets, as applicable (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant transaction documents with a Successful Bidder or the Approval Order.

Credit Bidding

36. The Stalking Horse Bidder will be entitled pursuant to the Stalking Horse Agreement, including for greater certainty as part of the Auction, as the case may be, to credit bid or retain as Retained Liabilities all or part of the existing secured obligations owing to it, including all interest, costs and fees to which the Stalking Horse Bidder is entitled pursuant to its relevant loan, interim financing, debenture, promissory note and/or security agreements with the Heritage Group.

Confidentiality

37. For greater certainty, other than as required in connection with any Auction or Approval Motion, neither the Heritage Group nor the Monitor will disclose: (a) the identity of any Potential Bidder or Qualified Bidder (other than the Stalking Horse Bidder); or (b) the terms of any bid, Sale Proposal, Investment Proposal or Binding Offer (other than the Stalking Horse Agreement), to any other bidder or any of its affiliates (provided that disclosure may be made to the DIP Lender when expressly contemplated by the SISF, such as in the event that no single Binding Offer provides for net cash proceeds that are at least equal to the Minimum Purchase Price), except to the extent the Monitor, with the consent of such applicable parties is seeking to combine separate bids into Aggregated Bids. Potential

Bidders, Participating Bidders, Qualified Bidders and Auction Bidders (including, in each case, the Stalking Horse Bidder) and each of their respective affiliates shall not communicate with, or contact, directly or indirectly, any other Potential Bidder, Participating Bidder, Qualified Bidder, Auction Bidder, or their respective affiliates, or any secured creditors of the Heritage Group, without the express written consent of the Monitor (which consent may be refused in the Monitor's sole discretion), and such communications or discussions shall take place under the supervision of the Monitor. Nothing in this Paragraph 37 shall prohibit the Monitor from filing details of Potential Bidders, Participating Bidders, Qualified Bidders and Auction Bidders, or their respective Binding Offers and Qualified Bids, as part of a Monitor's Report in connection with the motion for an Approval Order, provided that the Monitor shall file any commercially sensitive or confidential information confidentially, with a request for a sealing order. Should the Court decline to grant a sealing order, the Monitor shall not be in breach of this Paragraph 37.

Further Orders

38. At any time during the SISP, the Heritage Group or the Monitor may apply to the Court for advice and directions with respect to any aspect of this SISP including, but not limited to, the continuation of the SISP or with respect to the discharge of its powers and duties hereunder.

Additional Terms

39. In addition to any other requirement of the SISP, any consent, approval or confirmation to be provided by the Stalking Horse Bidder, the DIP Lender, the Heritage Group and/or the Monitor is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email will be deemed to have been provided in writing for the purposes of this paragraph.
40. This SISP does not, and will not be interpreted to create any contractual or legal relationship between the Heritage Group and any other party, other than as specifically set forth in the NDA or any other definitive agreement executed.
41. Notwithstanding anything to the contrary herein, the Monitor shall have no liability whatsoever to any person or entity, including without limitation any Potential Bidder, Participating Bidder, Binding Offer Bidder, Qualified Bidder, Auction Bidder, Successful Bidder, Back-Up Bidder or any other creditor or stakeholder, or the Heritage Group, as a result of implementation or otherwise in connection with this SISP, except to the extent that any such liabilities result from the gross negligence or wilful misconduct of the Monitor, as determined by the Court, and all such persons or entities shall have no claim against the Monitor in respect of the SISP for any reason whatsoever.
42. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Binding Offer, due diligence activities, and any other negotiations or other actions whether or not they lead to the consummation of a transaction.

APPENDIX A

DEFINED TERMS

“**Business Day**” means a day on which banks are open for business in Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**DIP Lender**” means BJK Holdings Ltd. and its successors and permitted assigns.

“**Retained Liabilities**” has the meaning given to it in the Stalking Horse Agreement.

APPENDIX "B"

The Monitor:

KPMG Restructuring Inc.
333 Bay Street, Suite 4600
Toronto ON M5H 2S5

Attention: Pritesh Patel and Tim Montgomery
Email: pritpatel@kpmg.ca / timmontgomery@kpmg.ca

with a copy to:

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Toronto, ON M5L 1A9

Attention: Chris Burr
Email: chris.burr@blakes.com

The Applicants

Heritage Group
c/o Chaitons LLP
5000 Yonge Street
North York, ON M2N 7E9

Attention: Harvey Chaiton / George Benchetrit
Email: harvey@chaitons.com / george@chaitons.com

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

Court File No.: CV-24-00717664-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

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

Proceeding commenced at Toronto

SISP ORDER

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Lawyers for the Applicants

TAB 5

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) ~~TUESDAY~~[THURSDAY](#), THE ~~2ND~~[11TH](#)
JUSTICE CAVANAGH) DAY OF APRIL, 2024

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 HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP. and PREMIUM 5 LTD.

(collectively, the "Applicants")

AMENDED AND RESTATED INITIAL ORDER
(amending Initial Order Dated April 2, 2024)

THIS ~~APPLICATION~~[MOTION](#), made by the Applicants, [for an order amending and restating the initial order of Justice Cavanagh issued on April 2, 2024 \(the "Initial Order"\)](#) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day by Zoom videoconference.

ON READING the affidavit of David Schwede sworn April 2, 2024 and the Exhibits thereto (the "~~Schwede~~[Initial Affidavit](#)"), ~~and~~[the affidavit of David Schwede sworn April 9, 2024 and the Exhibits thereto \(the "Second Affidavit"\)](#), the pre-filing report of KPMG Inc. ("KPMG"), in its capacity as proposed monitor of the Applicants dated April 2, 2024 (the "Pre-Filing Report"), and ~~on being advised that the secured creditors who are likely~~[the First Report of KPMG as Court-appointed monitor of the Applicants \(in such capacity, the "Monitor"\)](#) to be ~~affected by filed~~ (the ~~charges created herein were given notice~~["First Report"](#)),

and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**" and together with the Applicants, the "**Heritage Entities**"), counsel for the ~~Proposed~~ Monitor, counsel for BJK Holdings Ltd. ("**BJK**"), the Applicants' senior secured creditor (~~"BJK"~~), and ~~such other parties listed on the Counsel Slip, and on reading~~ the debtor-in-possession lender (in such capacity, the "**DIP Lender**"), and such other counsel as were present, no one else appearing although duly served as appears from the ~~consent~~ affidavit of ~~KPMG to act as the Monitor (the "**Monitor**")~~ service of • sworn April •, 2024,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of ~~Application~~ Motion and the ~~Application~~ Motion Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that each of 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 (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. ~~3.~~ **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licenses, authorizations, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are 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.

5. ~~4.~~ **THIS COURT ORDERS** that the Heritage Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Schwede Initial Affidavit or, with the consent of the Monitor and BJK the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank or credit union 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 Heritage Entities 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 Heritage Entities, 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 any ~~plan of compromise or arrangement~~ (a "Plan") with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. ~~5.~~ **THIS COURT ORDERS** that the Applicants, ~~in accordance~~ subject to compliance with the ~~cash flow forecast appended as Appendix "B" to the Pre Filing Report~~ (the "**Cash Flow Forecast**" Definitive Documents (as defined below)), shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, ~~contract amounts~~, employee and pension benefits, vacation pay and employee expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing expenses;

- (b) with the consent of the Monitor and ~~BJK~~the DIP Lender, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order by third party suppliers, up to a maximum aggregate amount of \$1,500,000, if such third party is critical to the Business and ongoing operations of the Applicants; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. ~~6.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and ~~in accordance with the Cash Flow Forecasts~~subject to the Definitive Documents (as defined below), 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 on, or after this Order, 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 on or following the date of this Order.

8. ~~7.~~ **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes;
- (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 date of this Order, or where such Sales Taxes were accrued or collected prior

to the date of this Order but not required to be remitted until on or after the date of this Order;

- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, the “**Cannabis Taxes**”), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and
- (d) 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. ~~8.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall 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 to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. ~~9.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, 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 this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. ~~10.~~ **THIS COURT ORDERS** that each of 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 defined below), have the right to ~~operate the Business in the ordinary course pending the return hearing on the Comeback Date (as defined below):~~

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) 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 materials refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the applicable Applicant shall provide each relevant landlord with notice of such Applicant's 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 and, if the landlord disputes such Applicant's 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 applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If any Applicant disclaims a lease governing such leased premises in accordance with Section 32 of the CCAA, it 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 Subsection 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer 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 applicable Applicant 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 applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE HERITAGE ENTITIES OR THEIR RESPECTIVE PROPERTY

14. ~~11.~~ **THIS COURT ORDERS** that until and including ~~April 12~~June 30, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) (each, a "**Proceeding**") shall be commenced or continued against or in respect of any Heritage Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Heritage Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any Heritage Entity or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the Heritage Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

15. ~~12.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) 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**") against or in respect of any Heritage Entity or the Monitor, or their respective representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Heritage Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any Heritage Entity to carry on any business which such Heritage Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by

Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. ~~13.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour or renew, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence, authorization or permit in favour of or held by any Heritage Entity, except with the written consent of the Heritage Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. ~~14.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with a Heritage Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or any Heritage Entity, 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 Heritage Entities, and that the Heritage Entities 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 normal prices or charges for all such goods or services received after the date of this Order are paid by the Heritage Entities in accordance with normal payment practices of the Heritage Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Heritage Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. ~~15.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or

re-advance any monies or otherwise extend any credit to a Heritage Entity. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. ~~16.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any Heritage Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of a Heritage Entity 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.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. ~~17.~~ **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

21. ~~18.~~ **THIS COURT ORDERS** that the directors and officers 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~~1,900,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph ~~17~~20 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~29~~39 and ~~31~~41 herein.

22. ~~19.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer or indemnitor 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 director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~17~~20 of this Order.

APPOINTMENT OF MONITOR

23. ~~20.~~ **THIS COURT ORDERS** that KPMG is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Heritage Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Heritage Entities 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.

24. ~~21.~~ **THIS COURT ORDERS** that 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 and the Applicants' compliance with the Cash Flow ~~Forecasts~~Projections (as defined in the DIP Term Sheet), including the management and deployment/use of any funds advanced by the DIP Lender to the Applicants under the DIP Term Sheet;
- (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;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on a weekly basis of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) ~~(e)~~ advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicants in the development of any Plan and any amendments to any 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 any Plan;
- (g) ~~(d)~~ assist the Applicants in communications with their stakeholders, including creditors and governmental authorities;
- (h) ~~(e)~~ 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 Heritage Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (i) ~~(f)~~ 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; and
- (j) ~~(g)~~ perform such other duties as are required by this Order or by this Court from time to time.

25. ~~22.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property, nor be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act* S.C. 2018, c. 16, as amended, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, the *Excise Act, 2001*, S.C. 2002, c. 22, as amended, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, as amended, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, as amended, the *Ontario Cannabis Retail Corporation Act*, 2017, S.O. 2017, c. 26, as amended, the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, as amended, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, as amended, the *Alberta Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, as amended, the *Alberta Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/996, as amended, the *The Cannabis Control (Saskatchewan) Act*, S.S. 2018, c. C-2.111, as amended, the *Saskatchewan Cannabis Control (Saskatchewan) Regulations*, R.R.S. c. C-2.111 Reg. 1, the *Manitoba The Liquor, Gaming and Cannabis Control Act*, C.C.S.M. c. L153, as amended, the *Manitoba Cannabis Regulation*, M.R. 120/2018, as amended, the *Newfoundland and Labrador Cannabis*

Control Act, S.N.L. 2018, c. C-4.1, as amended, the Newfoundland and Labrador *Cannabis Control Regulations*, NLR. Reg. 93/18, as amended, the Newfoundland and Labrador *Cannabis Licensing and Operations Regulations*, NLR. Reg. 94/18, as amended, the Nova Scotia *Cannabis Control Act*, S.N.S. 2018, c 3, as amended, the Nova Scotia *Cannabis Retail Regulations*, NS. Reg. 203/2019, the Prince Edward Island *Cannabis Control Act*, R.S.P.E.I. 1998, c. C-1.2, as amended, the Prince Edward Island *Cannabis Control Regulations*, PEI. Reg. EC575/18, as amended, the New Brunswick *Cannabis Control Act*, S.N.B. 2018, c. 2, the Yukon *Cannabis Control and Regulation Act*, S.Y. 2018, c. 4, as amended, the Yukon *Cannabis Control and Regulation General Regulation*, YOIC. 2018/139, the Yukon *Cannabis Control and Regulation General Regulation*, YOIC. 2018/184, the Yukon *Cannabis Licensing Regulation*, YOIC. 2019/43, the Yukon *Cannabis Remote Sales Regulation*, YOIC. 2022/29, the Northwest Territories *Cannabis Legalization and Regulation Implementation Act*, S.N.W.T. 2018, c. 6, as amended, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

26. ~~23.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* or the *British Columbia Riparian Areas Protection Act* and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor

from any duty to report or make disclosure imposed by applicable Environmental Legislation. 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 Environmental Legislation, unless it is actually in possession.

27. ~~24.~~ **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lender, 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. ~~25.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, 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. ~~26.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, 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 and counsel for the Applicants on a bi-weekly basis or on such other terms as the parties may agree.

30. ~~27.~~ **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. ~~28.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' corporate counsel (Owens Wright LLP) and insolvency counsel (Chaitons LLP) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$~~250,000~~500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~29~~39 and ~~31~~41 hereof.

DIP FINANCING

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that initial borrowings under such credit facility shall not exceed \$1,500,000 unless permitted by further Order of this Court.

33. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the Debtor-In-Possession Facility Term Sheet between the DIP Lender and the Applicants, as appended to the First Report (as may be amended from time to time, the "**DIP Term Sheet**").

34. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the DIP Term Sheet, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP 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 DIP Lender under and pursuant to the Definitive Documents (collectively, the "**DIP Obligations**") as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property as security for the DIP

Obligations, which DIP Lender's Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 39 and 41 hereof.

36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 3 business 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 Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender's 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 DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

37. THIS COURT ORDERS AND DECLARES that, unless otherwise agreed to in writing by the DIP Lender, the DIP Lender shall be treated as unaffected in any Plan filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the Bankruptcy and Insolvency Act of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

38. THIS COURT ORDERS that the Applicants' key employee retention plan (the "KERP") described in the Second Affidavit, be and is hereby approved and the Applicants are authorized and directed to make payments contemplated thereunder should the employees become entitled thereto in accordance with the terms and conditions of the KERP.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

39. ~~29.~~ THIS COURT ORDERS that the priorities of the Directors' Charge ~~and~~, the Administration Charge, and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge, ~~(to the~~ maximum amount of \$~~250,000~~500,000;

~~and~~

Second – Directors' Charge, ~~(to the~~ maximum amount of \$~~900,000~~1,900,000;

~~and~~

Third – DIP Lender's Charge.

40. ~~30.~~ THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be effective as against the Property and 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.

41. ~~31.~~ THIS COURT ORDERS that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person; ~~provided that the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of this application. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion on notice to those parties.~~

42. ~~32.~~ **THIS COURT ORDERS** that 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 DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

43. ~~33.~~ **THIS COURT ORDERS** that the Charges 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**") thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall ~~not~~ create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order 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.

44. ~~34.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property leases.

CORPORATE MATTERS

45. **THIS COURT ORDERS** that Heritage is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

RELIEF FROM REPORTING OBLIGATIONS

46. ~~35.~~ **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (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* (Ontario), R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and the rules, regulations and policies of the Canadian Securities Exchange and OTCQB® (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 the Applicants failing to make Securities Filings required by the Securities Provisions.

47. ~~36.~~ **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants, nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Legislation during the Stay Period, 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 against the directors, officers, employees and other representatives of the Applicants of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "**Regulators**") in the matter of regulating the conduct of market participants and to issue or maintain cease trader orders if and when required pursuant to

applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the Court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

"STATUS QUO" OF APPLICANTS' LICENSES

48. ~~37.~~ **THIS COURT ORDERS** that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "**Licenses**") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

49. ~~38.~~ **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in *The Globe and Mail*, National Edition, a notice containing the information prescribed under the CCAA; and (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, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, and former employees), 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; provided that the Monitor shall not be required to make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

50. ~~39.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule

3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://kpmg.com/ca/heritage> (the “Website”).

51. ~~40.~~ **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

52. ~~41.~~ **THIS COURT ORDERS** that, ~~except with respect to any motion to be heard on the Comeback Date (as defined below), and~~ subject to further Order of this Court in respect of urgent motions, any interest party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the “**Service List**”) with responding motion materials or a written notice (including by e-mail) stating its object to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

53. ~~42.~~ **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

GENERAL

~~43. THIS COURT ORDERS~~ that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on April 11, 2024 at 9:30 a.m. (Toronto Time) or such other date as may be set by this Court upon the granting of this Order (the "~~Comeback Date~~") and any such interested party shall give not less than two (2) business days' notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the ~~Comeback Date~~; ~~provided however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 29 and 31 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.~~

54. ~~44. THIS COURT ORDERS~~ that, ~~notwithstanding paragraph 43 of this Order~~, each of the Applicants ~~or~~, the Monitor or the DIP Lender may, from time to time, apply to this Court ~~to amend, vary or supplement this Order or~~ for advice and directions in the discharge of ~~their respective~~its powers and duties ~~under this Order~~hereunder or in the interpretation of this Order ~~hereunder~~.

55. ~~45. THIS COURT ORDERS~~ that 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.

56. ~~46. 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 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.

57. ~~47. THIS COURT ORDERS~~ that each of the Applicants and the Monitor be at liberty and are 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

58. THIS COURT ORDERS that any interested party (including each of 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; provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 39 and 41 hereof with respect to any fees, expenses and disbursements incurred, or advances made pursuant to the DIP Term Sheet, as applicable, until the date of this Order may be amended, varied, or stayed.

59. ~~48.~~ THIS COURT ORDERS that with the exception of Paragraph 41, references in this Order ~~and all~~ to the “date of ~~its provisions are~~ this Order” or similar phrases refer to the date of the Initial Order granted in these Proceedings on April 2, 2024. The effective ~~as~~ date of the Initial Order shall be 4:30 p.m. (Toronto Time) on ~~the date of this~~ April 2, 2024. The amendment of the Initial Order effected by the provisions of this Amended and Restated Initial Order (including the foregoing sentence of this Paragraph 59) shall be effective as of 12:01 a.m. (Toronto Time) on April 11, 2024, without the need for entry or filing.

SCHEDULE "A"
NON-APPLICANT STAY PARTIES

Heritage (US) Colorado Corp.

Opticann, Inc.

Heritage US Holdings Corp.

Heritage (US) Cali Corp.

Heritage (US) Oregon Corp.

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

Court File No.: C

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

SUPP

Proc

AMENDED

(1)

CHAITONS
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Lawyers for the

Document comparison by Workshare Compare on Tuesday, April 9, 2024 1:10:25 PM

Input:	
Document 1 ID	iManage://chaitonsllp-mobility-ca.imatege.work/CHAITONSDM/11353131/11
Description	#11353131v11<chaitonsllp-mobility-ca.imatege.work> - Initial Order - Heritage Cannabis Holding Corp
Document 2 ID	iManage://chaitonsllp-mobility-ca.imatege.work/CHAITONSDM/11414403/2
Description	#11414403v2<chaitonsllp-mobility-ca.imatege.work> - Amended and Restated Initial Order - Heritage Cannabis Holdings Corp. et al. (returnable APR 11, 2024)
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	Deletion
	Moved from
	<u>Moved to</u>
	Style change
	Format change
	Moved deletion
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	

Padding cell	
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Statistics:	
	Count
Insertions	190
Deletions	126
Moved from	4
Moved to	4
Style changes	0
Format changes	0
Total changes	324

TAB 6

Court File No. — CV-24-00717664-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE — MR.) ~~WEEKDAY~~ THURSDAY, THE # 11TH
JUSTICE — CAVANAGH) DAY OF ~~MONTH~~ APRIL, ~~20YR~~ 2024

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 ~~[APPLICANT'S NAME]~~ HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP. and PREMIUM 5 LTD.

(collectively, the "~~Applicant~~ Applicants")

AMENDED AND RESTATED INITIAL ORDER
(amending Initial Order Dated April 2, 2024)

THIS ~~APPLICATION~~ MOTION, made by the ~~Applicant~~ Applicants, for an order amending and restating the initial order of Justice Cavanagh issued on April 2, 2024 (the "Initial Order") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by Zoom videoconference.

ON READING the affidavit of ~~[NAME]~~ David Schwede sworn ~~[DATE]~~ April 2, 2024 and the Exhibits thereto, ~~and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice~~ (the "Initial Affidavit"), the affidavit of David Schwede sworn April 9, 2024 and the Exhibits thereto (the "Second Affidavit"), the pre-filing report of KPMG Inc. ("KPMG"), in its capacity as proposed monitor of the Applicants

dated April 2, 2024 (the "Pre-Filing Report"), and the First Report of KPMG as Court-appointed monitor of the Applicants (in such capacity, the "Monitor") to be filed (the "First Report"), and on hearing the submissions of counsel for [NAMES] the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "Non-Applicant Stay Parties" and together with the Applicants, the "Heritage Entities"), counsel for the Monitor, counsel for BJK Holdings Ltd. ("BJK"), the Applicants' senior secured creditor and the debtor-in-possession lender (in such capacity, the "DIP Lender"), and such other counsel as were present, no one else appearing for [NAME]¹ although duly served as appears from the affidavit of service of [NAME]● sworn [DATE] and on reading the consent of [MONITOR'S NAME] to act as the Monitor April ●, 2024,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of ~~Application~~Motion and the ~~Application~~Motion Record is hereby abridged and validated² so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the ~~Applicant~~Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

¹~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

²~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that each of the ~~Applicant~~Applicants shall have the authority to file and may, subject to further ~~order~~Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall remain in possession and control of ~~its~~their respective current and future assets, licenses, authorizations, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the ~~Applicant~~Applicants shall continue to carry on business in a manner consistent with the preservation of ~~its~~their business (the "**Business**") and Property. The ~~Applicant is~~Applicants are 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 ~~it~~them, with liberty to retain such further Assistants as ~~it deems~~they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. ~~{~~**THIS COURT ORDERS** that the ~~Applicant~~Heritage Entities shall be entitled to continue to utilize the central cash management system³ currently in place as described in the Initial Affidavit of [NAME] sworn [DATE] or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank or credit union 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 ~~Applicant~~Heritage Entities 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

³~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter company transfers of cash.~~

Person (as hereinafter defined) other than the ~~Applicant~~Heritage Entities, 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~~any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.}]

6. **THIS COURT ORDERS** that the ~~Applicant~~Applicants, subject to compliance with the Definitive Documents (as defined below), shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and ~~expenses~~employee expenses (including, without limitation, in respect of expenses charged by employees to corporate credit cards) payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing expenses;
- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order by third party suppliers, up to a maximum aggregate amount of \$1,500,000, if such third party is critical to the Business and ongoing operations of the Applicants; and
- (c) ~~(b)~~ the fees and disbursements of any Assistants retained or employed by the ~~Applicant~~Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, ~~the Applicant~~and subject to the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the ~~Applicant~~Applicants in carrying on the Business in the ordinary course on, or after this Order, 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 ~~Applicant~~Applicants on or following the date of this Order.

8. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance~~;~~; (ii) Canada Pension Plan~~;~~ and (iii) ~~Quebec Pension Plan,~~ and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the ~~Applicant~~Applicants in connection with the sale of goods and services by the ~~Applicant~~Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order~~;~~;

- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, the "Cannabis Taxes"), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and

- (d) ~~(e)~~ 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 which are attributable to or in respect of the carrying on of the Business by the ~~Applicant~~Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for resiliated~~⁴ in accordance with the CCAA, the ~~Applicant~~Applicants shall 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 to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, ~~twice-monthly in equal payments~~ on the first ~~and fifteenth~~ day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant~~Applicants ~~is~~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 ~~Applicant~~Applicants to any of ~~its~~their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that each of the ~~Applicant~~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 below), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of ~~its~~their business or operations, ~~†~~ and to dispose of redundant or non-material assets not exceeding \$●250,000 in any one transaction or \$●1,000,000 in the aggregate⁵;

⁴~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

⁵~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

- (b) ~~it~~ terminate the employment of such of ~~its~~their employees or temporarily lay off such of ~~its~~their employees as ~~it deems~~they deem appropriate}; and
- (c) pursue all avenues of refinancing of ~~its~~their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any ~~material~~materials refinancing,

all of the foregoing to permit the ~~Applicant~~Applicants to proceed with an orderly restructuring of the Business (~~the "Restructuring"~~).

12. **THIS COURT ORDERS** that the applicable Applicant shall provide each ~~of the~~ relevant ~~landlords~~landlord with notice of ~~the~~such Applicant's 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 and, if the landlord disputes ~~the~~such Applicant's 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 applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If ~~the~~any Applicant disclaims ~~for resiliates~~thea lease governing such leased premises in accordance with Section 32 of the CCAA, it 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~~Subsection 32(5) of the CCAA), and the disclaimer ~~for resiliation~~ of the lease shall be without prejudice to ~~the~~such Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer ~~for resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the applicable Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for 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 applicable Applicant in respect of such lease or leased premises, provided that nothing herein

shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE ~~APPLICANT~~HERITAGE ENTITIES OR ~~THE~~THEIR RESPECTIVE PROPERTY

14. **THIS COURT ORDERS** that until and including ~~{DATE—MAX. June 30—DAYS}~~, 2024, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) (each, a "Proceeding") shall be commenced or continued against or in respect of ~~the Applicant~~any Heritage Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the ~~Applicant~~Heritage Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of ~~the Applicant~~any Heritage Entity or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the Heritage Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies (including, without limitation, no garnishment, requirement to pay, enhanced requirement to pay or demand on a third party notice) 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") against or in respect of ~~the Applicant~~any Heritage Entity or the Monitor, or their respective representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the ~~Applicant~~Heritage Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower ~~the Applicant~~any Heritage Entity to carry on any business which ~~the Applicant~~such Heritage Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour or renew, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence, authorization or permit in favour of or held by ~~the Applicant~~ any Heritage Entity, except with the written consent of the ~~Applicant~~ Heritage Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with ~~the Applicant~~ a Heritage Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or ~~the Applicant~~ any Heritage Entity, 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 ~~Applicant~~ Heritage Entities, and that the ~~Applicant~~ Heritage Entities shall be entitled to the continued use of ~~its~~ their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the ~~Applicant~~ Heritage Entities in accordance with normal payment practices of the ~~Applicant~~ Heritage Entities or such other practices as may be agreed upon by the supplier or service provider and ~~each of the Applicant~~ applicable Heritage Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~ leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to ~~the Applicant~~ a Heritage Entity.

Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁶

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of ~~the Applicant~~any Heritage Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of ~~the Applicant~~a Heritage Entity 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 ~~Applicant~~Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall indemnify ~~its~~their directors and officers against obligations and liabilities that they may incur as ~~directors~~a director or ~~officers~~officer of the ~~Applicant~~Applicants after the commencement of the within proceedings,⁷ except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of ~~the~~such director's or officer's gross negligence or wilful misconduct.

⁶ ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

⁷ ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

21. **THIS COURT ORDERS** that the directors and officers of the ~~Applicant~~Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")⁸ on the Property, which charge shall not exceed an aggregate amount of \$~~1,900,000, unless permitted by further Order of this Court,~~ as security for the indemnity provided in paragraph ~~{20}~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{38}~~39 and ~~{40}~~41 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary~~;~~: (a) no insurer or indemnitor shall be entitled to be subrogated to or claim the benefit of the Directors' Charge~~;~~; and (b) the ~~Applicant's~~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'~~director's and ~~officers'~~officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}~~ of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that ~~{MONITOR'S NAME}~~KPMG is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the ~~Applicant~~Applicants with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant~~Heritage Entities and ~~its~~their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~Heritage Entities 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.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

~~⁸Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

- (a) monitor the ~~Applicant~~Applicants's receipts and disbursements and the Applicants' compliance with the Cash Flow Projections (as defined in the DIP Term Sheet), including the management and deployment/use of any funds advanced by the DIP Lender to the Applicants under the DIP Term Sheet;
- (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;
- (c) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, in ~~its~~their dissemination, to the DIP Lender and its counsel on a ~~[TIME INTERVAL]~~weekly basis of financial and other information as agreed to between the ~~Applicant~~Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the ~~Applicant~~Applicants in ~~its~~their preparation of the ~~Applicant's~~Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than ~~[TIME INTERVAL]~~weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise the ~~Applicant~~Applicants in ~~its~~the development of ~~the~~any Plan and any amendments to ~~the~~any Plan;
- (f) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, with the holding and administering of creditors'' or shareholders'' meetings for voting on ~~the~~any Plan;
- (g) assist the Applicants in communications with their stakeholders, including creditors and governmental authorities;
- (h) ~~(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 ~~Applicant~~Heritage Entities, to the extent that is necessary to adequately assess the

~~Applicant~~Applicants' business and financial affairs or to perform its duties arising under this Order;

- (i) ~~(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; and
- (j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property, nor be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the Cannabis Act S.C. 2018, c. 16, as amended, the Controlled Drugs and Substances Act, S.C. 1996, c. 19, as amended, the Excise Act, 2001, S.C. 2002, c. 22, as amended, the Ontario Cannabis Licence Act, S.O. 2018, c. 12, Sched. 2, as amended, the Ontario Cannabis Control Act, S.O. 2017, c. 26, Sched. 1, as amended, the Ontario Cannabis Retail Corporation Act, 2017, S.O. 2017, c. 26, as amended, the British Columbia Cannabis Control and Licensing Act, S.B.C. 2018, c. 29, as amended, the British Columbia Cannabis Distribution Act, S.B.C. 2018, c. 28, as amended, the Alberta Gaming, Liquor and Cannabis Act, R.S.A. 2000, c. G-1, as amended, the Alberta Gaming, Liquor and Cannabis Regulation, Alta. Reg. 143/996, as amended, The Cannabis Control (Saskatchewan) Act, S.S. 2018, c. C-2.111, as amended, the Saskatchewan Cannabis Control (Saskatchewan) Regulations, R.R.S. c. C-2.111 Reg. 1, the Manitoba The Liquor, Gaming and Cannabis Control Act, C.C.S.M. c. L153, as amended, the Manitoba Cannabis Regulation, M.R. 120/2018, as amended, the Newfoundland and Labrador Cannabis Control Act, S.N.L. 2018, c. C-4.1, as amended, the Newfoundland and Labrador Cannabis Control Regulations, NLR. Reg. 93/18, as amended, the Newfoundland and Labrador Cannabis Licensing and Operations Regulations, NLR. Reg. 94/18, as amended, the Nova Scotia Cannabis Control Act, S.N.S. 2018, c 3, as amended, the Nova Scotia Cannabis Retail Regulations, NS. Reg. 203/2019, the Prince Edward Island Cannabis Control Act, R.S.P.E.I. 1998, c. C-1.2, as amended, the Prince Edward Island Cannabis Control Regulations, PEI. Reg. EC575/18, as amended, the New Brunswick Cannabis Control Act, S.N.B. 2018, c. 2, the Yukon

Cannabis Control and Regulation Act, S.Y. 2018, c. 4, as amended, the Yukon Cannabis Control and Regulation, YOIC. 2018/139, the Yukon Cannabis Control and Regulation General Regulation, YOIC. 2018/184, the Yukon Cannabis Licensing Regulation, YOIC. 2019/43, the Yukon Cannabis Remote Sales Regulation, YOIC. 2022/29, the Northwest Territories Cannabis Legalization and Regulation Implementation Act, S.N.W.T. 2018, c. 6, as amended, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, ~~or~~ the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* or the *British Columbia Riparian Areas Protection Act* and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. 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 Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the ~~Applicant~~ and Applicants, including without limitation, the DIP Lender, with information

provided by the ~~Applicant~~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 ~~Applicant~~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 ~~Applicant~~Applicants may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur ~~no~~any liability or obligation as a result of ~~its~~the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, 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. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the ~~Applicant~~Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, by the ~~Applicant~~Applicants as part of the costs of these proceedings. The ~~Applicant is~~Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the ~~Applicant~~Applicants on a ~~[TIME INTERVAL]~~bi-weekly basis ~~and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$●[-, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time~~or on such other terms as the parties may agree.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any,~~ and the ~~Applicant's~~Applicants' corporate counsel (Owens Wright LLP) and insolvency counsel (Chaitons LLP) shall be entitled to the benefit of and are hereby granted a charge (the

"Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$●500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~38~~39 and ~~40~~41 hereof.

DIP FINANCING

32. **THIS COURT ORDERS** that the ~~Applicant is~~Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from ~~[DIP LENDER'S NAME]~~ (the "DIP Lender") in order to finance the ~~Applicant~~Applicants's working capital requirements and other general corporate purposes and capital expenditures, provided that initial borrowings under such credit facility shall not exceed \$●1,500,000 unless permitted by further Order of this Court.

33. **THIS COURT ORDERS** ~~THAT~~that such credit facility shall be on the terms and subject to the conditions set forth in the ~~commitment letter~~Debtor-In-Possession Facility Term Sheet between the ~~Applicant and the~~ DIP Lender ~~dated as of [DATE]~~ (the "Commitment Letter and the Applicants, as appended to the First Report (as may be amended from time to time, the "DIP Term Sheet")"), ~~filed~~.

34. **THIS COURT ORDERS** that the ~~Applicant is~~Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, with the DIP Term Sheet, the "**Definitive Documents**"), as are contemplated by the ~~Commitment Letter~~DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the ~~Applicant is~~Applicants are hereby authorized and directed to pay and perform all of ~~its~~their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the ~~Commitment Letter and the~~ Definitive Documents (collectively, the "DIP Obligations") as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property as security for the DIP Obligations, which DIP Lender's Charge shall be in the aggregate amount of the DIP Obligations

outstanding at any given time under the Definitive Documents. The DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs ~~38~~39 and ~~40~~41 hereof.

36. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ~~3~~ 3 business days notice to the ~~Applicant~~Applicants and the Monitor, may exercise any and all of its rights and remedies against the ~~Applicant~~Applicants or the Property under or pursuant to the ~~Commitment Letter~~, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the ~~Applicant~~Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the ~~Applicant~~Applicants against the obligations of the ~~Applicant~~Applicants to the DIP Lender under the ~~Commitment Letter~~, the Definitive Documents or the DIP Lender's 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 ~~Applicant~~Applicants and for the appointment of a trustee in bankruptcy of the ~~Applicant~~Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the ~~Applicant~~Applicants or the Property.

37. **THIS COURT ORDERS AND DECLARES** that, unless otherwise agreed to in writing by the DIP Lender, the DIP Lender shall be treated as unaffected in any ~~plan of arrangement or compromise~~Plan filed by any of the ~~Applicant~~Applicants under the CCAA, or any proposal filed by any of the ~~Applicant~~Applicants under the *Bankruptcy and Insolvency Act of Canada* (the "BIA"), with respect to any advances made under the Definitive Documents.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

38. THIS COURT ORDERS that the Applicants' key employee retention plan (the "KERP") described in the Second Affidavit, be and is hereby approved and the Applicants are authorized and directed to make payments contemplated thereunder should the employees become entitled thereto in accordance with the terms and conditions of the KERP.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

39. ~~38.~~ THIS COURT ORDERS that the priorities of the Directors'² Charge, the Administration Charge,² and the DIP Lender'²s Charge (collectively, the "Charges"), as among them, shall be as follows⁹:

First ~~—~~ Administration Charge, ~~(to the~~ a maximum amount of \$~~●~~500,000;

Second ~~—DIP Lender's—~~ Directors' Charge, to a maximum amount of \$1,900,000;
and

Third ~~—Directors'—~~ DIP Lender's Charge ~~(to the maximum amount of \$●).~~

40. ~~39.~~ THIS COURT ORDERS that the filing, registration or perfection of the ~~Directors'² Charge, the Administration Charge or the DIP Lender's Charge~~ (~~collectively, the "Charges"~~) shall not be required, and that the Charges shall be effective as against the Property and 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.

41. ~~40.~~ THIS COURT ORDERS that each of the ~~Directors'² Charge, the Administration Charge and the DIP Lender's Charge~~ Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security

⁹~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

42. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge,~~Charges unless the ~~Applicant~~Applicants also ~~obtains~~obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~Charges, or further Order of this Court.

43. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge, the Commitment Letter,~~Charges and the Definitive Documents ~~and the DIP Lender's Charge~~ 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 DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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**") which binds the ~~Applicant~~Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of ~~the Commitment Letter or~~ the Definitive Documents shall create or be deemed to constitute a breach by the ~~Applicant~~Applicants of any Agreement to which ~~it is~~they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~Applicant~~Applicants entering into the ~~Commitment Letter~~Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the ~~Applicant~~Applicants pursuant to this Order, ~~the Commitment Letter~~ 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.

44. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property leases.

CORPORATE MATTERS

45. **THIS COURT ORDERS** that Heritage is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

RELIEF FROM REPORTING OBLIGATIONS

46. **THIS COURT ORDERS** that the decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (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* (Ontario), R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and the rules, regulations and policies of the Canadian Securities Exchange and OTCQB® (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 the Applicants failing to make Securities Filings required by the Securities Provisions.

47. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of the Applicants, nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Legislation during the Stay Period, 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 against the directors, officers, employees and other representatives of the Applicants of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "Regulators") in the matter of regulating the conduct of market participants and to issue or maintain cease trader orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the Court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

"STATUS QUO" OF APPLICANTS' LICENSES

48. THIS COURT ORDERS that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "Licenses") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

49. ~~44.~~ THIS COURT ORDERS that the Monitor shall: (i) without delay, publish in ~~[newspapers specified by the Court]~~ The Globe and Mail, National Edition, a notice containing the information prescribed under the CCAA; and (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, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the ~~Applicant~~ Applicants of more than ~~\$1000~~ 1,000 (excluding individual employees, and former employees), 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; provided that the Monitor shall not be required to make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

50. ~~45.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ~~“@”~~: <https://kpmg.com/ca/heritage> (the “Website”).

51. ~~46.~~ **THIS COURT ORDERS** that ~~if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant~~ the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by ~~prepaid ordinary mail, courier, personal delivery or facsimile transmission~~ electronic message to the ~~Applicant~~ Applicants's creditors or other interested parties and their ~~respective addresses as last shown on the records of the Applicant and that~~ advisors. For greater certainty, any such ~~service or distribution by courier, personal delivery or facsimile transmission~~ or service shall be deemed to be ~~received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing~~ in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

52. **THIS COURT ORDERS** that subject to further Order of this Court in respect of urgent motions, any interest party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the "Service List") with responding motion materials or a written notice (including by e-mail) stating its object to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2)

days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

53. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

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54. ~~47.~~ **THIS COURT ORDERS** that each of the ~~Applicant or~~ Applicants, the Monitor or the DIP Lender may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

55. ~~48.~~ **THIS COURT ORDERS** that 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 ~~Applicant~~ Applicants, the Business or the Property.

56. ~~49.~~ **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 and to assist the ~~Applicant~~ 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 ~~Applicant~~ 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 ~~Applicant~~ Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

57. ~~50.~~ **THIS COURT ORDERS** that each of the ~~Applicant~~ Applicants and the Monitor be at liberty and ~~is~~ are 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

58. ~~51.~~ **THIS COURT ORDERS** that any interested party (including each of the ApplicantApplicants 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; provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 39 and 41 hereof with respect to any fees, expenses and disbursements incurred, or advances made pursuant to the DIP Term Sheet, as applicable, until the date of this Order may be amended, varied, or stayed.

59. ~~52.~~ **THIS COURT ORDERS** that with the exception of Paragraph 41, references in this Order and all to the “date of its provisions are this Order” or similar phrases refer to the date of the Initial Order granted in these Proceedings on April 2, 2024. The effective date of the Initial Order shall be 4:30 p.m. (Toronto Time) on April 2, 2024. The amendment of the Initial Order effected by the provisions of this Amended and Restated Initial Order (including the foregoing sentence of this Paragraph 59) shall be effective as of 12:01 a.m. Eastern Standard/Daylight(Toronto Time) on the date of this Order April 11, 2024, without the need for entry or filing.

SCHEDULE "A"
NON-APPLICANT STAY PARTIES

Heritage (US) Colorado Corp.

Opticann, Inc.

Heritage US Holdings Corp.

Heritage (US) Cali Corp.

Heritage (US) Oregon Corp.

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

Court File No.: C

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

SUPP

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AMENDED

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Document comparison by Workshare Compare on Tuesday, April 9, 2024 1:11:16 PM

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Document 2 ID	iManage:///chaitonsllp-mobility-ca.imatege.work/CHAITON SDM/11414403/2
Description	#11414403v2<chaitonsllp-mobility-ca.imatege.work> - Amended and Restated Initial Order - Heritage Cannabis Holdings Corp. et al. (returnable APR 11, 2024)
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	Deletion
	Moved from
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	Style change
	Format change
	Moved deletion
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Moved cell	
Split/Merged cell	

Padding cell	
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Statistics:	
	Count
Insertions	421
Deletions	334
Moved from	1
Moved to	1
Style changes	0
Format changes	0
Total changes	757

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

Court File No.: CV-24-00717664-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HERITAGE CANNABIS HOLDINGS CORP., 1005477 B.C. LTD., HERITAGE CANNABIS WEST CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE CANNABIS EAST CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY INC., 5450 REALTY INC., HERITAGE CANNABIS EXCHANGE CORP., AND PREMIUM 5 LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD
(returnable April 11, 2024)

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