

**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.**

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(returnable August 26, 2024)**

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ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

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CORPORATION, MAINSTRAIN MARKET LTD., HERITAGE  
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**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  
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Applicants

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**TAB 1**

**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

**NOTICE OF MOTION  
(Returnable August 26, 2024)**

The Applicants will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Monday, August 26, 2024 at 12:00 p.m. (Eastern Standard Time) or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

- In writing under subrule 37.12.1(1) because it is;
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

Zoom link to be uploaded to Caselines.

## THE MOTION IS FOR:

1. An Order (the “**Stay Extension Order**”) substantially in the form attached as **Tab “3”** to the Applicants’ Motion Record, among other things: (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; and (b) extending the Stay Period (defined below) from August 30, 2024 to and including September 27, 2024.
2. Such further and other relief as this Court deems just.

## THE GROUNDS FOR THIS MOTION ARE:<sup>1</sup>

### A. Background

3. Heritage is a vertically integrated licensed cannabis producer which operates two Health Canada licensed manufacturing facilities in Canada.
4. The Applicants obtained protection under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) pursuant to an initial order (the “**Initial Order**”) granted on April 2, 2024 that, among other things, stayed 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, or affecting the Applicants’ business (the “**Business**”) or the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”), except as set forth in the Initial Order or as otherwise permitted by law (the “**Stay of Proceedings**”).

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Affidavit of David Schwede sworn on August 21, 2024 (the “**Fourth Schwede Affidavit**”), attached at Tab “2” of the Applicants’ Motion Record.

5. On April 11, 2024, the Court granted the amended and restated initial order (the “**ARIO**”) that, among other things, extended the Stay of Proceedings to June 30, 2024 (the “**Stay Period**”), and approved the Applicants’ ability to borrow under a debtor-in-possession facility term sheet dated April 10, 2024 (the “**DIP Term Sheet**”) with BJK Holdings Ltd. as lender (in such capacity, the “**DIP Lender**”).

6. Also on April 11, 2024, the Court granted an order (the “**SISP Order**”) that, among other things, authorized and approved the execution of the stalking horse subscription agreement dated April 10, 2024 (the “**Initial Stalking Horse Agreement**”), and approved the sale and investment solicitation process (the “**SISP**”) under which the Initial Stalking Horse Agreement would serve as the stalking horse bid (the “**Stalking Horse Bid**”).

7. At the conclusion of the SISP on May 10, 2024, the Monitor declared the Stalking Horse Bid to be the Successful Bid in accordance with the SISP.

8. After the Stalking Horse Bid was declared as the Successful Bid, the parties entered into an amended and restated stalking horse subscription agreement dated June 17, 2024 (the “**Amended and Restated Stalking Horse Agreement**”).

9. On June 26, 2024, the Court granted the approval and reverse vesting order (the “**ARVO**”) that, among other things,

(a) approved the Amended and Restated Stalking Horse Agreement and the transactions contemplated therein (the “**Transactions**”); and

(b) upon closing of the Transactions: (i) adding 1000921087 Ontario Inc. (“**Residual Co.**”) as an Applicant to these CCAA proceedings; (ii) vesting all of the right, title, and

interest of Heritage, Heritage West, Heritage East, Purefarma, 333 Jarvis, 5450 Realty and Premium 5 (collectively, the “**Purchased Entities**”) in and to the Excluded Assets and Excluded Liabilities absolutely in Residual Co.; (iii) issuing the Purchased Shares to the Purchaser; (iv) terminating and cancelling without consideration all Equity Interests outstanding prior to the issuance of the Purchased Shares; and (v) ordering that the Purchased Entities shall cease being Applicants in these CCAA proceedings.

10. Also on June 26, 2024, the Court granted an ancillary relief order (the “**Ancillary Order**”) that, among other things: (a) extended the Stay Period until and including August 30, 2024; and (b) granted certain enhanced powers to the Monitor to facilitate the wind-down of these CCAA proceedings following closing of the Transactions.

11. Since the ARVO and the Ancillary Order were granted, the Applicants have, among other things, been working diligently, together with the Purchaser, to close the Transactions.

12. Two material conditions under the Amended and Restated Stalking Horse Agreement remain to be satisfied: first, the issuance of a partial revocation order in respect of the failure-to-file cease trade order issued by the Ontario Securities Commission, or such other revocation order as may be necessary, to permit the trading and issuance of securities by Heritage to the Purchaser; and second, receipt of Health Canada’s response to the change of control in respect of Heritage West and Heritage East resulting from the Transactions.

13. It is expected that the revocation order and Health Canada’s response to the change of control resulting from the Transactions, will be received, and that the closing of the Transactions will occur, in the very near future.

**B. Relief Sought**

14. The Applicants seek to extend the Stay Period from August 30, 2024 to and including September 27, 2024.

15. The extension of the Stay Period is necessary and appropriate to provide the Applicants and the Monitor, as applicable, with the stability and time necessary to, among other things, attend to post-closing and other administrative matters, including the winding-up and/or dissolution of certain Applicants, including Residual Co., thus maximizing value for the stakeholders.

16. It is also appropriate for the Monitor and the Applicants remaining in the CCAA proceedings following the closing of the Transactions to have the benefit of the Stay of Proceedings while the Monitor exercises its enhanced powers in respect of such remaining Applicants, formulates the terms of the termination order, and obtains Court approval thereof.

17. The updated cash flow forecast, which will be appended to the Monitor's Third Report, will demonstrate that the Applicants are expected to have sufficient liquidity to continue these CCAA proceedings throughout the proposed extension of the Stay Period.

18. The proposed extension of the Stay Period will not materially prejudice any of the Applicants' stakeholders.

19. The Applicants have acted and continue to act in good faith with due diligence.

**OTHER GROUNDS:**

20. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court, including s. 11 and s. 11.02(2).

21. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and sections 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended.

22. 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:

23. Fourth Schwede Affidavit sworn August 21, 2024, and the exhibits attached thereto.

24. Third Report of the Monitor, to be filed.

25. Such further and other evidence as counsel may advise and this Court may permit.

August 21, 2024

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Lawyers for the Applicants

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

**NOTICE OF MOTION  
(returnable August 26, 2024)**

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Lawyers for the Applicants

**TAB 2**

**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 August 21, 2024)**

**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 August 21, 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 (defined below), the "**Applicants**" or the "**Heritage Group**"). 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.

2. Heritage is a vertically integrated licensed cannabis producer, operating two Health Canada licensed manufacturing facilities in Canada. It focuses on extraction and creation of extract and extract-derivative products and brands for adult use and cannabis-based medical solutions. Under

the licenses, Heritage offers products to the medical and recreational legal cannabis markets in Canada and the United States of America (“U.S.”). Heritage also offers products to the medical cannabis markets internationally under a Health Canada license.

3. 1005477 B.C. Ltd., Mainstrain Market Ltd., Purefarma Solutions Inc. (“**Purefarma**”), 333 Jarvis Realty Inc. (“**333 Jarvis**”), 5450 Realty Inc. (“**5450 Realty**”), Premium 5 Ltd. (“**Premium 5**”), Heritage Cannabis Exchange Corp., Heritage Cannabis East Corporation (formerly CannaCure Corporation) (“**Heritage East**”), and Heritage Cannabis West Corporation (formerly Voyage Cannabis Corp.) (“**Heritage West**”), are certain directly or indirectly 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 U.S.<sup>1</sup>

4. This affidavit is sworn in support of a motion by the Applicants for the issuance of an order (the “**Stay Extension Order**”), substantially in the form attached to the Applicant’s Motion Record, among other things, extending the Stay Period (defined below) until and including September 27, 2024.

## **I. BACKGROUND**

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 Schwede Affidavit**”) or my affidavit sworn on April 9, 2024 (the “**Second Schwede Affidavit**”) or my affidavit sworn on June 18, 2024 (the “**Third Schwede Affidavit**”) copies of which are attached (without exhibits) as **Exhibit “A”**,

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<sup>1</sup> 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.

**Exhibit “B”**, and **Exhibit “C”**, respectively. All references to currency in this affidavit are in Canadian dollars unless noted otherwise.

6. My previous affidavits sworn and filed in these proceedings should be referred to for additional background information about the Applicants, the events leading up to the Applicants filing for protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and the Transactions (defined below) approved in these CCAA proceedings. Copies of all public materials filed in the CCAA proceedings are available on the website of the Monitor: <https://kpmg.com/ca/en/home/services/advisory/deal-advisory/creditorlinks/heritage-group.html>.

7. On April 2, 2024, the Applicants obtained protection under the CCAA pursuant to an initial order (the “**Initial Order**”). The Initial Order, among other things:

- (a) appointed KPMG Inc. as CCAA monitor (the “**Monitor**”) of the Applicants;
- (b) stayed, 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, or affecting the Applicants’ business (the “**Business**”) or the Property (defined below), except as otherwise set forth in the Initial Order or as otherwise permitted by law (the “**Stay of Proceedings**”);

- (c) extended 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)<sup>2</sup> and their respective directors and officers;
- (d) granted the following 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) an administration charge (the “**Administration Charge**”) 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) a directors’ charge (the “**Directors’ Charge**”) in favour of the Directors and Officers (as defined in the Initial Order);
- (e) ordered 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.

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<sup>2</sup> The Non-Applicant Stay Parties are as follows: Heritage (US) Colorado Corp., Opticann, Inc., Heritage US Holdings Corp., Heritage (US) Cali Corp., and Heritage (US) Oregon Corp.

8. On April 11, 2024, the Court granted an amended and restated initial order (the “**ARIO**”), a copy of which is attached hereto as **Exhibit “D”**. The ARIO, among other things:

- (a) extended the Stay of Proceedings to June 30, 2024 (the “**Stay Period**”);
- (b) approved the Applicants’ ability to borrow under a debtor-in-possession facility term sheet dated April 10, 2024 (the “**DIP Term Sheet**”) with BJK Holdings Ltd. (“**BJK**”) as lender (in such capacity, the “**DIP Lender**”), providing for the aggregate of \$1,500,000 in interim financing (the “**DIP Facility**”);
- (c) approved a charge in favour of the DIP Lender (the “**DIP Lender’s Charge**”) on the Property in the aggregate amount of the DIP Obligations (as defined in the ARIO) outstanding at any given time under the Definitive Documents (as defined in the ARIO); and
- (d) approved an increase in the Director’s Charge to the maximum amount of \$1,900,000, and an increase in the Administration Charge to the maximum amount of \$500,000.

9. On April 11, 2024, the Court granted an order (the “**SISP Order**”) which, among other things:

- (a) authorized and approved the execution of the stalking horse subscription agreement dated April 10, 2024 (the “**Initial Stalking Horse Agreement**”) among Heritage, Heritage West, BJK and the Purchaser (defined below) *nunc pro tunc*; and

- (b) approved the sale and investment solicitation process (the “SISP”) under which the Initial Stalking Horse Agreement would serve as the stalking horse bid (the “**Stalking Horse Bid**”).

10. The SISP solicited interest in and opportunities for a sale of, or investment in, all or part of the Heritage Group’s Business and Property. At the conclusion of the SISP on May 10, 2024, the Monitor declared the Stalking Horse Bid to be the Successful Bid in accordance with the SISP.

11. Following the Monitor’s determination that the Stalking Horse Bid was the Successful Bid, the Applicants and the Purchaser elected to amend the Initial Stalking Horse Agreement which culminated in the amended and restated stalking horse subscription agreement dated June 17, 2024 (the “**Amended and Restated Stalking Horse Agreement**”). A copy of the Amended and Restated Stalking Horse Agreement is attached hereto as **Exhibit “E”**.

12. The Amended and Restated Stalking Horse Agreement incorporated certain revisions to the Initial Stalking Horse Agreement, including:

- (a) the Purchaser would purchase (in addition to Heritage, Heritage West, Heritage East, and Purefarma) 333 Jarvis, 5450 Realty and Premium 5 as part of the Transactions;
- (b) at Closing, in addition to subscribing for the shares of Heritage and Heritage West, the Purchaser would subscribe for the shares of Heritage East; and
- (c) the “Outside Date” under the Initial Stalking Horse Agreement was extended from August 2, 2024 to August 30, 2024.

13. The maturity date of the DIP Facility under the DIP Term Sheet (the “**Maturity Date**”) was the earlier of August 2, 2024 and certain other events specified in section 9 of the DIP Term Sheet. Pursuant to the terms of the DIP Term Sheet, the Maturity Date can be amended by the parties to the DIP Term Sheet in writing without further action. Pursuant to email correspondence dated June 14, 2024, the DIP Lender agreed to extend the Maturity Date under the DIP Term Sheet by replacing the reference to August 2, 2024 in the DIP Term Sheet to August 30, 2024.

14. On June 26, 2024, the Court granted an approval and reverse vesting order (the “**ARVO**”), a copy of which is attached hereto as **Exhibit “F”**. The ARVO, among other things:

- (a) approved the Amended and Restated Stalking Horse Agreement among Heritage, Heritage West, and Heritage East (collectively, the “**Companies**”), HAB Cann Holdings Ltd. (the “**Purchaser**”) and BJK, and the transactions contemplated thereby (the “**Transactions**”); and
- (b) upon the delivery of the Monitor’s Closing Certificate (as defined in the ARVO) to the Companies and the Purchaser (the “**Closing Time**”):
  - (i) approved the addition of 1000921087 Ontario Inc. (“**Residual Co.**”) as an Applicant in these CCAA proceedings, and the amendment of the style of cause of these CCAA proceedings to reflect the addition of Residual Co.;
  - (ii) ordered the vesting of all of the right, title and interest of Heritage, Heritage West, Heritage East, Purefarma, 333 Jarvis, 5450 Realty and Premium 5 (collectively, the “**Purchased Entities**”) in and to the Excluded Assets (as

defined in the Amended and Restated Stalking Horse Agreement) absolutely and exclusively in Residual Co.;

- (iii) ordered the vesting in Residual Co. of all of the Excluded Liabilities (as defined in the Amended and Restated Stalking Horse Agreement);
- (iv) directed the Companies to issue the Purchased Shares (as defined in the Amended and Restated Stalking Horse Agreement) to the Purchaser, and ordered that the Purchased Entities' Property, other than the Excluded Assets, shall be retained by the Purchased Entities free and clear of all Claims and Encumbrances (as such terms were defined in the ARVO);
- (v) ordered the termination and cancellation without consideration of all Equity Interests (as defined in the Amended and Restated Stalking Horse Agreement) of the Companies outstanding prior to the issuance of the Purchased Shares; and
- (vi) ordered that the Purchased Entities shall cease being Applicants in these CCAA proceedings and shall be released from the purview of the Initial Order and all other orders of the Court granted in respect of these CCAA proceedings, save and except for the ARVO.

15. Also on June 26, 2024, the Court granted an ancillary relief order (the “**Ancillary Order**”), a copy of which is attached hereto as **Exhibit “G”**. The Ancillary Order, among other things:

- (a) extended the Stay Period until and including August 30, 2024;

- (b) approved the extension of the Maturity Date under the DIP Term Sheet until and including August 30, 2024;
- (c) granted certain enhanced powers to the Monitor to facilitate the wind-down of these CCAA proceedings following the closing of the Transactions, effective upon the delivery of the Monitor's Closing Certificate; and
- (d) approved the Pre-Filing Report of the Monitor dated April 2, 2024, and the First Report of the Monitor dated April 10, 2024, and the actions, conduct and activities set out therein.

## **II. STATUS OF THE CCAA PROCEEDINGS**

16. Since the ARVO and Ancillary Order were granted, the Applicants have, among other things:

- (a) worked in good faith and with due diligence, in consultation and with the assistance of the Monitor, to stabilize the Applicants' Business and operations;
- (b) continued to operate in the ordinary course of business and communicate with various stakeholders, including trade creditors, landlords, customers, Health Canada, the Canada Revenue Agency ("CRA"), employees, and other interested parties, regarding various matters relating to the Applicants, the Business, the Property and the CCAA proceedings;
- (c) attended to pre-closing matters with respect to the Transactions including:

- (i) working with the Purchaser to address regulatory change of control matters relating to the licenses issued to Heritage East and Heritage West by Health Canada pursuant to the *Cannabis Act*, S.C. 2018, c. 16 (the “**Health Canada Licenses**”) and by CRA pursuant to the *Excise Act, 2001*, S.C. 2002, c. 22 (the “*Excise Act*”) (the “**Excise Act Licenses**”, and together with the Health Canada Licenses, the “**Licenses**”);
- (ii) attending to the filing of tax returns in respect of each Purchased Entity for all tax periods ending on or prior to the Closing Date; and
- (iii) ensuring that the closing deliverables under the Amended and Restated Stalking Horse Agreement (“**Closing Deliverables**”) are underway or completed.

17. The vast majority of the Closing Deliverables are materially settled and certain Implementation Steps (as defined in the Amended and Restated Stalking Horse Agreement) have been completed. As at the date of this Affidavit, two material conditions under the Amended and Restated Stalking Horse Agreement remain to be satisfied: first, the issuance of a partial revocation order in respect of the failure-to-file cease trade order issued by the Ontario Securities Commission, or such other revocation order as may be necessary, to permit the trading and issuance of securities by Heritage to the Purchaser; and second, receipt of Health Canada’s response to the change of control in respect of Heritage West and Heritage East resulting from the Transactions.

18. I understand that the Purchaser expects that the abovementioned revocation order will be received, and that the Closing Time for the Transactions will occur, in the very near future. I further

understand that Health Canada is nearing completion of its review of the Transactions, and that the parties anticipate receiving Health Canada's response in the near future.

19. Following the closing of the Transactions, the Monitor's enhanced powers, granted pursuant to the Ancillary Order, allow the Monitor to exercise powers which may be properly exercised by any board of directors or any officers of the Applicants, and to cause the remaining Applicants to perform such functions as the Monitor considers necessary to the winding-down and liquidation of the Applicants, as applicable.

### **III. RELIEF SOUGHT**

20. The Stay Period, which has allowed the Applicants to maintain the status quo and has given the Applicants and their directors and officers much-needed breathing space to focus on, among other things, closing the Transactions, will expire on August 30, 2024 unless it is extended by further order of the Court. The Applicants request that the Stay Period be extended to and including September 27, 2024.

21. The extension of the Stay Period is necessary and appropriate to provide the Applicants and the Monitor, as applicable, with the stability and time necessary to, among other things, attend to post-closing and other administrative matters, including the winding-up and/or dissolution of certain Applicants, including Residual Co., thus maximizing value for the stakeholders.

22. I understand that, following the closing of the Transactions, the Monitor intends to bring a motion to terminate these CCAA proceedings and seek related relief. Such relief from the Court cannot be obtained with appropriate notice to stakeholders prior to the expiry of the current Stay Period (i.e. August 30, 2024). It is appropriate for the Monitor and the Applicants remaining in the

CCAA proceedings following the closing of the Transactions to have the benefit of the Stay of Proceedings while the Monitor exercises its enhanced powers in respect of such remaining Applicants, formulates the terms of the termination order, and obtains Court approval thereof.

23. I understand that an updated cash flow forecast will be filed by the Monitor with its Third Report to the Court, and that this updated cash flow forecast, taking into account the Transactions (including the CCAA Process Expense Amount contemplated to fund the completion of these CCAA proceedings and other wind-down matters), will show that the Applicants are expected to have sufficient liquidity to continue these CCAA proceedings throughout the proposed extension of the Stay Period.

24. I do not believe that the proposed extension of the Stay Period will materially prejudice any of the Applicants' stakeholders.

25. The Applicants have acted and continue to act in good faith and with due diligence in these CCAA proceedings.

**IV. CONCLUSION**

26. For the reasons set out herein, the Applicants respectfully request that this Court grant the Stay Extension 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 August 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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**DANISH AFROZ**

Commissioner for Taking Affidavits  
(or as may be)



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**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 August 21, 2024)**

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Lawyers for the Applicants

***THIS IS EXHIBIT "A" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



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***A Commissioner Etc.***

**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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**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.**”).<sup>1</sup>

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,

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<sup>1</sup> 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 in accordance with the terms of the Cash Flow Forecast (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 \$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 Pink<sup>2</sup>, 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

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<sup>2</sup> 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.

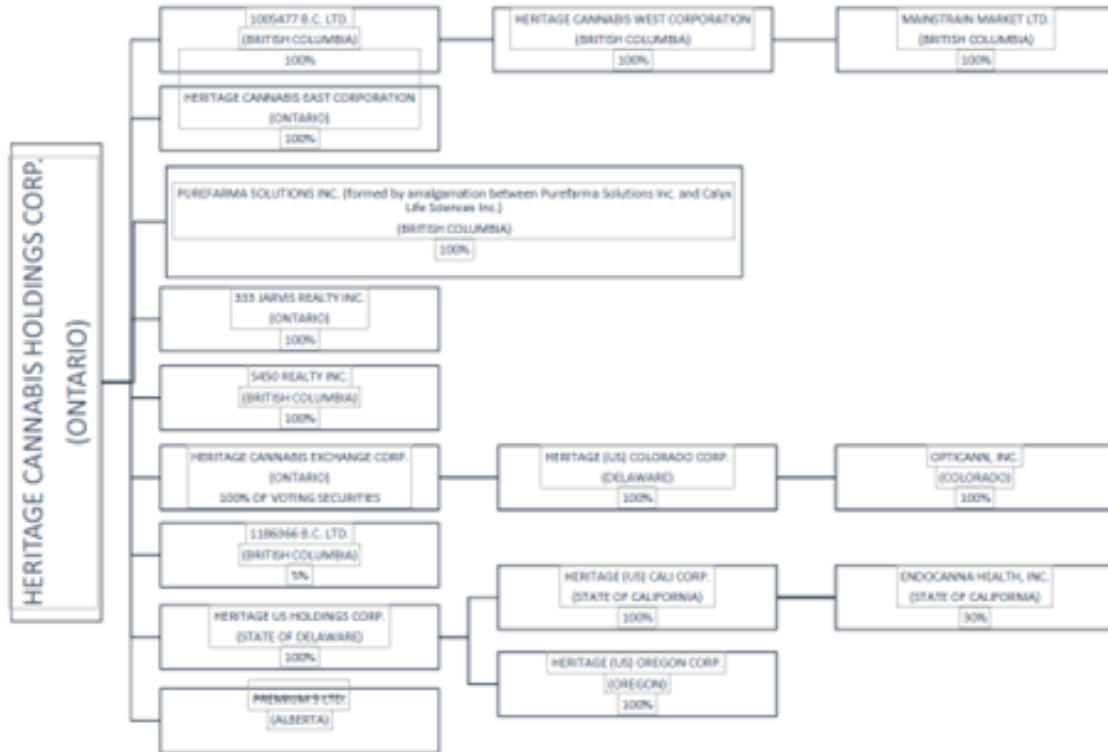
16. Subject to certain conditions, including court approval, the Applicants' secured lender, BJK (in such capacity, the "**DIP Lender**"), has agreed to provide additional financing through the DIP Loan to, among other things, provide the Applicants with access to funding needed to continue to operate 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.<sup>3</sup> 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:

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<sup>3</sup> 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:

<b>Province</b>	<b>Employees</b>
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:

<b>Current Assets</b>		
	<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
<b>Total Current Assets</b>	<b>32,179,165</b>	<b>32,860,948</b>
<b>Non-Current Assets</b>		
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
<b>Total Non-Current Assets</b>	<b>23,673,446</b>	<b>45,551,244</b>
<b>Total Assets</b>	<b>55,852,611</b>	<b>78,412,192</b>

**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
<b>Total Current Liabilities</b>	<b>25,079,590</b>	<b>18,130,554</b>
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
<b>Total Non-Current Liabilities</b>	<b>9,920,309</b>	<b>20,331,417</b>
<b>Total Liabilities</b>	<b>34,999,899</b>	<b>38,461,971</b>

**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"> <li>▪ BJK</li> <li>▪ Metro Leasing Corp.</li> </ul>	British Columbia
	<ul style="list-style-type: none"> <li>▪ Bank of Montreal</li> <li>▪ BJK</li> <li>▪ NFS Leasing Canada Ltd. and Peoples United Bank, N.A.</li> <li>▪ NFS Leasing Canada Ltd.</li> <li>▪ NFS Leasing Canada Ltd. c/o NFS Leasing, Inc. and M&amp;T Bank Corporation</li> <li>▪ NFS Leasing Canada Ltd. c/o NFS Leasing Inc.</li> </ul>	Ontario
1005	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
Heritage West	<ul style="list-style-type: none"> <li>▪ BJK</li> <li>▪ Brown Bros Motor Lease Canada Ltd.</li> <li>▪ Metro Leasing Corp.</li> </ul>	British Columbia
Heritage East	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
Purefarma Solutions Inc.	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
333	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
5450	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
HCEC	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
Premium	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	Ontario
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	British Columbia
	<ul style="list-style-type: none"> <li>▪ BJK</li> </ul>	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.<sup>4</sup> 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

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<sup>4</sup> 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, Heritage made a \$1,500,000 repayment in respect of Facility 3 under the BJK Loan (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 1, 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 1, 2024, the total indebtedness under the BJK Loan Agreement (inclusive of both facilities) was approximately \$6,921,088.

### **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 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 \$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.



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



---

**DAVID SCHWEDE**

***THIS IS EXHIBIT "B" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



---

***A Commissioner Etc.***

**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 9, 2024)**

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CORPORATION, PUREFARMA SOLUTIONS INC., 333 JARVIS REALTY  
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AND PREMIUM 5 LTD.**

Applicants

**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.**”).<sup>1</sup>

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:

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<sup>1</sup> 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 ORDER<sup>2</sup>**

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 SISP<sup>3</sup>**

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.

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

<sup>3</sup> 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 Agreement<sup>4</sup>**

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:

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<sup>4</sup> 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 “ <b>Companies</b> ”)
<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 “<b>Purchased Shares</b>”); 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 “<b>Credit Bid Consideration</b>”);</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 “<b>Cash Consideration</b>”).</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 Contracts<sup>5</sup>;</p> <p>(d) any rights which accrue to Residual Co. under the transaction documents; and</p>

<sup>5</sup> 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 “<b>Retained Liabilities</b>”) 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>
<p><i>Break and Expense Reimbursement Fee</i></p>	<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>
<p><i>Closing Date</i></p>	<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.



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**DANISH AFROZ**

Commissioner for Taking Affidavits  
(or as may be)



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**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 "C" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



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***A Commissioner Etc.***

**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 June 18, 2024)**

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**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 June 18, 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**"). 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.

2. Heritage is a vertically integrated licensed cannabis producer, operating two Health Canada licensed manufacturing facilities in Canada. It focuses on extraction and creation of extract and extract-derivative products and brands for adult use and cannabis-based medical solutions. 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.

3. 1005477 B.C. Ltd. (“**1005**”), Mainstrain Market Ltd. (“**Mainstrain**”), Purefarma Solutions Inc. (“**Purefarma**”), 333 Jarvis Realty Inc. (“**333 Jarvis**”), 5450 Realty Inc. (“**5450 Realty**”), Premium 5 Ltd. (“**Premium 5**”), 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 directly or indirectly 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.**”).<sup>1</sup>

4. Capitalized terms used herein and not otherwise defined have the meaning ascribed to them in my affidavit sworn on April 2, 2024 (the “**Initial Schwede Affidavit**”) or my affidavit sworn on April 9, 2024 (the “**Second Schwede Affidavit**”), copies of which are attached (without exhibits) as **Exhibit “A”** and **Exhibit “B”**, respectively. All references to currency in this affidavit are in Canadian dollars unless noted otherwise.

## **I. ORDERS SOUGHT**

5. 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**”), for the issuance of:

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<sup>1</sup> 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 approval and reverse vesting order (the “**ARVO**”) substantially in the form attached to the Motion Record, among other things:
- (i) approving the amended and restated stalking horse subscription agreement dated June 17, 2024 (the “**Amended and Restated Stalking Horse Agreement**”) among Heritage, Heritage West, and Heritage East (collectively, the “**Companies**”), HAB Cann Holdings Ltd. (the “**Purchaser**”) and BJK Holdings Ltd. (“**BJK**”), and the Transactions contemplated thereby (the “**Transactions**”), and authorizing and directing each of the Companies to perform their obligations under the Amended and Restated Stalking Horse Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions;
  - (ii) upon the delivery of the Monitor’s Closing Certificate (as defined in the ARVO) to the Companies and the Purchaser (the “**Closing Time**”):
    - (A) approving the addition of 1000921087 Ontario Inc. (“**Residual Co.**”) as an Applicant in these CCAA proceedings and amending the style of cause of these CCAA proceedings to reflect the addition of Residual Co.;
    - (B) vesting all of the right, title, and interest of Heritage, Heritage West, Heritage East, Purefarma, 333 Jarvis, 5450 Realty and Premium 5 (collectively, the “**Purchased Entities**”) in and to the Excluded

Assets (as defined in the Amended and Restated Stalking Horse Agreement) absolutely and exclusively in Residual Co.;

- (C) vesting in Residual Co. all of the Excluded Liabilities (as defined in the Amended and Restated Stalking Horse Agreement) such that the Excluded Liabilities shall become the obligations of Residual Co., and shall no longer be obligations of the Purchased Entities, and all of the Purchased Entities' Property shall be released and discharged from such Excluded Liabilities;
- (D) directing the Companies to issue the Purchased Shares (defined below) to the Purchaser, and ordering that the Purchased Entities' Property, other than the Excluded Assets, shall be retained by the Purchased Entities free and clear of and from any and all Claims and Encumbrances (as such terms are defined in the ARVO);
- (E) terminating and cancelling without consideration all Equity Interests (as defined in the Amended and Restated Stalking Horse Agreement) of the Companies outstanding prior to the issuance of the Purchased Shares; and
- (F) ordering that the Purchased Entities shall cease being Applicants in these CCAA proceedings, and releasing the Purchased Entities from the purview of the Initial Order and all other orders of the Court granted in respect of these CCAA proceedings, save and except for the ARVO;

- (iii) for the purposes of determining the nature and priority of Claims, from and after the Closing Time, subject to the funding of the Priority Payment Amount (defined below) and the CCAA Process Expense Amount (defined below), all Claims and Encumbrances transferred, assumed, released, expunged and discharged shall attach to the Excluded Assets with the same nature and priority as they had immediately prior to the Transactions as if the Transactions had not occurred; and
- (iv) granting releases in favour of:
  - (a) the current directors, officers, employees, consultants, legal counsel and advisors of the Applicants;
  - (b) the current directors, officers, employees, consultants, legal counsel and advisors of Residual Co.; and
  - (c) the Monitor and its legal counsel and their respective current directors, officers, partners, employees, consultants and advisors (the Persons listed in (a), (b), and (c) above being collectively, the “**Released Parties**”),of all present and future liabilities and claims arising in connection with or relating to, among other things, the CCAA proceedings, the Amended and Restated Stalking Horse Agreement, the consummation of the Transactions, any closing agreement or transaction involving the Purchased Entities arising in connection with the foregoing, and/or any matter relating to the Purchased Entities’ cannabis excise licence and/or GST/HST arrears owing

by any of the Purchased Entities for the period prior to the Initial Order, save and except for any claim for fraud or wilful misconduct or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; and

- (b) an ancillary relief order (the “**Ancillary Order**”), substantially in the form attached to the Motion Record, among other things:
- (i) extending the Stay Period (defined below) until and including August 30, 2024;
  - (ii) approving the extension of the maturity date of the DIP Term Sheet (defined below) until and including August 30, 2024;
  - (iii) amending paragraph 31 of the ARIO (defined below), which provides for the Administration Charge (defined below), by replacing “Owens Wright LLP” to “WeirFoulds LLP” to reflect the change in the Applicants’ corporate counsel;
  - (iv) granting certain enhanced powers to the Monitor to facilitate the wind-down of these CCAA proceedings following the closing of the Transactions, effective upon the delivery of the Monitor’s Closing Certificate;
  - (v) ordering that at such time as any of the Applicants (including ResidualCo) or the Monitor (pursuant to its enhanced powers, if granted) determine that it is necessary or desirable to do so: (a) any of the Applicants (including ResidualCo), or the Monitor on their behalf, are authorized to make an

assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”); and (b) KPMG is authorized and empowered, but not obligated, to act as trustee in bankruptcy in respect of any of the Applicants (including ResidualCo); and

- (vi) approving the Pre-Filing Report of the Monitor dated April 2, 2024 (the “**Pre-Filing Report**”) and the First Report of the Monitor dated April 10, 2024 (the “**First Report**”) and together with the Pre-Filing Report, the “**Monitor’s Reports**”), and the Monitor’s activities, conduct and activities set out therein.

## II. BACKGROUND<sup>2</sup>

6. On April 2, 2024, the Applicants obtained protection under the CCAA pursuant to an initial order (the “**Initial Order**”), a copy of which is attached hereto as **Exhibit “C”**. The Initial Order, among other things:

- (a) appointed KPMG Inc. as CCAA monitor (the “**Monitor**”) of the Applicants;
- (b) stayed, 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, or affecting the Applicants’ business (the “**Business**”) or the Property (defined below), except as otherwise set forth in the Initial Order or as otherwise permitted by law (the “**Stay of Proceedings**”);

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<sup>2</sup> The Initial Schwede Affidavit and Second Schwede Affidavit should be referred to for additional background information about the Heritage Group and the events leading up to these CCAA proceedings.

- (c) extended 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;
- (d) granted the following 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) an administration charge (the “**Administration Charge**”) 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) a directors’ charge (the “**Directors’ Charge**”) in favour of the Directors and Officers (as defined in the Initial Order);
- (e) ordered 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.

7. On April 11, 2024, the Court granted an amended and restated initial order (the “**ARIO**”), a copy of which is attached hereto as **Exhibit “D”**. The ARIO, among other things:

- (a) extended the Stay of Proceedings to June 30, 2024 (the “**Stay Period**”);

- (b) approved the Applicants' ability to borrow under a debtor-in-possession facility term sheet dated April 10, 2024 (the "**DIP Term Sheet**") with BJK as lender (in such capacity, the "**DIP Lender**"), providing for the aggregate of \$1,500,000 in interim financing (the "**DIP Facility**");
  - (c) approved a charge in favour of the DIP Lender (the "**DIP Lender's Charge**") on the Property in the aggregate amount of the DIP Obligations (as defined in the ARIO) outstanding at any given time under the Definitive Documents (as defined in the ARIO); and
  - (d) approved an increase in the Director's Charge to the maximum amount of \$1,900,000, and an increase in the Administration Charge to the maximum amount of \$500,000.
8. On April 11, 2024, the Court granted an order (the "**SISP Order**"), a copy of which is attached hereto as **Exhibit "E"**. The SISP Order, among other things:
- (a) authorized and approved the execution of the stalking horse subscription agreement dated April 10, 2024 among Heritage, Heritage West, BJK and the Purchaser (the "**Initial Stalking Horse Agreement**") *nunc pro tunc*; and
  - (b) approved the sale and investment solicitation process (the "**SISP**"), a copy of which is attached as Schedule "B" to the SISP Order, in which the Initial Stalking Horse Agreement would serve as the stalking horse bid (the "**Stalking Horse Bid**").

### III. STATUS OF THE CCAA PROCEEDINGS

9. Since the ARIO and SISP Order were granted, the Applicants have, among other things:

- (a) worked in good faith and with due diligence, in close consultation and with the assistance of the Monitor, to stabilize the Applicants' Business and operations;
- (b) continued to operate in the ordinary course of business and communicated with various stakeholders, including trade creditors, landlords, customers, Health Canada, the Canada Revenue Agency ("CRA"), employees, and other interested parties, regarding various matters relating to the Applicants, the Business, the Property and the CCAA proceedings;
- (c) conserved costs through, among other things, employee terminations and disclaimer of certain leases;
- (d) worked closely with the Monitor and their advisors to implement the SISP in accordance with its terms; and
- (e) negotiated the terms of the Amended and Restated Stalking Horse Agreement.

### IV. IMPLEMENTATION OF THE SISP<sup>3</sup>

10. The SISP solicited interest in and opportunities for a sale of, or investment in, all or part of the Heritage Group's business operations (the "**Business**") and the Property (the "**Opportunity**").

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<sup>3</sup> All capitalized terms used in this section and not defined herein have the meanings given to them in the SISP, attached as Schedule "B" to the SISP Order.

Accordingly, the SISP provided the Applicants with the latitude to pursue both asset and share transactions (including through a reverse vesting structure), or a recapitalization of the Applicants.

11. The inclusion of the Stalking Horse Bid in the SISP was intended to facilitate the maximization of value for the Applicants' stakeholders. The Stalking Horse Bid in the Initial Stalking Horse Agreement served as a baseline bid for interested parties to consider during their participation in the SISP. Among other benefits, the Initial Stalking Horse Agreement provided certainty that a going-concern solution for the Applicants had already been identified. It also provided a minimum purchase price and a deal structure to encourage superior bids from interested parties. The Initial Stalking Horse Agreement, a copy of which was attached to the Monitor's First Report, is discussed at length in the First Report and in the Second Schwede Affidavit.

12. In accordance with the SISP, the Monitor, in consultation with the Applicants:

- (a) developed a list of potential bidders (the "**Known Potential Bidders**"), which included:
  - (i) parties that 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, believed might be interested in purchasing all or part of the Business or the Property or investing in the Heritage Group pursuant to the SISP;

- (b) prepared 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;
- (c) prepared a form of non-disclosure agreement (the “**NDA**”); and
- (d) prepared a confidential virtual data room (the “**VDR**”), with access being granted to those parties who executed an NDA.

13. I am advised that the Monitor will provide a detailed report on the SISP in the Second Report, to be filed in connection with this motion.

14. Pursuant to the SISP, each Potential Bidder was required to submit a formal offer no later than 5:00 p.m. on May 10, 2024 (the “**Binding Offer Deadline**”). As of the Binding Offer Deadline, the Monitor had received no qualified bids (other than the Stalking Horse Bid).

15. At the conclusion of the SISP on May 10, 2024, the Monitor declared the Stalking Horse Bid to be the Successful Bid in accordance with the SISP.

## **V. AMENDED AND RESTATED STALKING HORSE AGREEMENT<sup>4</sup>**

16. Following the Monitor’s determination that the Stalking Horse Bid was the Successful Bid, the Applicants and the Purchaser elected to amend the Initial Stalking Horse Bid which culminated in the Amended and Restated Stalking Horse Agreement. The Amended and Restated Stalking

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<sup>4</sup> Capitalized terms used in this subsection and not otherwise defined have the meaning ascribed to them in the Amended and Restated Stalking Horse Agreement.

Horse Agreement incorporates certain revisions to the Initial Stalking Horse Agreement, including:

- (a) the Purchaser shall purchase (in addition to Heritage, Heritage West, Heritage East, and Purefarma) 333 Jarvis, 5450 Realty and Premium 5 as part of the Transactions;
- (b) at Closing, in addition to subscribing for the shares of Heritage and Heritage West, the Purchaser will subscribe for shares of Heritage East; and
- (c) the Outside Date (defined below) is extended from August 2, 2024 to August 30, 2024.

17. A copy of the Amended and Restated Stalking Horse Agreement is attached hereto as **Exhibit “F”**. A redline comparing the Amended and Restated Stalking Horse to the Initial Stalking Horse Agreement is attached hereto as **Exhibit “G”**.

18. The principal terms of the Amended and Restated Stalking Horse Agreement are summarized below:

<b>Term</b>	<b>Details</b>
<i>Seller</i>	Heritage Cannabis Holdings Corp., Heritage Cannabis West Corporation, and Heritage Cannabis East Corporation (collectively, the “ <b>Companies</b> ”).
<i>Purchaser</i>	HAB Cann Holdings Ltd.
<i>Purchased Entities</i>	Heritage Cannabis Holdings Corp., Heritage Cannabis West Corporation, Heritage Cannabis East Corporation, Purefarma Solutions Inc., 333 Jarvis Realty Inc., 5450 Realty Inc. and Premium 5 Ltd.
<i>Transaction Structure</i>	Reverse-vesting share purchase transaction structure.  On or prior to Closing, the Companies shall effect certain transaction steps and pre-closing reorganization (collectively, the “ <b>Implementation</b> ”).

	<p><b>Steps</b>) described in Schedule 2.7(b) of the Amended and Restated Stalking Horse Agreement. The Implementation Steps include, <i>inter alia</i>:</p> <ol style="list-style-type: none"> <li>a. the Purchaser and BJK entering into an assignment of indebtedness and security agreement, pursuant to which the Senior Loan Agreement, the DIP Facility Term Sheet and all security and ancillary documents granted in favour of BJK in connection therewith shall be assigned to the Purchaser; and</li> <li>b. the Purchased Entities terminating all employees deemed to be Terminated Employees (defined below) pursuant to the Amended and Restated Stalking Horse Agreement.</li> </ol> <p>At Closing, <i>inter alia</i>:</p> <ol style="list-style-type: none"> <li>a. the Excluded Assets (described below) and Excluded Liabilities (described below) shall be transferred from the Purchased Entities to Residual Co.;</li> <li>b. the Companies will issue to the Purchaser shares in the share capital of Companies (the <b>“Purchased Shares”</b>);</li> <li>c. all outstanding Equity Interest in the Companies shall be cancelled for no consideration; and</li> <li>d. the Monitor shall hold cash in the amount of \$187,500 (the <b>“Administrative Expense Amount”</b>) for persons entitled to be paid costs and expenses for services performed by the Monitor and its legal counsel after Closing, to the extent such amount has not been pre-funded under the DIP Facility Term Sheet prior to the Closing Date (the <b>“Administrative Expense Costs”</b>).</li> </ol>
<p><i>Purchase Price</i></p>	<p>The total aggregate consideration payable by the Purchaser for the Purchased Shares is equal to:</p> <ol style="list-style-type: none"> <li>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 June 14, 2024 was \$6,837,059.71 (excluding legal fees and expenses);</li> <li>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 <b>“Credit Bid Consideration”</b>);</li> <li>c. the Administrative Expense Amount and cash in an amount sufficient to satisfy the amounts owing in respect of obligations secured by the CCAA Charges (the <b>“CCAA Process Expense Amount”</b>); and</li> <li>d. amounts sufficient to pay those priority payments prescribed under subsections 6(3), 6(5)(a) and 6(6) of the CCAA (the <b>“Priority Payment Amount”</b>) (the amounts in (c) and (d) together, the <b>“Cash Consideration”</b>).</li> </ol>
<p><i>Employees</i></p>	<p>The Purchaser will determine which employees it will assume and employ prior to Closing. In the event that no conditional offer of employment is</p>

	<p>made to an employee or an employee who receives an offer of employment rejects such offer, such employee shall be deemed to be a “<b>Terminated Employee</b>”.</p>
<p><i>Excluded Assets</i></p>	<p>As of Closing, the assets of the Purchased Entities shall not include the following:</p> <ul style="list-style-type: none"> <li>a. the Cash Consideration;</li> <li>b. the Tax records and returns, and books and records pertaining thereto and other documents that solely relate to the Excluded Liabilities or Excluded Assets;</li> <li>c. the Excluded Contracts;<sup>5</sup></li> <li>d. any rights which accrue to Residual Co. under the transaction documents; and</li> <li>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.</li> </ul>
<p><i>Retained Liabilities</i></p>	<p>As of Closing Time, the only obligations and liabilities of the Purchased Entities (the “<b>Retained Liabilities</b>”) shall consist of the items specifically set forth below:</p> <ul style="list-style-type: none"> <li>a. all post-filing Claims set out in Schedule 2.3 of the Amended and Restated Stalking Horse Agreement;</li> <li>b. all liabilities of the Purchased Entities arising from and after Closing;</li> <li>c. tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date; and</li> <li>d. those specific Retained Liabilities listed in Schedule 2.3 of the Amended and Restated Stalking Horse Agreement, which include the stub-period post filing claims contemplated by the DIP Term Sheet but not yet paid on Closing Date.</li> </ul>
<p><i>Excluded Liabilities</i></p>	<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 Amended and Restated Stalking Horse Agreement, include, among other things, the following:</p> <ul style="list-style-type: none"> <li>a. all pre-filing Claims and liabilities arising from the termination of leases or other contracts;</li> <li>b. all pre-filing Claims owing in respect of pre-filing excise duties and GST/HST; and</li> <li>c. all liabilities owing to any Terminated Employees in respect of the termination of employment of such Terminated Employee.</li> </ul>

<sup>5</sup> Excluded Contracts means the contracts of the Purchased Entities as specified in Schedule 2.2(c) of the Amended and Restated Stalking Horse Agreement.

<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 Amended and Restated Stalking Horse Agreement, the Purchaser is acquiring the Purchased Shares on an “as is, where is” basis.
<i>Mutual Conditions to Closing</i>	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, certain conditions which include, among other things, the following: <ul style="list-style-type: none"><li>a. each of the SISP Order and the Approval and Vesting Order shall have been issued and entered and shall be Final Orders;</li><li>b. the Stalking Horse Bid will be the Successful Bid (as determined pursuant to the SISP);</li><li>c. the Parties shall have received the required Transaction Regulatory Approvals set out in Schedule 7.1(d) of the Amended and Restated Stalking Horse Agreement, 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; and</li><li>d. the failure-to-file cease trade order (“<b>FFCTO</b>”) issued by the Ontario Securities shall be subject to a partial revocation order or such other order as may be required permitting the trade and issuance of the securities of Heritage as contemplated by the Amended and Restated Stalking Horse Agreement.</li></ul>
<i>Closing</i>	A date no later than five (5) Business Days after the conditions in Article 7 have been satisfied or waived; provided that Closing shall be no later than August 30, 2024 (the “ <b>Outside Date</b> ”).

## **VI. RELIEF SOUGHT**

### **(A) Approval and Reverse Vesting Order**

#### *i. Approval of Amended and Restated Stalking Horse Agreement and the Transactions*

19. The Transactions contemplated by the Amended and Restated Stalking Horse Agreement will provide for the Companies’ continuing operations as a going concern, resulting in: (i) most of the Companies’ employees preserving their employment; (ii) customers maintaining their ongoing relationships with the Companies; and (iii) suppliers of goods and services maintaining their

business relationships with the Companies. The Transactions will also result in the payment of those priority payments prescribed under subsections 6(3), 6(5)(a) and 6(6) of the CCAA, using the cash Priority Payment Amount provided for under the Amended and Restated Stalking Horse Agreement.

20. I believe, based on my involvement leading up to the commencement of the CCAA proceedings and the SISP, that the Amended and Restated Stalking Horse Agreement and the Transactions represent the best possible outcome for the Applicants, their creditors, and other stakeholders in the circumstances given that, among other things:

- (a) despite extensive solicitation efforts on the part of the Applicants and the Monitor during a broad, transparent, and fair Court-approved SISP which was designed to parallel and correspond to sales processes used and approved in other CCAA proceedings, no Qualified Bids for the Applicants' Business or Property (other than the Stalking Horse Bid) were received;
- (b) the Purchase Price under the Amended and Restated Stalking Horse Agreement is fair and reasonable and reflects the value of the Licenses and other benefits being preserved through the reverse vesting structure;
- (c) the Amended and Restated Stalking Horse Agreement represents the only opportunity for the Purchased Entities to continue as a going concern for the benefit of their many stakeholders including employees, suppliers, and customers;

- (d) closing of the Amended and Restated Stalking Horse Agreement is based on customary conditions and requisite approvals, and is not predicated on onerous closing conditions;
- (e) BJK, the Applicants' senior secured lender and the DIP Lender, which is the only creditor with any realizable economic interest in the Applicants, is supportive of the Amended and Restated Stalking Horse Agreement and the Transactions;
- (f) as discussed further below in section VI(A)(ii), the reverse vesting order structure of the Transactions:
  - (i) is necessary to preserve the Licences (defined below), which could not efficiently or reliably be maintained in a conventional asset sale, and the Applicants' material tax losses;
  - (ii) provides an economic result at least as favourable as any other viable alternative, including a plan of arrangement under the CCAA;
  - (iii) does not leave any stakeholder worse-off than they would be under any other viable alternative; and
  - (iv) the consideration being paid for the Business reflects the importance and value of the cannabis licences; and
- (g) the Monitor is supportive of the Amended and Restated Stalking Horse Agreement (including the amendments made to the Initial Stalking Horse Agreement) and the Transactions.

21. Based on the results of the SISP, I believe that if the Transactions do not proceed, it is likely that the only remaining alternative would be for the Applicants to cease operations and liquidate their assets in a bankruptcy. This would be an objectively inferior as compared to the Transactions for all the reasons discussed above. Therefore, I believe that the Amended and Restated Stalking Horse Agreement and the Transactions represent the best available outcome for stakeholders and a value-maximizing transaction in the circumstances.

*ii. Reverse Vesting Structure*

22. The Amended and Restated Stalking Horse Agreement is conditional upon this Court granting the ARVO. As discussed in the First Schwede Affidavit, the Company operates in the highly regulated cannabis industry. The purpose of the reverse vesting structure is to preserve the Purchased Entities' licenses issued by Health Canada pursuant to the *Cannabis Act*, S.C. 2018, c. 16 (the "**Health Canada Licenses**") and by the Canada Revenue Agency pursuant to the *Excise Act, 2001*, S.C. 2002, c. 22 (the "*Excise Act*") (the "**Excise Act Licenses**", and together with the Health Canada Licenses, the "**Licenses**"), and to ensure the preservation and efficient operational transfer of the Purchased Entities' assets and business, including critical contractual relationships, and significant accrued tax losses.

23. The Licenses are non-transferrable and are critical to the Applicants' overall operations and going concern value. As discussed in the First Schwede Affidavit, the Health Canada Licenses, held by Heritage East and Heritage West, permit them to undertake the following:

- (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;

- (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;
- (c) Industrial Hemp<sup>6</sup> 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;
- (d) activities related to the sale of cannabis for medical purposes, including: (i) to possess cannabis; and (ii) to sell cannabis; and
- (e) research activities, including possession and production of cannabis for use in accordance with any research protocols submitted to Health Canada.

24. Heritage East and Heritage West each also hold *Excise Act* Licenses which require them to apply cannabis excise stamps to their cannabis products in accordance with the *Excise Act*.

25. Proceeding by way of reverse vesting structure has the benefit of facilitating the continuation of the Applicants' valuable Licenses. If the Transactions were structured as a traditional asset sale, the Licenses would have to be re-issued, which would considerably extend the time required to close the Transactions and increase the closing risk.

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<sup>6</sup> The *Industrial Hemp Regulations*, S.O.R./2018-145 defines 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".

26. The reverse vesting structure also allows the Purchaser to retain certain useful contracts and supplier relationships of the Purchased Entities. The Purchased Entities are counterparties to a number of material contracts which may only be assigned with the consent of the non-assigning party. In addition, the Purchased Entities are parties to various supply contracts with governmental entities regarding the provision of cannabis products. A reverse vesting order will ensure that, post-CCAA termination, the Purchased Entities can continue as a going concern business with their material contracts in place.

27. The reverse vesting structure also adds value by preserving the Purchased Entities' significant accrued tax losses. I understand that such tax losses are non-transferable assets and cannot be preserved within a traditional asset purchase transaction. Furthermore, I believe that such accrued tax losses would have no value in bankruptcy as there would be no income against which they could be applied.

28. I understand that the reverse vesting structure contemplated by the Amended and Restated Stalking Horse Agreement and the ARVO has been effectively implemented in other similar transactions for licensed cannabis companies and has the effect of minimizing regulatory hurdles and significantly decreasing closing uncertainty. I also understand that the Purchaser was not prepared to proceed with a transaction in respect of the Purchased Entities by way of an ordinary asset purchase structure because of, among other things, the regulatory restrictions on transferring Licenses and the need to preserve tax losses.

29. Based on discussions with counsel and the Monitor, I am not aware of any reason why completing the Transactions under a reverse vesting structure will result in any material prejudice to the Applicants' creditors or impairment of any of the Applicants' creditors' rights that they

would otherwise have under an asset sale transaction or under any other available alternative. As previously discussed, the only alternative to the Transactions would be a bankruptcy of the Applicants which would be a materially worse outcome for the Applicants' stakeholders. Furthermore, given the significant shortfall in payment of the secured debt, none of the unsecured debt will be satisfied under any other alternative.

30. While a variety of liabilities will be vested out into Residual Co. under the reverse vesting structure, the same result would have occurred had the transaction been implemented in an asset transaction structure. The concept of Retained Liabilities in the Amended and Restated Stalking Horse Agreement provides a benefit for a variety of stakeholders that would not otherwise have had this benefit in the traditional asset sale structure. As referenced above, the Retained Liabilities include: (a) all post-filing Claims set out in Schedule 2.3 of the Amended and Restated Stalking Horse Agreement; (b) all liabilities of Purchased Entities arising from and after Closing; (c) tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date; and (d) those specific Retained Liabilities listed in Schedule 2.3 of the Amended and Restated Stalking Horse Agreement, which include the stub-period post filing claims contemplated by the DIP Term Sheet but not yet paid on Closing Date.

31. I understand that the Monitor supports the approval of the Amended and Restated Stalking Horse Agreement, the granting of the ARVO, and the proposed reverse vesting structure contemplated thereunder.

*iii. Cancellation of Equity Interests*

32. The Amended and Restated Stalking Horse Agreement provides that, pursuant to the ARVO, in accordance with the Implementation Steps, all Equity Interests (as defined in the

Amended and Restated Stalking Horse Agreement) of Heritage, Heritage West and Heritage East outstanding prior to the issuance of the Purchased Shares, other than the Purchased Shares, shall be cancelled, without consideration.

33. The cancellation of all Equity Interests is required by the Purchaser as part of the Transactions. I do not believe that the cancellation of the Equity Interests without consideration creates any added prejudice in the circumstances since there is no alternative transaction available that would offer any recovery on account of such Equity Interests. Recovery on account of the Equity Interests would require the prior payment of all creditor claims in full, a result that is not possible given the results of the SISP (which did not generate any Qualified Bids that would provide for greater cash offer than the Transactions) and options available to the Applicants in the circumstances.

34. As previously discussed, in the event that the Transactions are not approved, the Applicants will likely have no other option but to liquidate their assets in a bankruptcy. In that case, the Equity Interests will continue to remain without value and subordinate to all other claims, and there would be no payment whatsoever on account of such Equity Interests.

*iv. Releases in favour of the Released Parties*

35. The Applicants seek approval of the releases in favour of the Released Parties effective upon the Closing Time (the “**Releases**”). The Released Parties include, among others, the current directors, officers, and legal counsel of the Applicants and Residual Co., the Monitor and its legal counsel, and their respective current directors, officers, partners, employees and advisors.

36. The Releases release and discharge the Released Parties from all present and future liabilities and claims arising in connection with or relating to (collectively, the “**Released Claims**”):

- (a) the CCAA proceedings;
- (b) the Amended and Restated Stalking Horse Agreement;
- (c) the consummation of the Transactions;
- (d) any closing document, agreement, document, instrument, matter or transaction involving the Purchased Entities arising in connection with or pursuant to any of the foregoing; and/or
- (e) any matter relating to the Purchased Entities’ cannabis excise licence and/or GST/HST arrears owing by any of the Purchased Entities for the period prior to the Initial Order.

37. The Released Claims do not include any claim for fraud or wilful misconduct or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA. The Releases do not contemplate the release of any party who has not been closely involved with the CCAA proceedings and the SISP.

38. The Applicants believe that the Releases sought are appropriate. The Released Parties have made significant contributions to the CCAA proceedings, the Transactions, and the restructuring of the Heritage Group. Moreover, the continued involvement of the Released Parties is key to the successful implementation of the Transactions.

39. The Applicants' current directors and officers provided important direction leading up to and throughout the filing and administration of the CCAA proceedings. They maintained key customer relationships during the CCAA proceedings to ensure that such parties remained aligned with and committed to the Applicants' continuity of business and emergence from restructuring. They also negotiated the Initial Stalking Horse Agreement (including the Stalking Horse Bid features) to ensure that the SISP proceeded in as stable, efficient and productive a manner as was possible, and were involved in the negotiation of the Amended and Restated Stalking Horse Agreement.

40. The Releases are being sought in order to achieve certainty and finality for the Released Parties following the Closing Time of the Transactions and the eventual termination of these CCAA proceedings, in the most efficient and appropriate manner given the circumstances. The Releases are also beneficial for creditors generally, as they will allow the Released Parties to focus on the closing of the Transactions and completing the successful restructuring of the Heritage Group.

41. The proposed ARVO, if granted, will release and discharge any claims or liabilities in respect of any matter relating to the Purchased Entities' cannabis excise licence, including all excise taxes and duties arrears, and GST/HST arrears owing by any of the Purchased Entities for the period prior to the date of the Initial Order. All excise taxes and duties and GST/HST have been paid for the post-filing period.

42. The releases contemplated by the ARVO were included in the draft ARVO that was attached to the Initial Stalking Horse Agreement, which was attached as Appendix "E" to the First Report of the Monitor, served on the service list (including the CRA) on April 10, 2024. Beginning

on or about May 14, 2024, after the Stalking Horse Bid was determined to be the Successful Bid pursuant to the SISP, the Monitor specifically advised the CRA of the Releases sought under the proposed ARVO, including the Releases in respect of excise duty arrears and GST/HST arrears owing by any of the Applicants for the period prior to the date of the Initial Order. The Monitor and its counsel, the Applicants and its counsel, and the Purchaser and its counsel, have discussed with the CRA its position regarding such Releases since May 14, 2024. Through the course of these discussions, the CRA has indicated that it does not expect to oppose the Releases sought in respect of excise taxes and duties arrears and GST/HST arrears owing by any of the Applicants for the period prior to the date of the Initial Order.

43. I understand that the Monitor believes that the proposed Releases are fair, reasonable and appropriate in the circumstances. As a result, the Monitor supports the Releases as part of its recommendation that the Court grant the ARVO and approve the Transactions.

**(B) The Ancillary Order**

*i. Extension of the Stay Period*

44. The Stay Period, which has allowed the Applicants to maintain the status quo and has given the Applicants and their directors and officers much-needed breathing space to focus on the SISP, expires on June 30, 2024.

45. The Applicants are seeking to extend the Stay Period up to and including August 30, 2024. The extension of the Stay Period is necessary and appropriate to provide the Applicants and the Monitor with the stability and time necessary to close the Transactions and attend to administrative

matters including the winding-up and/or dissolution of the Applicants, including Residual Co., thus maximizing value for the stakeholders.

46. The Amended and Restated Stalking Horse Agreement contemplates an Outside Date of August 30, 2024 to close the Transactions. However, it is presently unclear when the requisite regulatory authorities will provide the approvals required to satisfy the closing conditions in the Amended and Restated Stalking Horse Agreement.

47. I understand that an updated cash flow forecast will be filed by the Monitor with its Second Report to the Court, and that this updated cash flow forecast, taking into account the Transactions (including the CCAA Process Expense Amount contemplated to fund the completion of these CCAA proceedings and other wind-down matters), will show that, taking into account availability under the DIP Term Sheet, the Applicants are expected to have sufficient liquidity to continue these CCAA proceedings throughout the proposed extension of the Stay Period. I also understand that the Monitor is supportive of the proposed extension of the Stay Period.

48. I do not believe that the proposed extension of the Stay Period will materially prejudice any of the Applicants' stakeholders and believe that the Applicants' stakeholders will benefit from such relief. Further, I understand that the Monitor supports the extension of the Stay Period to August 30, 2024.

49. The Applicants have acted and continue to act in good faith and with due diligence in these CCAA proceedings.

*ii. Approval of DIP Term Extension*

50. The DIP Term Sheet currently expires on its terms on August 2, 2024. While the Applicants have not drawn any amounts under the DIP Facility to date, the Applicants desire to maintain the availability thereunder beyond August 2, 2024, in the event that liquidity needs arise.

51. The DIP Lender has agreed to extend the term of the DIP Term Sheet to August 30, 2024, commensurate with the expiry of the extended Stay Period (if granted) and the outside date under the Amended and Restated Stalking Horse Agreement. The Applicants are seeking the Court's approval of this term extension of the DIP Facility, with the support of the Monitor.

*iii. Approval of the Monitor's Reports and Activities*

52. The Applicants request the approval of the Monitor's Reports and the activities and conduct of the Monitor as set out therein. The Monitor and its legal counsel have played a significant role in advancing the Applicants' restructuring efforts.

*iv. Amending the ARIO*

53. The ARIO provided an Administration Charge on the Property in favour of, among others, Owens Wright LLP in its capacity as the Applicants' corporate counsel. Megan Mossip ("**Mossip**"), previously at Owens Wright LLP, was principally responsible for matters relating to the Applicants prior to, leading up to, and during the CCAA proceedings.

54. Mossip resigned from Owens Wright LLP as of May 31, 2024, and became a partner at WeirFoulds LLP as of June 3, 2024. As at the date of this Affidavit, there are no amounts owed by the Applicants to Owens Wright LLP in respect of professional fees and disbursements.

55. The Applicants continue to retain Mossip of WeirFoulds LLP to act as corporate counsel of the Applicants during these CCAA proceedings. The Applicants' Business is highly regulated and subject to numerous statutory and regulatory restrictions and requirements. Mossip has historical knowledge of the Applicants' Business and affairs, including these CCAA proceedings. As a Partner at WeirFoulds LLP, Mossip will continue to contribute to these CCAA proceedings and assist the Applicants with their business going forward.

56. To ensure that the Applicants' corporate counsel continues to have the benefit of the Administration Charge over the Property to secure their professional fees and disbursements, the Applicants request that paragraph 31 of the ARIO be amended such that "WeirFoulds LLP" is a beneficiary of the Administration Charge.

57. I understand that the Monitor supports the relief sought by the Applicants in this regard.

*v. Enhanced Powers of the Monitor*

58. Should this Court approve the Transactions, ownership of the majority of the Applicants will be transferred to the Purchaser, and they will be removed from these CCAA proceedings. To facilitate the wind-down of these CCAA proceedings following closing of the Transactions, the Monitor will require additional powers to control the remaining, unpurchased Applicants (including Residual Co.). The Applicants are accordingly seeking enhanced powers for the Monitor to allow it to, among other things, exercise increased control over the day-to-day operations of the Applicants and wind-up, liquidate and/or dissolve the remaining, unpurchased Applicants (including Residual Co.).

59. The enhanced powers contemplated by the Applicant's draft Ancillary Order are proposed to become effective concurrently with the delivery of the Monitor's Completion Certificate, which I understand is the document that gives effect to the closing of the Transactions.

*vi. Assignment into Bankruptcy*

60. To facilitate the orderly and efficient wind-up of the Applicants' (including Residual Co.'s) estate, the Applicants seek an order authorizing any of the Applicants (including Residual Co.) or the Monitor (pursuant to its enhanced powers, should such enhanced powers be granted), at such time as any of the Applicants (including Residual Co.) determine that it is necessary or desirable to do so, to make an assignment in bankruptcy pursuant to the BIA. It is anticipated that the bankruptcies contemplated by this order sought would be implemented shortly after the closing of the Transactions.

61. The Applicants also seek a Court Order authorizing and empowering, but not obligating, KPMG Inc. to act as trustee in bankruptcy in respect of any of the Applicants (including Residual Co.).

62. I am advised by the Monitor that the Monitor is supportive of the relief sought regarding the proposed assignment in bankruptcy of any of the Applicants (including Residual Co.) pursuant to the BIA.

**VII. CONCLUSION**

63. For the reasons set out herein, the Applicants respectfully request that this Court grant the Approval and Reverse Vesting Order and the Ancillary 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 June 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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**DANISH AFROZ**

Commissioner for Taking Affidavits  
(or as may be)



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**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 June 18, 2024)

**CHAITONS LLP**

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Lawyers for the Applicants

***THIS IS EXHIBIT "D" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



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***A Commissioner Etc.***



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

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

THE HONOURABLE MR. ) THURSDAY, THE 11<sup>TH</sup>  
 )  
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 Lynda Christodoulou sworn April 10, 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.



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**

**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.**

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

**ONTARIO**

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

Proceeding commenced at Toronto

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

**CHAITONS LLP**

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Toronto, ON M2N 7E9

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Lawyers for the Applicants

***THIS IS EXHIBIT "E" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



---

***A Commissioner Etc.***

**AMENDED AND RESTATED STALKING HORSE SUBSCRIPTION AGREEMENT**

**HERITAGE CANNABIS HOLDINGS CORP.**

**-AND-**

**HERITAGE CANNABIS WEST CORPORATION**

**-AND-**

**HERITAGE CANNABIS EAST CORPORATION**

**AS COMPANIES**

**-AND-**

**HAB CANN HOLDINGS LTD.**

**AS PURCHASER**

**-AND -**

**BJK HOLDINGS LTD.**

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**THIS AMENDED AND RESTATED STALKING HORSE SUBSCRIPTION AGREEMENT** is made as of June 17, 2024.

**BETWEEN:**

**HERITAGE CANNABIS HOLDINGS CORP. (“Heritage Cannabis”)**

-and-

**HERITAGE CANNABIS WEST CORPORATION (“Heritage West”)**

-and-

**HERITAGE CANNABIS EAST CORPORATION (“Heritage East”)**

-and-

**HAB CANN HOLDINGS LTD. (the “Purchaser”)**

-and-

**BJK Holdings Ltd. (“BJK”)**

**RECITALS:**

- A. Heritage Cannabis, through certain of its wholly-owned subsidiaries, is a vertically integrated licensed cannabis producer, operating pursuant to the *Cannabis Act* (Canada) and applicable provincial and municipal legislation across Canada, as well as offering innovative products to the medical and recreational legal cannabis markets (the **“Business”**).
- B. On April 2, 2024, the Applicants (as hereinafter defined) commenced proceedings under the CCAA (as hereinafter defined) before the Ontario Superior Court of Justice (Commercial List) (the **“CCAA Court”**) to, among other things, seek creditor protection for, and certain relief in respect of, the Applicants (as hereinafter defined).
- C. On April 11, 2024 the Applicants obtained an order (the **“SISP Order”**) from the CCAA Court approving, among other things, the SISP (as hereinafter defined).
- D. Pursuant to the SISP, the Purchaser was selected as the stalking horse bidder. On May 10, 2024, the Purchaser was selected as the successful bidder pursuant to the SISP and as such, the Purchaser has agreed to subscribe for, and each of the Companies have agreed to issue, the Purchased Shares on and pursuant to the terms set forth herein.
- E. Heritage Cannabis, Heritage West, BJK and the Purchaser entered into a stalking horse subscription agreement dated as of April 10, 2024 (the **“Original Stalking Horse Agreement”**) on substantially the same terms and conditions as this Agreement.
- F. The Parties have entered into this Agreement to amend and restate the Original Stalking Horse Agreement in its entirety.

**NOW THEREFORE**, the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In this Agreement,

**“100 BC”** means 1005477 B.C. Ltd., a corporation duly constituted under the laws of the Province of British Columbia.

**“333 Jarvis”** means 333 Jarvis Realty Inc., a corporation duly constituted under the laws of the Province of Ontario.

**“5450 Realty”** means 5450 Realty Inc., a corporation duly constituted under the laws of the Province of British Columbia.

**“Administration Charge”** has the meaning given to it in the Initial Order.

**“Administrative Expense Amount”** means cash in the amount of \$187,500, which shall be paid to the Monitor on the Closing Date and held by the Monitor, for the benefit of Persons entitled to be paid the Administrative Expense Costs, subject to the terms hereof.

**“Administrative Expense Costs”** means the reasonable and documented costs and expenses for services performed by the Monitor and its legal counsel after the Closing Date in connection with the CCAA Proceedings, the administration of such proceedings to their conclusion and this Agreement, including any bankruptcy of the remaining Applicants, to the extent such amount has not been pre-funded under the DIP Facility Term Sheet prior to the Closing Date.

**“Affiliate”** means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person’s investment funds and managed accounts and any funds managed or directed by the same investment advisor.

**“Agreement”** means this stalking horse subscription agreement and all attachments and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this stalking horse subscription agreement and all attached Schedules and Exhibits, and unless otherwise indicated, references to Articles, Sections, Schedules and Exhibits are to Articles, Sections, Schedules and Exhibits in this stalking horse subscription agreement.

**“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Transaction Regulatory Approval, or any other legal

requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the members of the Applicants, the Purchaser, the Business, or any of the Purchased Shares or the Retained Liabilities.

“**Applicants**” means, collectively, Heritage Cannabis, 100 BC, Heritage East, 333 Jarvis, 5450 Realty, Heritage West, Purefarma, Heritage Exchange, Premium 5 and Mainstrain and from and after the time Residual Co. becomes an applicant under the Initial Order, “**Applicants**” shall include Residual Co.

“**Approval and Reverse Vesting Order**” means an order substantially in the form attached hereto as Schedule 1.1(a), or in a form otherwise agreed upon by the Purchaser and the Applicants, each acting reasonably.

“**Articles of Amendment**” means, to the extent required, articles of amendment or reorganization in respect of each of the Companies’ authorized and issued capital to create a new class of shares of each such Company, as applicable, and effecting such other changes to the articles of each of the Companies, as applicable, in order to consummate the transactions pursuant to this Agreement, such articles of amendment to be in form and substance satisfactory to the Purchaser, acting reasonably.

“**BJK**” means BJK Holdings Ltd.

“**Business Day**” means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Ontario are open for commercial banking business during normal banking hours.

“**Business**” has the meaning given to such term in Recital A.

“**Cash Consideration**” has the meaning given to such term in Section 3.1(d).

“**Causes of Action**” means any action, claim, cross claim, third party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Purchased Entities against any Person, in each case based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Closing Time (which Causes of Action for the avoidance of doubt shall be retained by the applicable Purchased Entity on Closing).

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada), as amended.

“**CCAA Charge Amount**” means cash in an amount sufficient to satisfy the amounts owing in respect of obligations secured by the CCAA Charges (without duplication to amounts satisfied as Administrative Expense Costs or by the Priority Payment Amount).

“**CCAA Charges**” means the Administration Charge and the Directors’ Charge.

“**CCAA Court**” has the meaning given to such term in Recital B.

**“CCAA Proceedings”** means the proceedings commenced under the CCAA by the Applicants pursuant to the Initial Order.

**“CCAA Process Expense Amount”** means cash in an amount of the Administrative Expense Amount and the CCAA Charge Amount.

**“Claims”** means any and all demands, claims, liabilities, actions, causes of action, counterclaims, expenses, costs, damages, losses, suits, debts, sums of money, refunds, accounts, indebtedness, rights of recovery, rights of set-off, rights of recoupment and liens of whatever nature (whether direct or indirect, absolute or contingent, asserted or unasserted, secured or unsecured, matured or not yet matured due or to become due, accrued or unaccrued or liquidated or unliquidated) and including all costs, fees and expenses relating thereto.

**“Closing”** means the completion of the purchase of the Purchased Shares and the transactions in accordance with the provisions of this Agreement.

**“Closing Date”** means a date no later than five (5) Business Days after the conditions set forth in Article 7 have been satisfied or waived, other than the conditions set forth in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that, if there is to be a Closing hereunder, then the Closing Date shall be no later than the Outside Date.

**“Closing Documents”** means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.

**“Closing Time”** means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

**“Companies”** means, collectively, Heritage Cannabis, Heritage West and Heritage East.

**“Common Shares”** means the issued and outstanding common shares in the capital of Heritage Cannabis Holdings Corp.

**“Credit Bid Consideration”** has the meaning given to such term in Section 3.1(b).

**“Credit Bid Releases”** means a full and final release of all Applicants of their respective obligations under the Senior Loan Agreement and the DIP Facility Term Sheet, which shall be in form and substance satisfactory to the Applicants and the Monitor, each acting reasonably.

**“DIP Facility”** means the credit facility in the current maximum principal amount of \$1,500,000, or such higher amount that is approved by the CCAA Court, made available by BJK to the Applicants pursuant to the DIP Facility Term Sheet.

**“DIP Facility Term Sheet”** means the DIP Facility Term Sheet effective as of April 10, 2024 among the Applicants as borrowers, and BJK as DIP lender, as such agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.

**“Directors Charge”** has the meaning given to it in the Initial Order.

**“EA”** means the *Excise Act, 2001* (Canada).

**“Encumbrance”** means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.

**“Equity Interests”** means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of a Person.

**“ETA”** means Part IX of the *Excise Tax Act* (Canada).

**“Excluded Assets”** has the meaning given to such term in Section 2.2.

**“Excluded Contracts”** means contracts of the Purchased Entities as specified on Schedule 2.2(c), as such schedule may be supplemented or modified in accordance with Section 2.2(e).

**“Excluded Liabilities”** has the meaning given to such term in Section 2.4.

**“Existing RTPs”** means the RTP issued by Canada Revenue Agency to the British Columbia Liquor Distribution Branch prior to the Filing Date in respect of GST/HST obligations of Heritage East and Heritage West.

**“Filing Date”** means April 2, 2024.

**“Final Order”** means with respect to any order or judgment of the CCAA Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the docket of any court of competent jurisdiction, that such order or judgment has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Companies and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

**“Fundamental Representations and Warranties of the Companies”** means the representations and warranties of each of the Companies included in Sections 4.1 [Due Authorization and Enforceability of Obligations], 4.2 [Existence and Good Standing] and 4.3 [Absence of Conflicts].

**“GAAP”** means generally accepted accounting principles as set out in the *CPA Canada Handbook – Accounting* for an entity that prepares its financial statements in accordance with International Financial Reporting Standards, at the relevant time, applied on a consistent basis.

**“Governmental Authority”** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or

any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under the ETA.

“**Heritage Cannabis**” means Heritage Cannabis Holdings Corp., a corporation duly constituted under the laws of the Province of Ontario.

“**Heritage Cannabis Purchased Shares**” has the meaning given to such term in Section 2.1(a)

“**Heritage East**” means Heritage Cannabis East Corporation, a corporation duly constituted under the laws of the Province of Ontario.

“**Heritage East Purchased Shares**” has the meaning given to such term in Section 2.1(c).

“**Heritage Exchange**” means Heritage Cannabis Exchange Corp., a corporation duly constituted under the laws of the Province of Ontario.

“**Heritage West**” means Heritage Cannabis West Corporation, a corporation duly constituted under the laws of the Province of British Columbia.

“**Heritage West Purchased Shares**” has the meaning given to such term in Section 2.1(b).

“**Implementation Steps**” has the meaning given to such term in Section 2.7(b).

“**Initial Order**” means the Initial Order dated April 2, 2024 granted by the CCAA Court pursuant to the CCAA, as may be amended and restated from time to time.

“**Licences**” means, collectively, the following:

- (a) Licence number LIC-IOFZ019P4Z-2023-2 issued by Health Canada to Heritage East for industrial hemp sale activities, including: (A) 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 (B) importing and exporting grain (collectively, “**Industrial Hemp Sales Activities**”);
- (b) Licence number LIC-1WWUVE76T8-2021-12 issued by Health Canada to Heritage East for:
  - (i) standard cultivation activities, including: (A) to possess cannabis; (B) to obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting; (C) to alter its chemical or physical properties by any means; and (D) to sell cannabis (collectively, “**Standard Cultivation Activities**”);
  - (ii) standard processing activities, including: (A) to possess cannabis; (B) to produce cannabis at the licensed site, other than to obtain it by cultivating, propagating or harvesting; and (C) to sell cannabis (collectively, “**Standard Processing Activities**”);

- (iii) activities related to the sale of cannabis for medical purposes, including: (A) to possess cannabis; and (B) to sell cannabis (“**Medical Purpose Activities**”);
- (c) Licence number LIC-LYJVQCPT3O-2022-2 issued by Health Canada to Heritage East for research activities, including possession and production of cannabis for use in accordance with any research protocols submitted to Health Canada (“**Research Purpose Activities**”);
- (d) Heritage East’s cannabis licence no. 82674 1035 RD0001 under the EA;
- (e) Heritage East’s alcohol licence no. 82674 1035 RD0002 under the EA;
- (f) Licence number LIC-TUFEZWBC14-2023-1 issued by Health Canada to Heritage West for Industrial Hemp Sales Activities;
- (g) Licence number LIC-81WQTM2WBL-2021-9 issued by Health Canada to Heritage West for: (A) Standard Cultivation Activities; (B) Standard Processing Activities; and (C) Medical Purpose Activities;
- (h) Licence number LIC-SQ9HMLUT2P-2021-2 issued by Health Canada to Heritage West for Research Purpose Activities;
- (i) Heritage West’s cannabis licence no. 80553 2975 RD0001 under the EA;
- (j) Heritage West’s alcohol licence no. 52-UK-1343 under the EA; and
- (k) any and all other permits, licences, authorizations, consents, concessions, exemptions, leases, grants, permits, rights, privileges, approvals or other evidence of authority from any Governmental Authority and related to the Business and that has been issued to, granted to, conferred upon, or otherwise created for, any Purchased Entity, relating to authorizations or otherwise to plant, grow, cultivate, extract, produce, process, test, conduct research, store, destroy, sell, provide, ship, deliver, transport and/or distribute cannabis under Applicable Law.

“**Mainstrain**” means Mainstrain Market Ltd., a corporation duly constituted pursuant to the laws of the Province of British Columbia.

“**Material Adverse Effect**” means any change, effect, event, occurrence, state of facts or development that has had a material adverse effect on: (i) the Business, assets, liabilities, financial conditions or results of operations of the Purchased Entities, taken as a whole; or (ii) prevents the ability of any of the Purchased Entities to perform their obligations under, or to consummate the transactions contemplated by, this Agreement, but excluding any such change, effect, event, occurrence, state of facts or development attributable to or arising from: (A) general economic or business conditions; (B) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including: (I) any disruption in any of the foregoing markets; (II) any change in the currency exchange rates; or (III) any decline or rise in the price of any security, commodity, contract or index); (C) acts of God or other calamities, pandemics (including COVID-19 and any Governmental Authorities response thereto), national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration

of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (D) the identity of the Purchaser or its Affiliates; (E) conditions affecting generally the industry in which any of the Purchased Entities participate; (F) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the transactions contemplated by this Agreement, or the identity of the Parties; (G) changes in Applicable Laws or the interpretation thereof; (H) any change in GAAP or other accounting requirements or principles; (I) national or international political, labor or social conditions; (J) the failure of the Purchased Entities to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); or (K) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (A), (B), (C), (E), (G), (H) or (I) shall not apply to the extent that such event is disproportionately adverse to the Purchased Entities, taken as a whole, as compared to other companies in the industries in which the Purchased Entities operate.

**“Monitor’s Certificate”** means the certificate delivered to the Purchaser, and filed with the CCAA Court, by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor, in its sole discretion, from each of the Companies and the Purchaser that all conditions to Closing have been satisfied or waived by the applicable Parties and the transactions contemplated by this Agreement have been completed.

**“Monitor”** means KPMG Inc. as Court-appointed monitor of the Applicants in the CCAA Proceedings, and not in its personal or corporate capacity.

**“Order”** means any order of the Court made in the CCAA Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Outside Date”** has the meaning given to such term in Section 10.1(c).

**“Parties”** means the Companies and the Purchaser collectively, and **“Party”** means any of the Companies or the Purchaser, as the context requires.

**“Permitted Encumbrances”** means the Encumbrances listed in Schedule 1.1(b).

**“Person”** includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

**“Post-Closing Straddle Tax Period”** has the meaning given to such term in Section 8.5(c).

**“Pre-Closing Straddle Tax Period”** has the meaning given to such term in Section 8.5(c).

**“Premium 5”** means Premium 5 Ltd., a corporation duly constituted under the laws of the Province of Alberta.

**“Priority Payment Amount”** means an amount equal to those priority payments prescribed under subsections 6(3), 6(5)(a) and 6(6) of the CCAA.

**“Purchase Price”** has the meaning given to such term in Section 3.1.

**“Purchased Entities”** means Heritage Cannabis, Heritage West, Heritage East, Purefarma, 333 Jarvis, 5450 Realty and Premium 5 and **“Purchased Entity”** means any one of them.

**“Purchased Shares”** has the meaning given to such term in Section 2.1(b).

**“Purchaser”** has the meaning given to such term in the preamble to this Agreement.

**“Purefarma”** means Purefarma Solutions Inc., a corporation duly constituted under the laws of the Province of British Columbia.

**“Residual Co.”** means a company to be formed by an Applicant, or one of the Applicants, that is not a Purchased Entity, such entity in form satisfactory to the Purchaser, acting reasonably, prior to the Closing; provided, that (i) no such entity shall be a flow through entity for Canadian purposes unless approved by the Purchaser; and (ii) if required by the Purchaser or the Applicants, each acting reasonably, or the Monitor, in order to effect the transactions contemplated herein in a tax efficient manner mutually agreed upon by the Parties, or allow the Monitor to better administer the CCAA Proceedings following the Closing Date, there may need to be more than one “Residual Co.”, and, in that case, the term “Residual Co.” shall refer to any or all such entities, as the context requires.

**“Restructuring Period Claim”** means any Claim owed by any Applicant arising out of the restructuring, disclaimer, resiliation, termination or breach by such Applicant on or after the Filing Date, of any contract, lease or other agreement, whether written or oral.

**“Restructuring Period D&O Claim”** means any Claim against one or more of the directors and/or officers of the Applicants, arising after the Filing Date, whether or not such right or Claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any assessments and any right or ability of any Person to advance a Claim for contribution, indemnity or otherwise against any of such directors and/or officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any such director or officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a director or officer.

**“Retained Liabilities”** has the meaning given to such term in Section 2.3.

**“RTP”** means any notice with respect to a requirement to pay, enhanced requirement to pay or demand on a third party issued by a Governmental Authority to any of the Purchased Entities.

**“Senior Loan Agreement”** means that certain loan agreement dated as of March 29, 2021 among BJK, as lender, Heritage Cannabis, CannaCure Corporation (prior name of Heritage East, **“Cannacure”**), 333 Jarvis, Voyage Cannabis Corp. (prior name of Heritage West, **“Voyage”**) and 5450 Realty, as borrowers and 100 BC, Calyx Life Sciences Corp. (predecessor entity of Purefarma, **“Calyx”**), Purefarma Solutions Inc. (predecessor entity of Purefarma, **“Purefarma Predecessor”**), Heritage Exchange, Heritage US Holdings Corp. and Premium 5, as guarantors,

as amended by an amending agreement dated as of October 6, 2021 among BJK, as lender, Heritage Cannabis, Cannacure, 333 Jarvis, Voyage and 5450 Realty, as borrowers, and 100 BC, Calyx, Purefarma Predecessor, Heritage Exchange and Premium 5, as guarantors, as further amended by a second loan amending agreement dated as of September 29, 2022 among BJK, as lender, Heritage Cannabis, Cannacure, 333 Jarvis, Voyage and 5450 Realty, as borrowers, and 100 BC, Calyx, Purefarma Predecessor, Heritage Exchange and Premium 5, as guarantors, and as further amended by a third loan amending agreement dated as of October 31, 2023 among BJK, as lender, Heritage Cannabis, Heritage East, 333 Jarvis and Heritage West, as borrowers, and 100 BC, Purefarma and Heritage Exchange, as guarantors (collectively, as modified, amended, supplemented, revised, restated and replaced from time).

“**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order, as may be amended by the CCAA Court from time to time, which must be acceptable to the Purchaser, acting reasonably.

“**SISP Order**” has the meaning ascribed to it in Recital C.

“**Stalking Horse Bid**” has the meaning given to such term in the SISP.

“**Straddle Period**” has the meaning given to such term in Section 8.5(c).

“**Straddle Period Tax Returns**” has the meaning given to such term in Section 8.5(d).

“**Successful Bid(s)**” has the meaning given to such term in the SISP.

“**Successful Bidder(s)**” has the meaning given to such term in the SISP.

“**Tax**” and “**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, GST/HST, value added, consumption, sales, use, excise, stamp, withholding, business, franchising, escheat, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario, and other government pension plan premiums or contributions.

“**Tax Act**” means the *Income Tax Act* (Canada) and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.

“**Tax Return**” means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.

“**Taxing Authorities**” means His Majesty the King in right of Canada, His Majesty the King in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political

subdivision thereof, and any Canadian or other Governmental Authority exercising taxing authority or power, and “**Taxing Authority**” means any one of the Taxing Authorities.

“**Terminated Employees**” means those individuals currently employed by a Purchased Entity who have not been offered employment by the Purchaser prior to Closing, or who shall be terminated by the applicable Purchased Entity effective as of the Closing Date, such individuals deemed to be Terminated Employees pursuant to Section 8.6(c).

“**Transaction Regulatory Approvals**” means any license, permits, security clearances, approvals and/or grants required from any Governmental Authority or under any Applicable Laws relating to the business and operations of the Purchased Entities or the Purchaser that would be required to be obtained in order to permit the Companies and the Purchaser to complete the transactions contemplated by this Agreement and for the Purchased Entities to carry on the Business following the Closing Date.

## **1.2 Amendment and Restatement**

This amended and restated stalking horse subscription agreement amends and restates the Original Stalking Horse Agreement in its entirety effective as of the date hereof.

## **1.3 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended, re-enacted or replaced.

## **1.4 Headings, Table of Contents, etc.**

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

## **1.5 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, and words importing gender include all genders.

## **1.6 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars. References to “\$” are to Canadian dollars.

## **1.7 Certain Phrases**

In this Agreement (i) the words “including”, “includes” and “include” and any derivatives of such words mean “including (or includes or include) without limitation” and (ii) the words “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. The expression “Article”, “Section” and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

## **1.8 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

## **1.9 Entire Agreement**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

## **1.10 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto, and provided that such amendment is consented to by the Monitor. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## **1.11 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any Claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 12.7 shall be deemed effective service of process on such Party.

### 1.12 Incorporation of Schedules

Any schedule or exhibit attached thereto, and any schedule attached to this Agreement, is an integral part of this Agreement.

The Parties acknowledge that as of the date of this Agreement, the Schedules to this Agreement are not complete. Such Schedules, where applicable, may be amended or completed by the Purchaser by written notice to the Applicants, and in consultation with the Monitor, on or before the dates set out in this Agreement.

### 1.13 Accounting Terms

All accounting terms used in this Agreement are to be interpreted in accordance with GAAP unless otherwise specified.

### 1.14 Non-Business Days

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### 1.15 Computation of Time Periods

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## ARTICLE 2 SUBSCRIPTION AND ASSET PURCHASE

### 2.1 Agreement to Subscribe for and Issue Purchased Shares

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Implementation Steps required to be completed prior to the Closing Time, Heritage Cannabis shall issue to the Purchaser, and the Purchaser shall subscribe for that number of shares in the share capital of Heritage Cannabis from treasury, to be specified by the Purchaser at least two (2) days prior to Closing, which shares shall be free and clear of all Encumbrances (the “**Heritage Cannabis Purchased Shares**”).
- (b) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Implementation Steps required to be completed prior to the Closing Time, Heritage West shall issue to the Purchaser, and the Purchaser shall subscribe for that number of shares in the share capital of Heritage West from treasury, to be specified by the Purchaser at least two (2) days prior to Closing, which shares shall be free and clear of all Encumbrances (the “**Heritage West Purchased Shares**”).
- (c) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Implementation Steps required to be completed prior to the Closing Time, Heritage

East shall issue to the Purchaser, and the Purchaser shall subscribe for that number of shares in the share capital of Heritage East from treasury, to be specified by the Purchaser at least two (2) days prior to Closing, which shares shall be free and clear of all Encumbrances (the “**Heritage East Purchased Shares**”, and together with the Heritage Cannabis Purchased Shares and the Heritage West Purchased Shares, the “**Purchased Shares**”).

- (d) Pursuant to the Approval and Reverse Vesting Order and, if required, the Articles of Amendment, in accordance with the Implementation Steps, all Equity Interests of each of Heritage Cannabis, Heritage West and Heritage East outstanding prior to the issuance of the Purchased Shares, other than the Purchased Shares, shall be cancelled, without consideration, and the Purchased Shares shall represent 100% of the outstanding Equity Interests in each of Heritage Cannabis, Heritage West and Heritage East after such cancellation and issuance.
- (e) For the avoidance of doubt, upon the Closing and after the completion of the Implementation Steps, each of the Purchased Entities shall be wholly owned, directly or indirectly, by the Purchaser.

## **2.2 Excluded Assets**

Notwithstanding any provision of this Agreement to the contrary, as of the Closing, the assets of the Purchased Entities shall not include any of the following assets, together with any other assets as set forth on Schedule 2.2 (collectively, the “**Excluded Assets**”):

- (a) the Cash Consideration;
- (b) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities or Excluded Assets, provided that the applicable Purchased Entity may take copies of all Tax records and books and records pertaining to such records to the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return;
- (c) the Excluded Contracts;
- (d) any rights which accrue to Residual Co. under the transaction documents; and
- (e) any other asset, including contracts and leases, identified by the Purchaser to the Companies in writing as an Excluded Asset at least two (2) days prior to Closing.

## **2.3 Retained Liabilities**

Pursuant to this Agreement and the Approval and Reverse Vesting Order, as of the Closing Time, in accordance with Section 2.6 hereof, the only obligations and liabilities of the Purchased Entities shall consist of only the items specifically set forth below (collectively, the “**Retained Liabilities**”); provided, for the avoidance of doubt, that the Retained Liabilities of any Purchased Entity pursuant to this Section 2.3 shall continue to be liabilities of the applicable Purchased Entity as of the Closing:

- (a) all post-filing Claims set out in Schedule 2.3;

- (b) all liabilities of the Purchased Entities arising from and after Closing;
- (c) Tax liabilities of the Purchased Entities for any period, or the portion thereof, beginning on or after the Closing Date but for greater certainty, not including any liabilities to which the Existing RTPs relate; and
- (d) those specific Retained Liabilities set forth in Schedule 2.3.

## **2.4 Excluded Liabilities**

Except as expressly retained pursuant to, or specifically contemplated by, Section 2.3, all Claims and all debts, obligations and liabilities of the Purchased Entities or any predecessors thereof, of any kind or nature, shall be assigned to, and become the sole obligation of, Residual Co. pursuant to the terms of the Approval and Reverse Vesting Order and this Agreement, and, as of the Closing Date, the Purchased Entities shall not have any obligation, duty, or liability of any kind whatsoever, except as expressly retained pursuant to Section 2.3, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and such liabilities or obligations shall be the sole responsibility of Residual Co., including *inter alia*, the non-exhaustive list of those certain liabilities set forth in Schedule 2.4 and any and all liability relating to any change of control provision that may arise in connection with the change of control contemplated by the transactions hereunder and to which the Purchased Entities may be bound as at Closing, all liabilities relating to or under the Excluded Contracts and Excluded Assets, liabilities for employees whose employment with the Purchased Entities is terminated on or before Closing, including the Terminated Employees, the Restructuring Period Claims, and the Restructuring Period D&O Claims (collectively, the “**Excluded Liabilities**”). The Purchaser may, with the consent of the Companies and the Monitor, which consent shall not be unreasonably withheld, amend the clarifying items listed in Schedule 2.4 as specifically enumerated Excluded Liabilities at least two (2) days prior to Closing.

## **2.5 Transfer of Excluded Liabilities to Residual Co.**

On the Closing Date, pursuant to the terms of the Approval and Reverse Vesting Order, the Purchased Entities shall assign and transfer the Excluded Liabilities to Residual Co., and Residual Co. shall assume the Excluded Liabilities for the consideration set out in Section 2.6. All of the Excluded Liabilities shall be discharged from the Purchased Entities as of the Closing, pursuant to the Approval and Reverse Vesting Order.

## **2.6 Transfer of Excluded Assets to Residual Co.**

On the Closing Date, pursuant to the terms of the Approval and Reverse Vesting Order and in consideration for Residual Co. assuming the Excluded Liabilities pursuant to Section 2.5 of this Agreement, the Purchased Entities shall assign and transfer the Excluded Assets to Residual Co., and the Excluded Assets shall vest in Residual Co. pursuant to the Approval and Reverse Vesting Order.

## **2.7 Pre-Closing and Closing Reorganization**

- (a) The specific mechanism for implementing the Closing, payment of the Credit Bid Consideration and Cash Consideration, and the structure of the transactions

contemplated by this Agreement shall be structured in a tax efficient manner mutually agreed upon by the Parties, each acting reasonably.

- (b) On or prior to the Closing Date, the Companies shall effect, or cause any other Applicant or any of its subsidiaries to effect, the transaction steps and pre-closing reorganization (collectively, the “**Implementation Steps**”) as set forth on a schedule to be agreed upon by the Companies and the Purchaser, each acting reasonably, and in consultation with the Monitor, at least two (2) days prior to the Closing Date; provided that in no event will the Implementation Steps described in Schedule 2.7(b) be materially prejudicial to the interests of the Purchaser or the Purchased Entities under the other sections of this Agreement. The Implementation Steps may include, without limitation, the transfer or assignment of assets or contracts of any of the Applicants or their subsidiaries to any such Purchased Entity as shall be designated by the Purchaser, or the formation of new entities required to implement the transactions contemplated by this Agreement in a tax efficient manner, consistent with Section 2.7(a).
- (c) The Implementation Steps, including the compromises and releases to be effective on the Closing Date, shall occur, and be deemed to have occurred in the order, manner and at such time to be set out in Schedule 2.7(b).
- (d) If the Purchaser is the Successful Bidder, the timing and sequence of the Implementation Steps and the Closing on the Closing Date may be altered at the request of the Purchaser, acting reasonably, and after consultation with the Monitor.

### **ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS**

#### **3.1 Purchase Price**

The total aggregate consideration payable by the Purchaser for the Purchased Shares (the “**Purchase Price**”) is equal to:

- (a) a release of all amounts outstanding and obligations payable by the Applicants under the Senior Loan Agreement and all related loan and security documentation, which amount as of June 14, 2024 is \$6,837,059.71 (excluding legal fees and expenses), including the principal amount of such claim, plus all accrued and unpaid interest thereon through to and including the Closing Date, plus any fees and expenses associated therewith;
- (b) a release of all amounts outstanding and obligations payable by the Applicants as of the Closing Date pursuant to the DIP Facility Term Sheet and all related loan and security documentation, including the principal amount of such claims and interest accrued as of the Closing Date, plus all accrued and unpaid interest thereon through to and including the Closing Date, plus any unpaid fees and expenses associated therewith (the amounts in (a) and (b) together, the “**Credit Bid Consideration**”);
- (c) the CCAA Process Expense Amount; and

- (d) the Priority Payment Amount (the amounts in (c), and (d) together, the “**Cash Consideration**”).

### **3.2 Satisfaction of Purchase Price**

The Credit Bid Consideration shall be paid and satisfied on the Closing Date by the Purchaser releasing the Applicants from repayment of all amounts owing in connection with the Credit Bid Consideration pursuant to the Credit Bid Releases.

The Cash Consideration shall be paid and satisfied on the Closing Date by the Purchaser paying the Cash Consideration to the Purchased Entities, it being understood that, in the order and manner contemplated by the Implementation Steps, in connection with the Closing, the Cash Consideration will be transferred from the Purchased Entities to Residual Co. as an Excluded Asset in accordance with Section 2.2 hereof.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE COMPANIES**

Each of the Companies represents and warrants on behalf of itself and its subsidiaries who are Purchased Entities, to the Purchaser, as follows, and acknowledges that the Purchaser is relying upon the following representations and warranties in connection with its purchase of the Purchased Shares:

### **4.1 Due Authorization and Enforceability of Obligations**

Subject to the granting of the Approval and Reverse Vesting Order, this Agreement has been duly authorized, executed and delivered by it, and constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

### **4.2 Existence and Good Standing**

Each of the Purchased Entities is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and (i) has all requisite power and authority to execute and deliver this Agreement and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transactions contemplated hereunder.

### **4.3 Absence of Conflicts**

The execution and delivery of this Agreement by each of the Companies and the completion by each of the Companies of their respective obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, (subject to the receipt of any Transaction Regulatory Approvals and the granting of the Approval and Reverse Vesting Order) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under the certificate of incorporation, articles, by-laws or other constituent documents of any Applicant. Subject to the granting of the Approval and Reverse Vesting Order, the execution, delivery and performance by each of the Companies does not and will not violate any Order.

#### **4.4 Approvals and Consents**

The execution and delivery of this Agreement by each of the Companies, the completion by the Companies of their obligations hereunder and the consummation by each of the Companies of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by the applicable Transaction Regulatory Approvals and the entry of the Approval and Reverse Vesting Order by the CCAA Court.

#### **4.5 No Actions**

There is not, as of the date hereof, pending or, to the Companies' knowledge, threatened against any Applicant or any of its properties, nor has any Applicant received any written notice in respect of, any Claim, potential Claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body, other than the CCAA Court, that, would prevent either of the Companies from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

#### **4.6 Subsidiaries**

Schedule 4.6 sets forth a complete and correct list of the name and jurisdiction of organization of each Purchased Entity.

#### **4.7 Tax**

Schedule 4.6 sets forth a complete and correct list of the name, jurisdiction of organization and Tax registrations of each Purchased Entity. Each Purchased Entity is validly registered for the collection and payment of all Taxes as required under Applicable Law. All Taxes reported on the Tax Returns and any related notices of assessment or reassessment of each Purchased Entity for all of the Purchased Entity's Tax periods ending on or prior to the Closing Date have been duly and timely paid, except as otherwise disclosed to the Purchaser with respect to certain pre-filing amounts outstanding in respect of Taxes due pursuant to the EA and GST/HST. Each Purchased Entity has withheld and has duly and timely remitted, or shall duly and timely remit, to the appropriate Taxing Authority all Taxes required by Applicable Law to be withheld or deducted, except as otherwise disclosed to the Purchaser with respect to certain pre-filing amounts outstanding in respect of Taxes due pursuant to the EA and GST/HST.

#### **4.8 Securities Law**

Other than for the failure of Heritage Cannabis to file, within the time period prescribed, its interim unaudited consolidated financial statements for the three month period ended January 31, 2024 and the accompanying management's discussion and analysis and officers' certifications of filing, Heritage Cannabis is not in default of securities legislation in any Canadian jurisdiction.

#### **4.9 Issued and Outstanding Common Shares**

The authorised share capital of Heritage Cannabis consists of an unlimited number of common shares, of which 1,058,739,220 Common Shares are issued and outstanding as at the date of this Agreement. Other than for 13,012,476 stock options which are exercisable into 13,012,476 Common Shares and 61,454,226 warrants which are exercisable into 61,454,226 Common

Shares, there are no other rights, options, warrants, agreements or other securities of Heritage Cannabis providing for the purchase, subscription, allotment or issuance of any of the unissued Common Shares.

#### **4.10 Listed Securities**

Other than for the Common Shares listed for trading on the Canadian Securities Exchange, no other securities, including debt securities, of Heritage Cannabis trade in Canada or another country on a marketplace or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported. Heritage Cannabis is not an "OTC reporting issuer" as such term is contemplated under Multilateral Instrument 51-105 - *Issuers Quoted in the U.S. Over-the-Counter Markets*.

#### **4.11 Existing RTPs**

Other than the Existing RTPs, none of the Purchased Entities have received notice or are aware of any other RTP issued to any of their account debtors.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to each of the Companies as follows, and acknowledges that the Companies are relying upon the following representations and warranties in connection with the sale of the Purchased Shares:

#### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by the Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

#### **5.2 Existence and Good Standing**

The Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

#### **5.3 Absence of Conflicts**

The execution and delivery of this Agreement by the Purchaser and the completion by the Purchaser of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, (subject to the receipt of any applicable Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

#### **5.4 Approvals and Consents**

The execution and delivery of this Agreement by the Purchaser, the completion by the Purchaser of its obligations hereunder and the consummation by the Purchaser of the transactions contemplated herein, do not and will not require any consent, approval or other action, with or by, any Governmental Authority, other than as contemplated by the applicable Transaction Regulatory Approvals and the granting of the Approval and Reverse Vesting Order by the CCAA Court.

#### **5.5 No Actions**

There is not, as of the date hereof, pending or, to the Purchaser's knowledge, threatened against it or any of its properties, nor has the Purchaser received notice in respect of, any Claim, potential Claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body, other than the CCAA Court, that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

#### **5.6 Credit Bid and Cash Consideration; Availability of Funds**

- (a) The Purchaser and BJK will have executed on or prior to Closing, the requisite documents to allow the Purchaser, and the Purchaser is and will be duly authorized, to, among other things, deliver the Credit Bid Consideration in connection with the consummation of the Closing hereunder, which documents shall be delivered by the Purchaser to the Companies.
- (b) BJK has, and the Purchaser will have on Closing, sufficient unrestricted funds and financial capacity to consummate the transactions contemplated by this Agreement, including payment of the Cash Consideration.

#### **5.7 Residence**

The Purchaser is not a non-resident of Canada within the meaning of the Tax Act.

### **ARTICLE 6 AS IS, WHERE IS**

The Purchaser acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Shares, the Retained Liabilities and all related operations of the Purchased Entities, and, based solely thereon and the advice of its financial, legal and other advisors, has determined to proceed with the transactions contemplated by this Agreement. The Purchaser has relied solely on the results of its own independent investigation and verification and, except for the representations and warranties of the Companies expressly set forth in Article 4, the Purchaser understands, acknowledges and agrees that all other representations, warranties, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Purchased Entities or the Business, or the quality, quantity or condition of the Purchased Shares) are specifically disclaimed by each of the Companies, the other Purchased Entities, their respective financial and legal advisors and the Monitor and its legal counsel. THE PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE COMPANIES EXPRESSLY AND

SPECIFICALLY SET FORTH IN Article 4: (A) THE PURCHASER IS ACQUIRING THE PURCHASED SHARES ON AN “AS IS, WHERE IS” BASIS; AND (B) NONE OF THE COMPANIES, THE OTHER APPLICANTS, THE MONITOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF EITHER OF THE COMPANIES, THE OTHER APPLICANTS OR THE MONITOR WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND THE PURCHASER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE PURCHASED ENTITIES, THE BUSINESS, THE PURCHASED SHARES, THE RETAINED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THE AGREEMENT, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE PURCHASER OR ANY OF ITS RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAWS IN ANY JURISDICTION, WHICH THE PURCHASER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY THE PURCHASER.

## **ARTICLE 7 CONDITIONS**

### **7.1 Conditions for the Benefit of the Purchaser and Companies**

The respective obligations of the Purchaser and each of the Companies to consummate the transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – 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 this Agreement, including, for the avoidance of doubt, a cease trade order or similar order issued by a Governmental Authority in respect of Heritage Cannabis, shall be in effect;
- (b) *Final Orders* – each of the SISP Order and the Approval and Reverse Vesting Order shall have been issued and entered and shall be Final Orders;
- (c) *Successful Bid* – this Agreement will be the Successful Bid (as determined pursuant to the SISP);
- (d) *Transaction Regulatory Approvals* – 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; and
- (e) *Revocation Order* - provided that any failure-to-file cease trade order (“**FFCTO**”) issued by the Ontario Securities Commission is in effect, such FFCTO is subject to a partial revocation order pursuant to Section 144 of the *Securities Act* (Ontario)

and Section 34 of National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions*, or such other revocation order as may be required, permitting the trade and issuance of the securities of Heritage Cannabis as contemplated by this Agreement.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of each of the Companies and the Purchaser. Any condition in this Section 7.1 may be waived by either of the Companies and by the Purchaser, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on any of the Companies or the Purchaser, as applicable, only if made in writing.

## **7.2 Conditions for the Benefit of the Purchaser**

The obligation of the Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by the Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Purchaser):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed or complied with by each of the Companies at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the Fundamental Representations and Warranties of each of the Companies shall be true and correct in all respects as of the Closing Date, as if made at, and as of, such date (except for *de minimus* inaccuracies) and (ii) all other representations and warranties of the Companies contained in Article 4 shall be true and correct in all respects as of the Closing Date, as if made at, and as of, such date (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect (and, for this purpose, any reference to “material”, “Material Adverse Effect” or other concepts of materiality in such representation and warranties shall be ignored);
- (c) *Officer’s Certificates* – The Purchaser shall have received a certificate confirming the satisfaction of the conditions contained in Sections 7.2(a) (*Performance of Covenants*) and 7.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of each of the Companies by an executive officer of each of the Companies or other Persons acceptable to the Purchaser, without personal liability, in each case in form and substance reasonably satisfactory to the Purchaser;
- (d) *No Material Adverse Effect* – since the date hereof, no change effect, event, occurrence, state of facts or development shall have occurred that resulted in, or would reasonably be expected to result in, a Material Adverse Effect;
- (e) *Companies’ Deliverables* – each of the Companies shall have delivered to the Purchaser all of the deliverables contained in Section 11.2 in form and substance reasonably satisfactory to the Purchaser;

- (f) *Implementation Steps* – each of the Companies shall have completed, or Heritage Cannabis shall have caused any of the Applicants to have completed, the Implementation Steps that are required to be completed prior to Closing, in form and substance reasonably acceptable to the Purchaser, acting reasonably;
- (g) *Terminated Employees* - the applicable Purchased Entity shall have terminated the employment of the Terminated Employees, and all liabilities owing to any such Terminated Employees in respect of such terminations, including all amounts owing on account of or damages in lieu of, statutory notice, termination payments, severance, benefits, bonuses or other compensation or entitlements, shall be Excluded Liabilities which, pursuant the Approval and Reverse Vesting Order, shall be assigned and transferred as against the applicable Purchased Entity to, and assumed by, Residual Co.
- (h) *Licence Condition* - the Licences are in good standing and will continue in good standing, and not be suspended or terminated, following the Closing Date, which shall be satisfied upon, among other things, evidence from the applicable Governmental Authority that such Licences are in good standing and will not be suspended or terminated by such Governmental Authority as a result of any events, or amounts owing by any Applicants, relating to the period preceding the Closing Date.
- (i) *Licence Holder Retention* – the Purchaser shall be satisfied that the employees of the Purchased Entities who hold the Licences will accept the Purchaser’s offers of employment pursuant to Section 8.6.
- (j) *Existing RTPs* – based on correspondence, discussions, agreements and/or arrangements with the Canada Revenue Agency or otherwise, the Purchaser shall be satisfied, acting reasonably, that no new RTPs will be issued after the Closing Date in respect of pre-Closing Tax liabilities of the Purchased Entities, and that any Existing RTP in respect of pre-Closing Tax liabilities has been withdrawn or otherwise does not apply to, and is not effective against, any post-Closing receivables of the Purchased Entities.

### **7.3 Conditions for the Benefit of the Companies**

The obligation of each of the Companies to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Companies of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of each of the Companies, as applicable):

- (a) *Truth of Representations and Warranties* – the representations and warranties of the Purchaser contained in Article 5 will be true and correct in all respects on and as of the date of this Agreement and on and as of the Closing Date as if made on and as of such date (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not reasonably be expected to have a material and adverse effect on the Purchaser’s ability to consummate the transactions contemplated by this Agreement;

- (b) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Purchaser at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (c) *Officer's Certificate* – Each of the Companies shall have received a certificate confirming the satisfaction of the conditions contained in Sections 7.3(a) and 7.3(b) signed for and on behalf of the Purchaser without personal liability by an executive officer of the Purchaser or other Persons acceptable to the Companies, acting in a commercially reasonable manner, in each case, in form and substance satisfactory to the Companies, acting in a commercially reasonable manner; and
- (d) *Purchaser Deliverables* – Purchaser shall have delivered to each of the Companies all of the deliverables contained in Section 11.3 in form and substance satisfactory to the Companies, acting in a commercially reasonable manner.

## **ARTICLE 8 ADDITIONAL AGREEMENTS OF THE PARTIES**

### **8.1 [Intentionally Deleted]**

[Intentionally Deleted]

### **8.2 Access to Information and Properties**

- (a) Until the Closing Time, each of the Companies, with oversight of the Monitor, shall give to the Purchaser's personnel engaged in the transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to its premises and to all of the books, records, and other information relating to the Business, and shall furnish them with all such information relating to the Business, the Applicants, the Retained Liabilities and the list of employees as Purchaser may reasonably request in connection with the transactions contemplated by this Agreement, such requests to be made to the Monitor; provided that such access shall be conducted at Purchaser's expense, in accordance with Applicable Law and under supervision of the Monitor or the applicable Company's senior management and in such a manner as to maintain confidentiality, and the Companies will not be required to provide access to or copies of any such books and records if: (i) the provision thereof would cause the applicable Company to be in contravention of any Applicable Law; (ii) breach the terms of the SISP Order; or (iii) making such information available would: (1) result in the loss of any lawyer-client or other legal privilege; or (2) cause applicable Company to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which either of the Companies or any of their Affiliates are a party). Notwithstanding anything in this Section 8.2(a) to the contrary, any such investigation shall be conducted upon reasonable advance notice and in such manner as does not materially disrupt the conduct of the Business or the possible sale thereof to any other Person.
- (b) Following the Closing, the Purchaser shall make all books and records of the Applicants reasonably available to the Monitor and any trustee in bankruptcy of any of the Applicants upon at least five (5) Business Days prior notice, for a period

of seven (7) years after Closing, and shall, at such Party's expense, permit the Monitor and any trustee in bankruptcy of the Applicants to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that Purchaser shall not be obligated to make such books and records available to the extent that doing so would: (i) violate Applicable Law; (ii) jeopardize the protection of a solicitor-client privilege; or (iii) unreasonably interfere with the ongoing business and operations of the Purchased Entities and their Affiliates, as determined by the Applicants, acting reasonably.

- (c) Following the Closing, the Applicants shall make all books and records comprising Excluded Assets reasonably available to the Monitor and any trustee in bankruptcy of any of the Applicants upon at least five (5) Business Days prior notice, for a period of seven (7) years after Closing, and shall, at such Party's expense, permit the Monitor and any trustee in bankruptcy of the Applicants to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that such Applicant shall not be obligated to make such books and records available to the extent that doing so would: (i) violate Applicable Law; (ii) jeopardize the protection of a solicitor-client privilege; or (iii) unreasonably interfere with the ongoing business and operations of the Applicants and their Affiliates, as determined by the Applicants, acting reasonably.

### **8.3 Regulatory Approvals and Consents**

- (a) The Parties shall use commercially reasonable efforts to apply for and obtain any Transaction Regulatory Approvals as soon as reasonably practicable and no later than the time limits imposed by Applicable Laws, in accordance with Section 8.3(b), in each case at the sole cost and expense of the Companies.
- (b) The Parties shall use commercially reasonable efforts to apply for and obtain the Transaction Regulatory Approvals and shall co-operate with one another in connection with obtaining such Transaction Regulatory Approvals. Without limiting the generality of the foregoing, the Parties shall: (i) give each other reasonable advance notice of all meetings or other oral communications with any Governmental Authority relating to the Transaction Regulatory Approvals, as applicable, and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Authority necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first giving the other Party (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Authority; (iii) if any Governmental Authority initiates an oral communication regarding the Transaction Regulatory Approvals, promptly notify the other Party of the substance of such communication; (iv) subject to Applicable Laws relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals) made or submitted by or on behalf of a Party with a Governmental Authority regarding the Transaction Regulatory Approvals as applicable; and (v) promptly provide each other with copies of all written

communications to or from any Governmental Authority relating to the Transaction Regulatory Approvals as applicable.

- (c) Each of the Parties may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 8.3 as “Outside Counsel Only Material”, provided that the disclosing Party also provides a redacted version to the receiving Party. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Parties, will not be disclosed by such outside legal counsel to employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.
- (d) The obligations of either Party to use its commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require either Party (or any Affiliate thereof) to undertake any divestiture of any business or business segment of such Party, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Parties. In connection with obtaining the Transaction Regulatory Approvals, no Purchased Entity shall agree to any of the foregoing items without the prior written consent of the Purchaser.

#### **8.4 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, from the date hereof until the Closing Date, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party’s obligations to consummate the transactions contemplated hereby; and
  - (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) From the date hereof until the Closing Date, Purchaser hereby agrees, and hereby agrees to cause its representatives to, keep the Companies informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by each of the

Companies or the Monitor, as to the Purchaser's progress in terms of the satisfaction of the conditions precedent contained herein.

- (c) From the date hereof until the Closing Date, each Company hereby agrees, and hereby agrees to cause its representatives to, keep Purchaser informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Purchaser or the Monitor, as to the applicable Company's progress in terms of the satisfaction of the conditions precedent contained herein.
- (d) Each of the Companies and the Purchaser agree to execute and deliver such other documents, certificates, agreements and other writings, reasonably necessary for the consummation of the transactions contemplated by this Agreement, and to take such other actions to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.
- (e) From the date hereof until the Closing Date, the Companies hereby agree, and hereby agree to cause their representatives to, promptly notify the Purchaser of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement, or (ii) any Material Adverse Effect occurring from and after the date hereof prior to the Closing Date.
- (f) Each of the Companies and the Purchaser agree to use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals, including without limitation the Transaction Regulatory Approvals, as may be required in connection with the transaction contemplated by this Agreement.
- (g) Each of the Companies agree to use best efforts to timely prepare and file all documentation and pursue all steps necessary to renew (i) any of the Licences that are currently set to expire before the Closing Date; and (ii) any security clearances required in connection with the maintenance of any of the Licences.
- (h) Each of the Companies agree to use commercially reasonable efforts to promptly provide all documentation, copies of agreements and information reasonably required by the Purchaser to complete and finalize the Schedules to this Agreement. Such information and documentation shall be provided to the Purchaser on an ongoing basis following execution of this Agreement and in any event shall be provided to the Purchaser no later than ten (10) days prior to the hearing of the Applicants' motion to the CCAA Court seeking the Approval and Reverse Vesting Order.
- (i) From the date hereof until the Closing Date, the Parties shall cooperate and use commercially reasonable efforts to have Heritage Cannabis cease to be a reporting issuer (or equivalent thereof) in the applicable jurisdictions of Canada as soon as reasonably practicable after the Closing Date.
- (j) If Purchaser is the Successful Bidder, at the request of the Purchaser, the Companies shall proceed with the liquidation, winding-up, dissolution and/or

amalgamation of any of the Purchased Entities designated by the Purchaser on or prior to the Closing Date.

## 8.5 Tax Matters

- (a) The Purchaser and each of the Purchased Entities agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Shares and the Retained Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters. The Purchaser and each of the Purchased Entities also agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Entities, the Purchased Shares and the Retained Liabilities as is reasonably necessary for the Purchaser to acquire them in a tax efficient manner for both the Purchaser and the Purchased Entities.
- (b) The Purchaser and each of the Purchased Entities shall each be responsible for the preparation of their own statements required to be filed under the Tax Act, the ETA, the EA and other Tax forms and returns in accordance with Applicable Law.
- (c) For all purposes under this Agreement for which it is necessary to apportion Taxes in a period which includes (but does not end on) the Closing Date (a **“Straddle Period”**), all, personal property Taxes and similar ad valorem obligations shall be apportioned between the period up to and including the Closing Date (such portion of such Straddle Period, the **“Pre-Closing Straddle Tax Period”**) and the taxable period after the Closing Date (such portion of such Straddle Period, the **“Post-Closing Straddle Tax Period”**), on a per diem basis. Except as otherwise provided herein, with respect to the Purchased Shares, each applicable Purchased Entity shall be liable for the proportionate amount of such personal property Taxes and similar ad valorem obligations that are attributable to the Pre-Closing Straddle Tax Period, and the Purchaser shall be liable for the proportionate amount of such personal property Taxes and similar ad valorem obligations that are attributable to the Post-Closing Straddle Tax Period. For all purposes under this Agreement, in the case of any Tax based upon or related to receipts, sales, use, payroll, or withholding, in respect of any Straddle Period, the portion of such Tax allocable to the Pre-Closing Straddle Tax Period shall be deemed to be the amount that would be payable if the relevant Straddle Period ended on and included the Closing Date. To the extent such closing of the books method is not incorporated under the law of a jurisdiction for particular types of entities, allocations of income among the periods shall be made to replicate the closing of the books method to the maximum extent possible.
- (d) The Purchaser shall (a) cause each Purchased Entity, as applicable, to prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns for each Purchased Entity for all Tax periods ending on or prior to the Closing Date and for which Tax Returns have not been filed as of such date; and (b) cause each Purchased Entity, as applicable, to duly and timely make or prepare all Tax Returns required to be made or prepared by them and to duly and timely file all

Tax Returns required to be filed by them for periods beginning before and ending after the Closing Date. All such Tax Returns in clauses (a) and (b) of this Section 8.5(d) constitute the “**Straddle Period Tax Returns**”. Each Purchased Entity, the Monitor and the Purchaser shall co-operate reasonably with each other and make available to each other in a timely fashion such data and other information as may reasonably be required for the preparation of any Straddle Period Tax Return and the Purchaser shall preserve (or cause the applicable Purchased Entities to preserve) such data and other information until the expiration of any applicable limitation period under Applicable Law with respect to Taxes. The Purchaser will use commercially reasonable best efforts to provide drafts of all Straddle Period Tax Returns required to be prepared by the Purchaser or the Purchased Entities to the then remaining Applicants and the Monitor in advance of their filing with the relevant Taxing Authority. The Purchaser, the then remaining Applicants and the Monitor shall, subject only to Applicable Law, cooperate in considering any amendments to such Tax Returns as the then remaining Applicants and the Monitor may request. The Purchaser shall, unless otherwise agreed to by the then remaining Applicants and the Purchaser in writing, cause each Purchased Entity to make an election pursuant to subsection 256(9) of the Tax Act in respect of the taxation year ending as a result of the acquisition of control of it by the Purchaser.

## **8.6 Employee Matters**

- (a) The Purchaser may, in as many separate instances as it may require, notify the Companies that the Purchaser wishes to interview any employees or contractors or consultants of the Purchased Entities, and upon receipt of a request thereof, the Companies will use all commercially reasonable efforts to facilitate such interviews as soon as reasonably practicable. The Purchaser may, but is not obligated to, in the name of the applicable Purchased Entity, make conditional (upon Closing) continued or new (as applicable) offers of employment on such terms as it may determine in its absolute and sole discretion.
- (b) The Purchaser shall make commercially reasonable efforts to make such offers in writing on or prior to the date that is ten (10) days prior to the anticipated Closing Date, provided that such offers shall be made no later than six (6) days prior to the anticipated Closing Date, and leave such offers open for acceptance up to and including two (2) days prior to the Closing Date, provided that the Purchaser notifies the Companies, in writing, on or prior to the date that is six (6) days prior to the anticipated Closing Date, of the list of individuals to whom it has made or intends to make offers of employment.
- (c) In the event:
  - (i) no conditional offer of employment is made to an employee of the Purchased Entities; or
  - (ii) an employee who receives an offer of employment rejects such offer in writing or fails to accept such offer of employment up to and including two (2) days prior to the Closing Date,

such employee shall be deemed to be a “Terminated Employee” and the applicable Purchased Entity shall terminate such Terminated Employee effective upon the Closing Date.

## **8.7 Administrative Expense Amount**

- (a) On the Closing Date, the Administrative Expense Amount shall be paid to the Monitor, which the Monitor shall hold for the benefit of Persons entitled to be paid the Administrative Expense Costs.
- (b) From time to time after the Closing Date, the Monitor may pay, from the Administrative Expense Amount, the Administrative Expense Costs, in each case to the Persons entitled to receive payment of these amounts, in its sole discretion and without further authorization from the Purchased Entities or Purchaser. Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, in its sole discretion, shall be transferred by the Monitor to the Purchaser, or as directed by it.
- (c) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Companies and the Purchaser acknowledges and agrees that: (i) the Monitor’s obligations under this Agreement are and shall remain limited to those specifically set out in this Section 8.7; and (ii) the Monitor is acting solely in its capacity as the CCAA Court-appointed Monitor of the Applicants pursuant to the Initial Order and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor’s gross negligence or intentional fault.
- (d) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 8.7 notwithstanding that the Monitor is not a party to this Agreement.

The provisions of Sections 8.7(c) and (d) above shall survive the termination or non-completion of the transactions contemplated by this Agreement.

## **ARTICLE 9 INSOLVENCY PROVISIONS**

### **9.1 Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date, the Companies shall deliver to the Purchaser drafts of any and all pleadings, motions, notices, statements, applications, schedules, and other papers to be filed or submitted by any of the Applicants in connection with or related to this Agreement, including with respect to the Approval and Reverse Vesting Order, for Purchaser’s prior review at least two (2) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for two (2) days’ review, with as much opportunity for review and comment as is practically possible in the circumstances). Each of the Companies acknowledge and agree (i) that any such pleadings, motions, notices, statements, applications, schedules, or other papers shall be in form and substance satisfactory to the Purchaser, acting reasonably,

and (ii) to consult and cooperate with Purchaser regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.

- (b) Notice of the motions seeking the issuance of the Approval and Reverse Vesting Order shall be served or be caused to be served by the Applicants on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, and any other Person determined necessary by the Applicants or Purchaser, acting reasonably.
- (c) As soon as practicable if Purchaser is selected or deemed to be the Successful Bidder in accordance with the SISP, the Applicants shall file a motion seeking the issuance of the Approval and Reverse Vesting Order.
- (d) If the Approval and Reverse Vesting Order relating to this Agreement is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, each of the Applicants agree (subject to the available liquidity of each of the Applicants) to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.
- (e) Each of the Companies acknowledge and agree, that the Approval and Reverse Vesting Order shall provide that, on the Closing Date and concurrently with the Closing, the Purchased Shares shall be transferred to the Purchaser free and clear of all Encumbrances, other than Permitted Encumbrances.

## **ARTICLE 10 TERMINATION**

### **10.1 Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of each of the Companies and the Purchaser;
- (b) by the Purchaser or the Companies, if this Agreement is not the Successful Bid (as determined pursuant to the SISP);
- (c) by the Purchaser or the Companies, if Closing has not occurred on or before August 30, 2024 or such later date agreed to by each of the Companies and the Purchaser in writing in consultation with the Monitor (the “**Outside Date**”), provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 7 by the Outside Date;
- (d) by the Purchaser or the Companies, if at any time after the date hereof any of the conditions in Article 7 are not capable of being satisfied by the applicable dates required in Article 7 of this Agreement or if not otherwise required, by the Outside Date;

- (e) by the Purchaser, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of any Applicant or any of the property of any Applicant, other than with the prior written consent of the Purchaser;
- (f) by the Purchaser or the Companies, upon the termination, dismissal or conversion of the CCAA Proceedings;
- (g) by the Purchaser or the Companies, upon dismissal of the motion for the Approval and Reverse Vesting Order (or if any such order is stayed, vacated or varied without the consent of the Purchaser);
- (h) by the Purchaser or the Companies, if a court of competent jurisdiction, including the CCAA Court or other Governmental Authority has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order;
- (i) by the Companies, if there has been a material violation or breach by the Purchaser of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.3, as applicable, by the Outside Date, and such violation or breach has not been waived by the Companies, or cured by the Purchaser within ten (10) Business Days after written notice thereof from the Companies, unless any Company is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.2, as applicable, by the Outside Date; and
- (j) by the Purchaser, if there has been a material violation or breach by any of the Companies of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.2, as applicable, by the Outside Date, and such violation or breach has not been waived by the Purchaser, or cured by the applicable Company within ten (10) Business Days after written notice thereof from the Purchaser, unless the Purchaser is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 7.1 or Section 7.3, as applicable, by the Outside Date.

The Party desiring to terminate this Agreement pursuant to this Section 10.1 (other than pursuant to Section 10.1(a)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## **10.2 Effect of Termination**

In the event of termination of this Agreement pursuant to Section 10.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that: (i) Sections 8.7(c) and 8.7(d), this Section 10.2, Section 12.1, Section 12.3, Section 12.5, Section 12.6, Section 12.7 and Section 12.8 shall survive; and (ii) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement, or impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement in accordance with Section 12.3.

## **ARTICLE 11 CLOSING**

### **11.1 Location and Time of the Closing**

The Closing shall take place at the Closing Time on the Closing Date at the offices of Gowling WLG (Canada) LLP in Toronto, or at such other location as may be agreed upon by the Parties.

### **11.2 Companies' Deliveries at Closing**

At Closing, each of the Companies, as applicable, shall deliver to the Purchaser the following:

- (a) a true copy of each of the Approval and Reverse Vesting Order and the SISP Order, each of which shall be final;
- (b) a certificate of a senior officer or director of each of the Companies (in such capacity and without personal liability) in form and substance reasonably satisfactory to the Purchaser: (i) certifying that the board of directors of the applicable Company, has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (ii) certifying as to the incumbency and signatures of the officers and directors of the applicable Company;
- (c) the certificates contemplated by Section 7.2(c);
- (d) confirmation of the due incorporation and organization of Residual Co. on the terms set forth herein;
- (e) evidence of completion of the Implementation Steps;
- (f) the Purchased Shares;
- (g) evidence of the Transaction Regulatory Approvals having been obtained;
- (h) evidence of the filing of the Articles of Amendment, as applicable; and
- (i) all other documents as reasonably requested by the Purchaser in good faith.

### **11.3 Purchaser's Deliveries at Closing**

At Closing, the Purchaser shall deliver to the Companies or, in the case of the amount described in 11.3(b), to the Monitor:

- (a) the Credit Bid Releases;
- (b) the Cash Consideration;
- (c) a certificate of a senior officer or director of the Purchaser (in such capacity and without personal liability), in form and substance reasonably satisfactory to the

Companies: (i) certifying that the board of directors has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (ii) certifying as to the incumbency and signature of the authorized signatory of the Purchaser executing this Agreement and the other transaction documents contemplated herein, as applicable;

- (d) the certificate contemplated by Section 7.3(c); and
- (e) all other documents required to effect to the transaction contemplated by this Agreement, as reasonably requested by the Companies in good faith.

#### **11.4 Monitor**

When all conditions to Closing set out in Article 7 have been satisfied and/or waived by the Companies or the Purchaser, as applicable, the Companies and the Purchaser, or their respective counsel, shall each deliver to the Monitor written confirmation, in form and substance satisfactory to the Monitor, that all conditions to Closing have been satisfied or waived, subject to the Monitor's delivery of the Monitor's Certificate to the Purchaser in accordance with the Approval and Reverse Vesting Order. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Approval and Reverse Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to each of the Companies and the Purchaser). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Companies and the Purchaser that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability whatsoever to any of the Companies or Purchaser or any other Person as a result of filing the Monitor's Certificate.

#### **11.5 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred in the manner and sequence set forth in the Implementation Steps and the Approval and Reverse Vesting Order (subject to the terms of any escrow agreement or arrangement among the Parties relating to the Closing), and no such transaction shall be considered consummated unless all are consummated.

#### **11.6 Further Assurances**

As reasonably required by a Party in order to effectuate the transactions contemplated by this Agreement, Purchaser and each of the Applicants shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and make effective the transactions contemplated by this Agreement.

## **ARTICLE 12 GENERAL MATTERS**

### **12.1 Confidentiality**

After the Closing Time, the remaining Applicants shall maintain the confidentiality of all confidential information relating to the Business and the Purchased Entities, except any disclosure of such information and records as may be required by Applicable Law. If any remaining Applicant, or any of their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall, or shall cause its representative to, provide the Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with Purchaser, at Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, the applicable Applicant shall, or shall cause its representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such disclosed information. The remaining Applicants shall instruct their representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 12.1 by any of their representatives.

### **12.2 Public Notices**

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by any of the Applicants or Purchaser without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 12.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by either Party, as applicable: (A) with the CCAA Court; and (B) on Heritage Cannabis' profile on [www.sedarplus.ca](http://www.sedarplus.ca); and (ii) the transactions contemplated in this Agreement may be disclosed by the Companies to the CCAA Court. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement and the terms of such transactions; and
- (b) the Applicants, the Purchaser and their respective professional advisors may prepare and file such motions, affidavits, materials, reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement and the terms of such transactions as may reasonably be

necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

Purchaser shall be afforded an opportunity to review and comment on such materials prior to their filing; provided in the case of reports or other documents prepared or to be filed by the Monitor with the CCAA Court, the Purchaser shall be entitled to review only factual information contained therein relating to the terms of the transactions contemplated in this Agreement.

### **12.3 Injunctive Relief**

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.
- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 12.3, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and election to pursue one shall be deemed to be an irrevocable waiver of the other.

### **12.4 Survival**

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 12 and Sections 8.2(b), and 8.5 to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

### **12.5 Non-Recourse**

No past, present or future director, officer, employee, incorporator, member, partner, security holder, Affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Purchaser or either of the Companies, as applicable, under this Agreement, or for any causes of action based on, in respect of or by reason of the transactions contemplated hereby.

## 12.6 Assignment; Binding Effect

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent the Purchaser may, upon prior notice to each of the Companies, assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its Affiliates; provided that no such assignment or direction shall relieve Purchaser or BJK of its obligations hereunder. This Agreement shall be binding upon and enure to the benefit of the Parties and their respective permitted successors and permitted assigns. Although not Parties to this Agreement, the Monitor and its respective Affiliates and advisors shall have the benefits expressed to be conferred upon them in this Agreement, including in Article 6, Section 8.7 and Section 11.4 (in respect of the Monitor) hereof. Subject to the preceding sentence, nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

## 12.7 Notices

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (i) the date of personal delivery; (ii) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (iii) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (iv) five (5) days after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

(a) If to the Purchaser at:

HAB CANN HOLDINGS LTD.  
c/o BJK Holdings Ltd.  
238 22nd Street North,  
Lethbridge, Alberta  
T1H 3R7

Attention: David Thiessen / Russ Zemp  
Email: [david.thiessen@kirkstire.ca](mailto:david.thiessen@kirkstire.ca)  
[russ.zemp@kirkstire.ca](mailto:russ.zemp@kirkstire.ca)

and to:

Gowling WLG (Canada) LLP  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto, ON M5X 1G5

Attention: Virginie Gauthier / Kate Yurkovich  
Email: [virginie.gauthier@gowlingwlq.com](mailto:virginie.gauthier@gowlingwlq.com)  
[kate.yurkovich@gowlingwlq.com](mailto:kate.yurkovich@gowlingwlq.com)

(b) If to the Companies at:

Heritage Cannabis Holdings Corp.  
c/o Owens Wright LLP  
300-20 Holly Street  
Toronto, Ontario M4S 3B1

Attention: David Schwede  
Email: [dschwede@heritagecann.com](mailto:dschwede@heritagecann.com)

and to:

Chaitons LLP  
5000 Yonge Street  
North York, ON M2N 7E9

Attention: Harvey Chaiton / George Benchetrit  
Email: [harvey@chaitons.com](mailto:harvey@chaitons.com)  
[george@chaitons.com](mailto:george@chaitons.com)

and to:

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

Attention: Pritesh Patel  
Email: [pritpatel@kpmg.ca](mailto:pritpatel@kpmg.ca)

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

## **12.8 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

***[Signature pages to follow]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first written above.

**HERITAGE CANNABIS HOLDINGS CORP.**

DocuSigned by:  


1122F539DD8A44E...

Per:

Name: David Schwede

Title: Director

I have the authority to bind the corporation.

**HERITAGE CANNABIS WEST CORPORATION**

DocuSigned by:  


1122F539DD8A44E...


Per:

Name: David Schwede

Title: Director

I have the authority to bind the corporation.

**HERITAGE CANNABIS EAST CORPORATION**

DocuSigned by:  


1122F539DD8A44E...


Per:

Name: David Schwede

Title: Director

I have the authority to bind the corporation.

**HAB CANN HOLDINGS LTD.**

DocuSigned by:  
  
A8DD40C31A15498...

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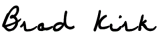
Per:

Name: David Thiessen

Title: President

I have the authority to bind the corporation.

**BJK HOLDINGS LTD., solely for the purposes  
of Section 5.6 herein**

DocuSigned by:  
  
A7559A2827D9487...

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Per:

Name: Brad Kirk

Title: President

I have the authority to bind the corporation.

***THIS IS EXHIBIT "F" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



---

***A Commissioner Etc.***

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) WEDNESDAY, THE 26<sup>TH</sup>  
 )  
JUSTICE OSBORNE ) DAY OF JUNE, 2024

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

**AND IN THE MATTER OF 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

**ORDER  
(APPROVAL AND REVERSE VESTING 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, among other things: (a) approving the amended and restated stalking horse subscription agreement dated as of June 17, 2024 (the "**Amended and Restated Stalking Horse Agreement**") entered into between Heritage Cannabis Holdings Corp. ("**Heritage Cannabis**"), Heritage Cannabis West Corporation ("**Heritage West**"), Heritage Cannabis East Corporation ("**Heritage East**", and together with Heritage Cannabis and Heritage West, the "**Companies**"), as companies, BJK Holdings Ltd. ("**BJK**"), and HAB Cann Holdings Ltd. (the "**Purchaser**"), as purchaser, and the transactions contemplated therein (the "**Transactions**"); (b) adding 1000921087 Ontario Inc. ("**Residual Co.**") as an Applicant to these CCAA proceedings (the "**CCAA Proceedings**"); (c) transferring and vesting all of the right, title and interest of Heritage Cannabis, Heritage West, Heritage East, 333

Jarvis Realty Inc. (“**333 Jarvis**”), 5450 Realty Inc. (“**5450 Realty**”), Premium 5 Ltd. (“**Premium 5**”) and Purefarma Solutions Inc. (“**Purefarma**”, and, collectively with Heritage Cannabis, Heritage West, Heritage East, 333 Jarvis, 5450 Realty and Premium 5, the “**Purchased Entities**”) in and to the Excluded Assets and Excluded Liabilities (each as defined in the Amended and Restated Stalking Horse Agreement) to and in Residual Co.; (d) authorizing and directing each of the Companies, as applicable, to file the Articles of Amendment (as defined in the Amended and Restated Stalking Horse Agreement); (e) authorizing and directing Heritage Cannabis to issue the Heritage Cannabis Purchased Shares (as defined in the Amended and Restated Stalking Horse Agreement), and vesting in and to the Purchaser, all right, title and interest in and to the Heritage Cannabis Purchased Shares, free and clear of any Claims and Encumbrances (as defined below); (f) authorizing and directing Heritage West to issue the Heritage West Purchased Shares (as defined in the Amended and Restated Stalking Horse Agreement), and vesting in and to the Purchaser, all right, title and interest in and to the Heritage West Purchased Shares, free and clear of any Claims and Encumbrances; (g) authorizing and directing Heritage East to issue the Heritage East Purchased Shares (as defined in the Amended and Restated Stalking Horse Agreement), and vesting in and to the Purchaser, all right, title and interest in and to the Heritage East Purchased Shares, free and clear of any Claims and Encumbrances; and (h) terminating and cancelling all of the Equity Interests (as defined in the Amended and Restated Stalking Horse Agreement) of each of the Companies, other than the Purchased Shares, for no consideration, was heard this day by videoconference.

**ON READING** the Motion Record of the Applicants, including the affidavit of David Schwede sworn June 18, 2024 and the Exhibits thereto, the second report of KPMG Inc. (“**KPMG**”), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for BJK and the Purchaser, and counsel for those other parties appearing as indicated by the Participant Information Form, no one appearing for any other party, although duly served as appears from the Affidavit of Service of Lynda Christodoulou, as filed,

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion was properly returnable on today's date, and hereby dispenses with further service thereof.

## **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings given to them in the Amended and Restated Stalking Horse Agreement and the Order of Justice Cavanagh dated April 11, 2024.

## **APPROVAL AND VESTING**

3. **THIS COURT ORDERS** that the Amended and Restated Stalking Horse Agreement and the Transactions, be and are hereby approved and that the execution of the Amended and Restated Stalking Horse Agreement by each of the Companies is hereby authorized and approved, with such minor amendments as the parties thereto may deem necessary, with the approval of the Monitor. Each of the Companies are hereby authorized and directed to perform its respective obligations under the Amended and Restated Stalking Horse Agreement and each of the Purchased Entities are authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions, including the cancellation of the Equity Interests and the issuance of the Purchased Shares to the Purchaser.

4. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Companies to proceed with the Transactions, and that no shareholder or other approval shall be required in connection therewith, other than as contemplated by the applicable Transaction Regulatory Approvals.

5. **THIS COURT ORDERS** that upon the delivery of the Monitor's certificate substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Closing Certificate**") to the Companies and the Purchaser (the "**Closing Time**"), the following shall occur and shall be deemed to have occurred at the Closing Time in the following sequence:

- (a) first, all of the Purchased Entities' right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., with

all applicable Claims and Encumbrances continuing to attach to the Excluded Assets and to the Purchase Price in accordance with paragraph 9 of this Order, in either case with the same nature and priority as they had immediately prior to the transfer;

- (b) second, all Excluded Liabilities shall be channeled to, assumed by and vested absolutely and exclusively in Residual Co., such that the Excluded Liabilities shall become the obligations of Residual Co., and shall no longer be obligations of the Purchased Entities and all of the Purchased Entities' respective assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate, including property held in trust for the Purchased Entities (the "**Purchased Entities' Property**"), shall be and are hereby forever released and discharged from such Excluded Liabilities and all related Claims and all Encumbrances affecting or relating to the Purchased Entities' Property are to be expunged and discharged as against the Purchased Entities' Property;
- (c) third, in consideration for the Purchase Price, the Companies shall issue the Purchased Shares to the Purchaser, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, and the Purchased Entities' Property, other than the Excluded Assets, will be retained by the Purchased Entities, free and clear of and from any and all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise, including any and all encumbrances, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or

otherwise (collectively, the “**Claims**”), including without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other Order of the Court in the CCAA Proceedings; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry systems (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on **Schedule “B”** hereto);

- (d) fourth, all Equity Interests of the Companies outstanding prior to the issuance of the Purchased Shares, including all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) which are convertible or exchangeable for any securities of the Companies or which require the issuance, sale or transfer by the Companies, of any shares or other securities of the Companies and/or the share capital of the Companies, or otherwise relating thereto, shall be deemed terminated and cancelled without consideration and the only Equity Interests of the Companies that shall remain shall be the Purchased Shares; and
- (e) lastly, the Purchased Entities shall be deemed to cease being Applicants in these CCAA Proceedings, and the Purchased Entities shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for this Order, the provisions of which (as they relate to the Purchased Entities) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor’s Closing Certificate, forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Companies and the Purchaser regarding the satisfaction or waiver of conditions to closing under the Amended and Restated Stalking Horse Agreement and shall have no liability with respect to delivery of the Monitor's Closing Certificate.

8. **THIS COURT ORDERS** that upon delivery of the Monitor's Closing Certificate, and upon filing of a copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to the Purchased Entities, the Purchased Entities' Property or the Excluded Assets (collectively, the "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Monitor's Closing Certificate and a copy of this Order as though they were originals and to register such transfers and interest authorizations as may be required to give effect to the terms of this Order and the Amended and Restated Stalking Horse Agreement. Presentment of this Order and the Monitor's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of interest against any of the Purchased Entities' Property and the Monitor and the Purchaser are hereby specifically authorized to discharge the registrations on the Purchased Entities' Property and the Excluded Assets, as applicable.

9. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, from and after the Closing Time, subject to the funding of the Priority Payment Amount and the CCAA Process Expense Amount, all Claims and Encumbrances transferred, assumed, released, expunged and discharged pursuant to paragraph 5 hereof, including against the Purchased Entities, the Purchased Entities' Property, the Purchased Shares and the Equity Interests shall attach to the Excluded Assets with the same nature and priority as they had immediately prior to the Transactions as if the Transactions had not occurred.

10. **THIS COURT ORDERS** that, pursuant to clause 7(3) (c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended, the Purchased Entities or the Monitor, as the case may be, are authorized, permitted and directed to, at the Closing Time, disclose to the Purchaser, all human resources and payroll information in the Purchased Entities' records pertaining to past and current employees of the Purchased Entities. The Purchaser shall

maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Purchased Entities.

11. **THIS COURT ORDERS** that, at the Closing Time and without limiting the provisions of paragraph 5 hereof, the Purchaser, the Purchased Entities, and the Monitor shall be deemed released from any and all claims, liabilities, (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to the Purchased Entities, provided, as it relates to the Purchaser and the Purchased Entities, such release shall not apply to (a) Taxes in respect of the business and operations conducted by the Purchased Entities after the Closing Time; or (b) Taxes expressly assumed as Retained Liabilities pursuant to the Amended and Restated Stalking Horse Agreement, including without limiting the generality of the foregoing, all Taxes that could be assessed against the Purchaser or the Purchased Entities (including their affiliates and any predecessor corporations) pursuant to sections 160 and 160.01 of the *Income Tax Act*, R.S.C. 1985 c. 1 (5th Supp.), or any provincial or foreign tax equivalent, in connection with the Purchased Entities. For greater certainty, nothing in this paragraph shall release or discharge any Claims with respect to Taxes that are transferred to Residual Co.

12. **THIS COURT ORDERS** that except to the extent expressly contemplated by the Amended and Restated Stalking Horse Agreement (and, for greater certainty, excluding the Excluded Assets and Excluded Liabilities and contracts relating thereto), all contracts to which any of the Purchased Entities are a party at the time of delivery of the Monitor's Closing Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Closing Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Closing Time and is not continuing that would have entitled such Person to enforce those rights or remedies

(including defaults or events of default arising as a result of the insolvency of any of the Purchased Entities);

- (b) the insolvency of any of the Purchased Entities or the fact that the Purchased Entities obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Amended and Restated Stalking Horse Agreement, the Transactions, the provisions of this Order, or any other Order of this Court in these CCAA Proceedings; or
- (d) any transfer or assignment, or any change of control, of any of the Purchased Entities or Purchased Entities' Property arising from the implementation of the Amended and Restated Stalking Horse Agreement, the Transactions, or the provisions of this Order.

13. **THIS COURT ORDERS**, for greater certainty, that (a) nothing in paragraph 12 hereof shall waive, compromise or discharge any obligations of the Purchased Entities or the Purchaser, in respect of any Retained Liabilities, (b) the designation of any Claim as a Retained Liability is without prejudice to any of the Purchased Entities' or the Purchaser's right to dispute the existence, validity or quantum of any such Retained Liability, and (c) nothing in this Order or the Amended and Restated Stalking Horse Agreement shall affect or waive the Purchased Entities' or the Purchaser's rights and defences, both legal and equitable, with respect to any Retained Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Retained Liability.

14. **THIS COURT ORDERS** that from and after the Closing Time, all Persons shall be deemed to have waived any and all defaults of any of the Purchased Entities then existing or previously committed by any of the Purchased Entities, or caused by any one of the Purchased Entities, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition, or obligation, expressed or implied in any contract, or lease existing between such Person and any of the Purchased Entities

(including for certainty, those contracts, or leases constituting the Purchased Entities' Property) arising directly or indirectly from the filing by the Applicants under the CCAA and implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 12 hereof, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a contract, or a lease shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse any of the Purchased Entities or the Purchaser from performing their obligations under the Amended and Restated Stalking Horse Agreement, or be a waiver of defaults by any of the Purchased Entities or the Purchaser under the Amended and Restated Stalking Horse Agreement and the related documents.

15. **THIS COURT ORDERS** that, from and after the Closing Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Purchased Entities or the Purchaser relating in any way to or in respect of any Excluded Assets or Excluded Liabilities and any other claims, obligations and other matters that are waived, released, expunged or discharged pursuant to this Order.

16. **THIS COURT ORDERS** that from and after the Closing Time:

- (a) the nature of the Retained Liabilities, as retained by the Purchased Entities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Closing Time had a valid right or claim against any of the Purchased Entities under or in respect of any Excluded Liability

(each an “**Excluded Liability Claim**”) shall no longer have an Excluded Liability Claim against any of the Purchased Entities or Purchased Entities’ Property, but will have an equivalent Excluded Liability Claim against Residual Co. in respect of the Excluded Liability from and after the Closing Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and

- (d) any Person with an Excluded Liability Claim against Residual Co. following the Closing Time shall have the same rights, priority and entitlement as against Residual Co. as such Person, with an Excluded Liability Claim, had against the applicable Purchased Entities’ entity prior to the Closing Time.

17. **THIS COURT ORDERS** that, as of the Closing Time:

- (a) Residual Co. shall be a company to which the CCAA applies; and
- (b) Residual Co. shall be added as an Applicant in these CCAA Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an “Applicant” shall refer to and include Residual Co.; and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of Residual Co. (collectively the “**Residual Co. Property**”), and, for greater certainty, each of the Charges (as defined in the Initial Order), shall constitute a charge on the Residual Co. Property.

#### **PRIORITY PAYMENT AMOUNT AND CCAA PROCESS EXPENSE AMOUNT**

18. **THIS COURT ORDERS AND DIRECTS** that the Priority Payment Amount and the CCAA Process Expense Amount, as necessary, shall be distributed by the Purchased Entities from the cash on hand or, to the extent required, shall be paid by the Purchaser, to the Monitor in cash

on the Closing Date, consistent with the Implementation Steps and in accordance with the terms of the Amended and Restated Stalking Horse Agreement.

19. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA Proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C 195, c. B-3, as amended (the “**BIA**”), in respect of Residual Co. and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Purchased Entities or Residual Co.;

the Amended and Restated Stalking Horse Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets and Excluded Liabilities in and to Residual Co., the transfer and vesting of the Purchased Shares in and to the Purchaser, any payment of the Priority Payment Amount and the CCAA Process Expense Amount by the Purchased Entities and any payments by or to the Purchaser, any of the Purchased Entities, Residual Co., or the Monitor authorized herein, or pursuant to the Amended and Restated Stalking Horse Agreement) shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Purchased Entities and/or Residual Co. and shall not be void or voidable by creditors of the Purchased Entities or Residual Co., as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal, provincial or foreign legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **MONITOR**

20. **THIS COURT ORDERS** that nothing in this Order, including the release of the Purchased Entities from the purview of these CCAA Proceedings pursuant to paragraph 5(d) hereof and the addition of Residual Co. as an Applicant in these CCAA Proceedings, shall affect, vary, derogate

from, limit or amend any rights, approvals and protections afforded to the Monitor in these CCAA Proceedings and KPMG shall continue to have the benefit of, any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, any other Orders in these CCAA Proceedings or otherwise, including all approval, protections and stays of proceedings in favour of KPMG in its capacity as Monitor, all of which are expressly continued and confirmed.

21. **THIS COURT ORDERS** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except with leave of the Court following a motion brought on not less than fifteen (15) days' notice to the Monitor and its legal counsel. The entities related or affiliated with the Monitor or belonging to the same group as the Monitor (including, without limitation, any agents, employees, legal counsel or other advisors retained or employed by the Monitor) shall benefit from the protection granted to the Monitor under the present paragraph.

22. **THIS COURT ORDERS** that the Monitor shall not, as a result of this Order or any matter contemplated hereby: (a) be deemed to have taken part in the management or supervision of the management of the Purchased Entities or Residual Co. or to have taken or maintained possession or control of the business or property of any of the Purchased Entities or Residual Co., or any part thereof; or (b) be deemed to be in Possession (as defined in the Initial Order) of any property of the Purchased Entities or Residual Co. within the meaning of any applicable Environmental Legislation and Cannabis Legislation (each as defined in the Initial Order) or otherwise.

23. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, the Monitor, its employees and representatives are not and shall not be or be deemed to be, a director, officer, or employee of Residual Co. *de facto* or otherwise, and shall incur no liability as a result of acting in accordance with this Order, other than any liability arising as a direct result of the gross negligence or wilful misconduct of the Monitor.

24. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Monitor as receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of Residual Co.

## **RELEASES**

25. **THIS COURT ORDERS** that, effective upon the filing of the Monitor's Closing Certificate, (a) the current directors, officers, employees, consultants, legal counsel and advisors of the Applicants; (b) the current directors, officers, employees, consultants legal counsel and advisors to Residual Co.; (c) the Monitor and its legal counsel and their respective current directors, officers, partners, employees, consultants and advisors (the Persons listed in (a), (b), and (c) being collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future liabilities, claims (including, without limitation, claims for contribution or indemnity), indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, duties, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) arising in connection with or relating to the CCAA Proceedings, the Amended and Restated Stalking Horse Agreement, the consummation of the Transactions, any closing document, agreement, document, instrument, matter or transaction involving the Purchased Entities arising in connection with or pursuant to any of the foregoing, and/or any matter relating to the Purchased Entities' cannabis excise licence and/or GST/HST arrears owing by any of the Purchased Entities for the period prior to the date of the Initial Order (collectively, the "**Released Claims**"), which Released Claims are hereby and shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, and are not vested nor transferred to Residual Co. or to any other entity and are extinguished, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim for fraud or wilful misconduct or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA. For greater certainty, "current" in this paragraph refers to individuals who remain in their respective role(s) up to one day prior to closing of the Transactions, as applicable.

26. **THIS COURT ORDERS** that, effective upon the filing of the Monitor's Closing Certificate, BJK and the Purchaser (collectively, the "**Other Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future liabilities,

claims (including, without limitation, claims for contribution or indemnity), indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the filing of the Monitor's Closing Certificate, undertaken or completed in connection with or pursuant to the terms of this Order and that relate in any manner whatsoever to the Amended and Restated Stalking Horse Agreement, the DIP Facility, the consummation of the Transactions, and/or any closing document, agreement, document, instrument, matter or transaction involving the Purchased Entities arising in connection with or pursuant to any of the foregoing (collectively, the "**Released Purchased Entities' Claims**"), which Released Purchased Entities' Claims are hereby and shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Other Released Parties.

27. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, for any real property lease that is not excluded from the Transactions ("**Lease**"), the landlord of any such Lease shall be entitled to enforce all of its rights and remedies as against the tenant with respect to any breach of a non-monetary obligation under the Lease, if (a) such non-monetary breach under the Lease arises or continues after the Closing Time; (b) such non-monetary breach is capable of being cured; and (c) the tenant has failed to remedy the default after having received notice of such default pursuant to the terms of the Lease. Without limiting the foregoing, the landlord under the Lease shall not rely on a notice of default sent prior to the filing of the Monitor's Closing Certificate ("**Prior Default Notice**") to terminate or otherwise enforce the terms of the Lease as against the tenant and any such Prior Default Notice shall be deemed unenforceable.

## **GENERAL**

28. **THIS COURT ORDERS** that, having been advised of the provisions of Multilateral Instrument 61-101 "Protection of Minority Security Holders in Special Transactions" relating to the requirement for "minority" shareholder approval in certain circumstances, no meeting of shareholders or other holders of Equity Interests in each of the Purchased Entities or Heritage

Cannabis is required to be held in respect of the Transactions, and accordingly, there is no requirement to send any disclosure document related to the Transactions, to such shareholders or other holders of Equity Interests.

29. **THIS COURT ORDERS** that in the event of a conflict between the terms of this Order and those of the Initial Order or any other Order of this Court, the provisions of this Order shall govern.

30. **THIS COURT ORDERS** that, following the Closing Time, the Purchaser and the Companies shall be authorized to take all steps as may be necessary to affect the discharge of the Claims and Encumbrances as against the Purchased Entities, the Purchased Shares, those Equity Interests of each of the Companies held by the Purchaser, and the Purchased Entities' Property.

31. **THIS COURT ORDERS** that, following the Closing Time, the title of these proceedings is hereby changed to

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

*AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF 1005477 B.C. LTD., MAINSTRAIN MARKET LTD., HERITAGE  
CANNABIS EXCHANGE CORP., and 1000921087 ONTARIO INC.*

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

33. **THIS COURT ORDERS** that the Monitor and each of the Purchased Entities shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court, tribunal or administrative body whether in Canada, the United States, or elsewhere, for orders which aid and complement this Order. All courts, tribunals and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Purchased Entities and/or the Monitor as may be deemed necessary or appropriate for that purpose.

34. **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 Purchased Entities, 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 Purchased Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Purchased Entities, the Monitor and their respective agents in carrying out the terms of this Order.

35. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. (Eastern Standard Time) on the date hereof that it is made and is enforceable without any need for entry and filing.

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**SCHEDULE A  
FORM OF MONITOR'S CLOSING CERTIFICATE**

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

**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 PLAN OF COMPROMISE OR  
ARRANGEMENT OF A. 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.**

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to the Initial Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List), (the "**Court**") dated April 2, 2024, as amended and restated on April 11, 2024, 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 "**Heritage Group**") were granted protection from their creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and KPMG was appointed as the monitor of the Heritage Group (in such capacity, the "**Monitor**").

B. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Approval and Reverse Vesting Order of this Court dated June 26, 2024 (the "**ARVO**").

C. Pursuant to the ARVO, the Court approved the Transactions contemplated by the Amended and Restated Stalking Horse Agreement dated June 17, 2024 between Heritage Cannabis Holdings Corp. ("**Heritage Cannabis**"), Heritage Cannabis West Corporation ("**Heritage West**"), Heritage

Cannabis East Corporation (“**Heritage East**”, and together with Heritage Cannabis and Heritage West, the “**Companies**”), as companies, BJK Holdings Ltd. (“**BJK**”), and HAB Cann Holdings Ltd. (the “**Purchaser**”), as purchaser, and the transactions contemplated therein (the “**Transactions**”), and ordered, *inter alia*, that: (i) all of the Purchased Entities’ right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co.; (ii) all of the Excluded Liabilities shall be transferred to, assumed by and vest in Residual Co.; and (iii) all of the right, title and interest in and to the Purchased Shares shall vest absolutely and exclusively in the Purchaser free and clear of and from any Claims and Encumbrances and terminating and cancelling all of the Equity Interests, which vesting, terminating and cancelling is to be effective upon the delivery by the Monitor to the Purchaser and the Companies of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Companies and the Purchaser that all conditions to closing have been satisfied or waived by the parties to the Amended and Restated Stalking Horse Agreement.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received the Priority Payment Amount and the CCAA Process Expense Amount.
2. The Monitor has received written confirmation from the Companies and the Purchaser, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived, as applicable, by the parties to the Amended and Restated Stalking Horse Agreement.
3. This Monitor’s closing certificate was delivered by the Monitor at Toronto on \_\_\_\_\_, 2024.

**KPMG Inc., in its capacity as Monitor of the Heritage Group and not in its personal or corporate capacity.**

Per:: \_\_\_\_\_

Name:

Title:

**SCHEDULE B**  
**PERMITTED ENCUMBRANCES**

**PERSONAL PROPERTY PERMITTED ENCUMBRANCES**

*Heritage Cannabis Holdings Corp.*

- Security interest granted to NFS Leasing Canada Ltd. and Peoples United Bank, N.A. in connection with the Ontario *Personal Property Security Act* registration bearing Reference File No. 788089527; and
- Security interest granted to NFS Leasing Canada Ltd. C/O NFS Leasing, Inc.; M&T Bank Corporation in connection with the Ontario *Personal Property Security Act* registration bearing Reference File No. 797650083.

*Heritage Cannabis Holdings Corp. and Heritage Cannabis West Corporation*

- Security interest granted to Metro Leasing Corp. in connection with the British Columbia *Personal Property Security Act* registration bearing Base Registration No. 592391N.

*Heritage Cannabis West Corporation*

- Security interest granted to Brown Bros Motor Lease Canada Ltd. in connection with the British Columbia *Personal Property Security Act* registration bearing Base Registration No. 391566N.

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

**APPROVAL AND REVERSE VESTING ORDER**

**CHAITONS LLP**

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Lawyers for the Applicants

***THIS IS EXHIBIT "G" TO THE  
AFFIDAVIT OF DAVID SCHWEDE  
SWORN BEFORE ME THIS 21<sup>ST</sup>  
DAY OF AUGUST, 2024***



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***A Commissioner Etc.***

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

THE HONOURABLE MR.	)	WEDNESDAY, THE 26 <sup>TH</sup>
	)	
JUSTICE OSBORNE	)	DAY OF JUNE, 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**”)

**ANCILLARY RELIEF 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, among other things, (i) extending the Stay of Proceedings (as defined in the Amended and Restated Initial Order made in these CCAA proceedings dated April 11, 2024 (the “**ARIO**”)) until and including August 30, 2024; (ii) approving the extension of the term of the debtor-in-possession facility term sheet, dated April 10, 2024, among Heritage Cannabis Holdings Corp. and BJK Holdings Corp. (the “**DIP Term Sheet**”) to August 30, 2024; (iii) granting the Monitor certain enhanced powers to facilitate the wind-down of these CCAA proceedings; (iv) approving the Monitor’s Reports (as hereinafter defined) of KPMG Inc. (“**KPMG**”), in its capacity as Court-appointed monitor of the Applicants (the “**Monitor**”) and the activities described therein; and (v) permitting the Applicants (including 1000921087 Ontario Inc. (“**Residual Co.**”)), or any one of them, to file for bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”) and authorizing

and empowering, but not obligating, KPMG to act as trustee in bankruptcy in respect of any of the Applicants (including Residual Co.), was heard this day via Zoom videoconference.

**ON READING** the Notice of Motion of the Applicants, the affidavit of David Schwede sworn June 18, 2024 and the exhibits thereto (the “**Third Schwede Affidavit**”), the Second Report of the Monitor dated June 21, 2024 (the “**Second Report**”), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the Affidavit of Service of Lynda Christodoulou, as filed,

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and 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 order of the Honourable Justice Cavanagh granted on April 2, 2024 (the “**Initial Order**”), the ARIO, the order of the Honourable Justice Cavanagh granted on April 11, 2024 (the “**SISP Order**”) or the Approval and Reverse Vesting Order dated June 26, 2024 made in these CCAA proceedings (the “**ARVO**”).

3. **THIS COURT ORDERS** that all references to Applicants herein shall be deemed to include reference to Residual Co. for the period from and after the Closing Time (as such term is defined in the ARVO).

### **EXTENSION OF THE STAY PERIOD**

4. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including August 30, 2024.

### **EXTENSION OF TERM OF THE DIP TERM SHEET**

5. **THIS COURT ORDERS** that the extension of the maturity date set out in Section 9(a) of the DIP Term Sheet from August 2, 2024 to August 30, 2024 is hereby approved.

## **ENHANCED POWERS OF THE MONITOR**

6. **THIS COURT ORDERS** that, in addition to the powers and duties of the Monitor set out in the ARIO, any other Order of this Court granted in these CCAA proceedings, the CCAA and applicable law, and without altering in any way the limitations and obligations of the Applicants as a result of these CCAA proceedings, effective upon the Monitor's delivery of the Monitor's Closing Certificate pursuant to the ARVO, the Monitor be and is hereby authorized and empowered, but not required, to:

- (a) cause the Applicants to take any and all actions and steps, and execute all agreements, documents and writings, in the name of or on behalf of, the Applicants, in order to facilitate the performance of any of their obligations, including, without limitation, as contemplated by the Amended and Restated Stalking Horse Agreement (including any post-closing matters relating to same), or any Order of this Court in these CCAA proceedings;
- (b) execute administrative filings as may be required in the name of or on behalf of the Applicants;
- (c) exercise any powers which may be properly exercised by any board of directors or any officers of the Applicants;
- (d) engage, retain, or terminate the services of, or cause the Applicants to engage, retain or terminate the services of, any officer, employee, consultant, agent, representative, advisor, or other persons or entities, all under the supervision and direction of the Monitor, as the Monitor, in its sole opinion, deems necessary or appropriate to assist with the exercise of its powers and duties, and on terms as agreed by the Monitor;
- (e) exercise any rights of the Applicants;
- (f) conduct, supervise and direct the continuation or commencement of any process or effort to recover any Property;

- (g) engage, deal, communicate, negotiate, agree and settle with any creditor or other stakeholder of the Applicants (including any governmental authority), in the name of or on behalf of the Applicants;
- (h) claim, or cause the Applicants to claim, any and all insurance refunds or tax refunds to which the Applicants are entitled, in the name of or on behalf of the Applicants;
- (i) exercise any shareholder, partnership, joint venture or other rights of any of the Applicants;
- (j) access all books and records that are the property of the Applicants in the Applicants' possession or control;
- (k) file, or take such actions necessary for the preparation and filing of, in the name of or on behalf of the Applicants, (i) any tax returns, (ii) the Applicants' employee-related remittances, T4 statements and records of employment for the Applicants' former employees, in either case, based solely upon the information in the Applicants' books and records and on the basis that the Monitor shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents;
- (l) act as an authorized representative of the Applicants in respect of dealings with the Canada Revenue Agency (the "CRA") or any other taxing authority, and the Monitor shall be hereby entitled to execute any appointment or authorization form on behalf of the Applicants that the CRA or any other taxing authority may require in order to confirm the Monitor's appointment as an authorized representative for such purposes;
- (m) assign any of the Applicants, or cause any of the Applicants to be assigned, into bankruptcy, and KMPG shall be hereby entitled but not obligated to act as trustee in bankruptcy of any Applicant, or engage a third party to act as trustee in bankruptcy of any Applicant;

- (n) pay from the “**Priority Payment Amount**” (as defined in the Amended and Restated Stalking Horse Agreement), in the name of or on behalf of the Applicant or in its own name, as applicable, the amounts, fees, costs and expenses payable from the Priority Payment Amount and the CCAA Process Expense Amount (as defined in the Amended and Restated Stalking Horse Agreement), pursuant to the Amended and Restated Stalking Horse Agreement;
- (o) apply to this Court for advice and directions or any further orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court, including for advice and directions with respect to any matter; and
- (p) take any steps reasonably incidental to the exercise by the Monitor of these powers or the performance of any statutory obligations.

## **PROTECTIONS OF THE MONITOR**

7. **THIS COURT ORDERS** that, without limiting and subject to the provisions of the ARIO and the ARVO, the Applicants shall remain in possession and control of the Property, and the Monitor shall not take, or be deemed to have taken, possession or control of the Property, or any parts thereof.

8. **THIS COURT ORDERS** that nothing in this Order, and nothing done by the Monitor in carrying out its duties hereunder, shall result in, or be deemed to result in, the Monitor being an employer, successor employer, responsible person, operator, officer, director, employee, receiver, trustee (unless assignments in bankruptcy are filed as contemplated in Paragraph 6(m) hereof), assignee, liquidator, administrator, legal representative, receiver-manager or agent of the Applicants or the Property, in each case, within the meaning of any statute, regulation or rule of law, or equity, for any purpose whatsoever, and that any distributions or payments by the Applicants made with the approval, assistance or by the Monitor on behalf of the Applicants will be deemed to have been made by the Applicants.

9. **THIS COURT ORDERS** that without limiting Paragraph 6 hereof, the Monitor shall not, as a result of this Order, or anything done pursuant to its powers under this Order, be deemed to

occupy or to take control, care, charge, possession or management of any of the Property (a) 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 Legislation, and (b) 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 Environmental Legislation; provided however, if the Monitor is nevertheless found to be in possession of any Property, then the Monitor shall be deemed to be a person who has been lawfully appointed to take, or has lawfully taken, possession or control of such Property for the purposes of section 14.06(1.1)(c) of the BIA, and shall be entitled to the benefits and protections in relation to the Applicants and such Property as provided by section 14.06(2) of the BIA to a “trustee” in relation to an insolvent person and its property.

10. **THIS COURT ORDERS** that the Monitor shall not be liable for any employee-related liabilities of the Applicants, including any successor employer liabilities as provided for in Section 11.8(1) of the CCAA; and nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee related liabilities of the Applicants, including wages, severance pay, termination pay, vacation pay, and pension, retirement or benefit obligations, or amount, in each case whether arising under statute, contract, collective bargaining agreement, common law or otherwise.

11. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA, as an officer of this Court or otherwise at law, the Monitor and its legal counsel shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the ARIO and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in the fulfillment of its duties, carrying out the provisions of this Order and exercising any powers granted to it hereunder. Nothing in this Order shall derogate from the powers of the Monitor as provided in the CCAA, the ARIO and the other Orders of this Court in the CCAA proceedings. Without limiting the generality of the foregoing, in exercising any powers granted to it hereunder: (a) the Monitor shall be entitled

to rely on the Applicants' books and records without independent investigation; and (b) the Monitor shall incur no liability or obligation as a result of exercising any powers granted to it hereunder, save and except for any gross negligence or wilful misconduct on its part, and the Monitor shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any person from and after the date of this Order, save and except to the extent such losses, claims, damages or liabilities result from gross negligence or wilful misconduct on its part.

12. **THIS COURT ORDERS** that the powers and authority granted to the Monitor by virtue of this Order shall, if exercised in any case, be paramount to the power and authority of the Applicants with respect to such matters and, in the event of a conflict between the terms of this Order and those of the ARIO or any other Order of this Court, the provisions of this Order shall govern.

#### **COOPERATION WITH THE MONITOR**

13. **THIS COURT ORDERS** that the Applicants and their respective advisors and their current and former officers, directors, employees, agents and representatives shall co-operate with the Monitor in the exercise of its powers pursuant to this Order or any other Order of this Court in these CCAA proceedings, and shall provide the Monitor and the Applicants with such assistance as the Monitor or the Applicants may request from time to time to enable the Monitor to carry out and discharge its powers as set out in this Order or any other Order of this Court in these CCAA proceedings; provided, however, that in the case of the Applicants' former employees that are, at the time of any such requests for assistance or information by the Applicants or the Monitor, current employees of the Purchaser, subject to further order of the Court, such co-operation and requests will be limited to reasonable requests for information or assistance that will not reasonably be expected to materially interfere with the day-to-day duties or activities of such employee for the Purchaser, shall not cause or potentially cause liability to the Purchaser (including in respect of any indemnification of or responsibility for the employees in question) and shall be at the Applicants' sole expense.

## **APPROVAL OF MONITOR'S ACTIVITIES, CONDUCT, AND REPORTS**

14. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated April 2, 2024, and the First Report of the Monitor dated April 10, 2024 (together, the “**Monitor’s Reports**”), and the actions, conduct and activities of the Monitor referred to therein, be and are hereby ratified and approved; provided, however, that only the Monitor, in its capacity as Monitor and in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approvals.

## **AMENDMENT TO THE ARIO**

15. **THIS COURT ORDERS** that paragraph 31 of the ARIO is hereby amended by replacing the reference to “Owens Wright LLP” to “WeirFoulds LLP” such that, after giving effect to such amendment, paragraph 31 of the ARIO shall provide as follows:

**THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' corporate counsel (WeirFoulds 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.

## **GENERAL**

16. **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.

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

18. **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.

19. **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.

20. **THIS COURT ORDERS** that this Order and 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.

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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

**ANCILLARY RELIEF ORDER**

**CHAITONS LLP**

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

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Lawyers for the Applicants

**TAB 3**

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

THE HONOURABLE MR.	)	MONDAY, THE 26 <sup>TH</sup>
	)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 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**”)

**ORDER**

**(Re: Extension of the Stay Period)**

**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, among other things, extending the Stay of Proceedings (as defined in the Amended and Restated Initial Order made in these CCAA proceedings dated April 11, 2024 (the “**ARIO**”)) to and including September 27, 2024, was heard this day via Zoom videoconference.

**ON READING** the Notice of Motion of the Applicants, the Affidavit of David Schwede sworn August 21, 2024 and the exhibits thereto (the “**Fourth Schwede Affidavit**”), the Third Report of the Monitor dated August 22, 2024 (the “**Third Report**”), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and such other parties listed

on the Participant Information Form, no one appearing for any other party although duly served as appears from the Affidavit of Service of Lynda Christodoulou, as filed,

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and 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 ARIO or the Approval and Reverse Vesting Order dated June 26, 2024 (the “**ARVO**”) made in these CCAA proceedings.
3. **THIS COURT ORDERS** that all references to Applicants herein shall be deemed to include reference to 1000921087 Ontario Inc. (“**Residual Co.**”) for the period from and after the Closing Time (as such term is defined in the ARVO).

### **EXTENSION OF THE STAY PERIOD**

4. **THIS COURT ORDERS** that the Stay Period be and is hereby extended from August 30, 2024 to and including September 27, 2024.

### **GENERAL**

5. **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.
6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
7. **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.

8. **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.

9. **THIS COURT ORDERS** that this Order and 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.

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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

**ORDER  
(Extension of the Stay Period)**

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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.

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

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

Proceeding commenced at Toronto

**MOTION RECORD**  
**(Returnable August 26, 2024)**

**CHAITONS LLP**

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