



Court File No. CV-23-00706033-00CL

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

THE HONOURABLE) THURSDAY, THE 21st
JUSTICE CAVANAGH) DAY OF SEPTEMBER, 2023

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 BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

**AMENDED AND RESTATED INITIAL ORDER
(Amending Initial Order dated September 14, 2023)**

THIS MOTION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an Amended and Restated Initial Order was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Sarah S. Eskandari sworn September 13, 2023 and the Exhibits thereto (the "**Initial Eskandari Affidavit**") and the pre-filing report dated September 14, 2023 of KSV Restructuring Inc. ("**KSV**") in its capacity as the proposed monitor, the second affidavit of Sarah S. Eskandari sworn September 15, 2023 and the Exhibits thereto (the "**Second Eskandari Affidavit**"), the first report of KSV in its capacity as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated September 19, 2023 and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, KSV, and the other parties listed on the counsel slip and no one appearing for any other party although duly served as appears from the affidavit of service of Stephanie Fernandes sworn September 15, 2023, and on reading the consent of KSV to act as the Monitor,

SERVICE AND DEFINITIONS

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 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 Initial Eskandari Affidavit or the Second Eskandari Affidavit, as applicable.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicant 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

5. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and the Property. The Applicant is authorized and empowered to continue to retain and employ or receive the services of its employees (or employees of affiliates providing services on an intercompany basis), consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.
6. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Initial Eskandari Affidavit or, with the prior written consent of the Monitor, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank

providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under a plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of the Initial Order:

- (a) in respect of employees of the Applicant, all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses 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;
- (b) with the prior written consent of the Monitor, amounts owing for goods and services actually supplied to the Applicant or its affiliates BioSteel Sports Nutrition USA, LLC ("**BioSteel US**") or BioSteel Manufacturing LLC ("**BioSteel Manufacturing**"), and collectively with the Applicant and BioSteel US, the "**BioSteel Entities**" and each a "**BioSteel Entity**", including, without limiting the foregoing, services provided by contractors, prior to the date of the Initial Order, with the Monitor considering, among other factors, whether: (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicant and the payment is required to ensure ongoing supply; (ii) making such payment will preserve, protect or enhance the value of the Property or the Business or the business or property of a US BioSteel Entity; and (iii) the supplier or service provider is required to continue to provide goods or services to the Applicant after the date of the Initial Order, including pursuant to the terms of this Order; and,
- (c) the fees and disbursements of any Assistants retained or employed by the Applicant, at their standard rates and charges.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the BioSteel Entities in carrying on the Business in the ordinary course after the date of the Initial 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 BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel Entities may only be made with consent of the Monitor, on or following the date of the Initial Order.

9. **THIS COURT ORDERS** that the Applicant 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; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of the Initial Order, or where such Sales Taxes were accrued or collected prior to the date of the Initial Order but not required to be remitted until on or after the date of the Initial Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay, without duplication, 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, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicant or the making of this Order) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of the Initial Order, monthly in equal payments on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor, at such other time intervals and dates as may be agreed to between the Applicant and landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of the Initial Order shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2,000,000 in the aggregate; and
- (b) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

13. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled

to have a representative present in the leased premises to observe such removal and, if the landlord disputes the 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 Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

14. **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, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, 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 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 BIOSTEEL ENTITIES, THEIR BUSINESS OR THEIR PROPERTY

15. **THIS COURT ORDERS** that until and including November 17, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of the BioSteel Entities or the Monitor, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BioSteel Entities or affecting the Business or the Property, or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, 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 of the BioSteel Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the BioSteel Entities to carry on any business which it 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

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

NO PRE-FILING VS POST FILING SET OFF

18. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of the Initial Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of the Initial Order, each without the consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the BioSteel Entities 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, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the BioSteel Entities, 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 any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its 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 the Initial Order are paid by the applicable BioSteel Entities in accordance with the normal payment practices of the applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **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 the Initial Order, nor shall any Person be under any obligation on or after the date of the Initial Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. **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 of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “**Directors and Officers**”) with respect to any claim against the Directors and Officers that arose before the date of the Initial Order and that relates to any obligations of any of the BioSteel Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. **THIS COURT ORDERS** that the Applicant shall indemnify the Directors and Officers against obligations and liabilities that they may incur as directors or officers of any of the BioSteel Entities after the commencement of the within proceeding, except to the extent that, with respect to any Director or Officer, the obligation or liability was incurred as a result of such Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

23. **THIS COURT ORDERS** that the Directors and Officers 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 US\$2,198,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 37 and 39 hereof.

24. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

APPOINTMENT OF MONITOR

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

26. **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 Applicant's receipts and disbursements;

- (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 proceeding herein;
- (c) assist the Applicant in the preparation of its cash flow statements;
- (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) monitor all payments, obligations and transfers as between the Applicant and its affiliates;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

28. **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 *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and 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.

29. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

30. **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, the Monitor, its directors, officers, employees, legal counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

31. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee 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 the Initial Order, by the Applicant as part of the costs of this proceeding. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a bi-weekly basis.

32. **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.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the “**Financial Advisor**”) in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) 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 US\$1,000,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of the Initial Order in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

ENGAGEMENT OF THE FINANCIAL ADVISOR

34. **THIS COURT ORDERS** that the engagement of the Financial Advisor by the Applicant as investment banker pursuant to the engagement letter dated as of August 24, 2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Engagement Letter) and the Transaction Fee (as defined in the Initial Eskandari Affidavit) are hereby approved.

35. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$2,500,000. The Transaction Fee Charge shall have the priority set out in paragraphs 37 and 39 herein.

36. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

37. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, and the Transaction Fee Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of US\$1,000,000);

Second – Directors’ Charge (to the maximum amount of US\$2,198,000); and

Third – Transaction Fee Charge (to the maximum amount of US\$2,500,000).

38. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

39. **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, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment.

40. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, and the beneficiaries of the Administration Charge and the Directors’ Charge and the Transaction Fee Charge, as applicable, or further Order of this Court.

41. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of this proceeding and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* (the “**BIA**”) or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is 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 creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

43. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the *National Post (National Edition)*, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of the Initial Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a copy of the notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

44. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) 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*, R.R.O. 1990. Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: www.ksvadvisory.com/experience/case/biosteel.

45. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicant, the

Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in this proceeding, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicant's creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicant and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Time; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

46. **THIS COURT ORDERS** that the Applicant, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, and any other materials and orders as may be reasonably required in this proceeding, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicant's creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

47. **THIS COURT ORDERS** that subject to further Order of this Court in respect of urgent motions, any interested party wishing to object to the relief sought in a motion brought by the Applicant or the Monitor in this proceeding shall, subject to further Order of this Court, provide the service list in this proceeding (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Eastern 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 consultation with the Applicant.

FOREIGN PROCEEDINGS

48. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the within proceeding for the purpose of having this proceeding recognized and approved in a jurisdiction outside of Canada.

49. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of this proceeding, as necessary, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

GENERAL

50. **THIS COURT ORDERS** that any interested party (including the Applicant) may apply to this Court to vary or amend this Order on not less than five (5) calendar days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 37 and 39 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

51. **THIS COURT ORDERS** that, notwithstanding paragraph 50 of this Order, the Applicant 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 its powers and duties hereunder or in the interpretation of this Order.


52. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

53. **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 BioSteel 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 BioSteel Entities 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 BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

54. **THIS COURT ORDERS** that each of the Applicant 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 proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

55. **THIS COURT ORDERS** that the Initial Order of this Court dated September 14, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



Digitally signed by
Peter Cavanagh

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 BIOSTEEL SPORTS NUTRITION
INC.

Court File No. CV-23-00706033-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**AMENDED AND RESTATED INITIAL ORDER
(Amending Initial Order dated September 14, 2023)**

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