



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

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

THE HONOURABLE )  
 )  
JUSTICE STEELE ) THURSDAY, THE 14TH  
 DAY OF DECEMBER, 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.,  
BIOSTEEL MANUFACTURING LLC, AND BIOSTEEL SPORTS  
NUTRITION USA LLC

(the "**Applicants**")

**ORDER  
(DISTRIBUTION, STAY EXTENSION AND EXPANSION OF POWERS ORDER)**

**THIS MOTION**, made by BioSteel Sports Nutrition Inc., BioSteel Manufacturing LLC, and BioSteel Sports Nutrition USA LLC (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (the "**Order**"), among other things: (a) authorizing the Applicants to make the Distributions (as defined below) to Canopy Growth Corporation ("**Canopy**") and Wilmington Trust, National Association (the "**Administrative Agent**"); (b) enhancing the Monitor's powers; and (c) extending the Stay Period, was heard this day by judicial videoconference via Zoom.

**ON READING** the Affidavit of Sarah S. Eskandari, sworn December 7, 2023, and the Exhibits thereto (the "**Eskandari Affidavit**"), the Third Report of the Monitor dated December 12, 2023, and the appendices thereto (the "**Third Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and such other parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Stephanie Fernandes sworn December 7, 2023 and December 8, 2023.

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## SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Eskandari Affidavit or the Amended and Restated Initial Order dated September 21, 2023, as applicable.

## DISTRIBUTION OF BIOSTEEL CASH AND PROCEEDS

3. **THIS COURT ORDERS** that the Applicants are hereby authorized, at such time or times and in such amounts as they determine appropriate, in their sole discretion and in consultation with the Monitor, to make distributions of cash and the proceeds of the various Transactions as follows:

- a. BioSteel Canada may make distributions to Canopy of cash and proceeds held by BioSteel Canada from time to time, provided that the aggregate of all such distributions, together with any other recoveries received by Canopy, at the date of such distribution, shall not exceed the full amount of BioSteel Canada's "Obligations" (as that term is defined in the Loan Agreement, as amended); and
- b. BioSteel Manufacturing and BioSteel US may make distributions to the Administrative Agent of cash and proceeds held by BioSteel Manufacturing and BioSteel US, from time to time provided that the aggregate of all such distributions, together with any other recoveries received by the Administrative Agent or the Senior Secured Lenders under the Canopy Credit Agreement, at the date of such distribution, shall not exceed the full amount of the "Obligations" (as that term is defined in the Canopy Credit Agreement) guaranteed by BioSteel Manufacturing and BioSteel US pursuant to the Guarantee,

(collectively the "**Distributions**").

4. **THIS COURT ORDERS** that, in connection with making the Distributions, the Applicants shall collectively retain sufficient funds in aggregate from its cash and proceeds in an amount

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satisfactory to the Monitor to satisfy any amounts secured by the Charges, and any other amounts required to facilitate the ongoing administration of this CCAA Proceeding and/or the ultimate wind up of the Applicants.

5. **THIS COURT ORDERS** that the Distributions shall be free and clear of and from any and all 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 including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order, the ARIO, the SISP Approval Order of this Court dated September 21, 2023, or any other orders made in this CCAA proceeding; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the Uniform Commercial Code, or any other personal property registry system in any province or territory in Canada, the United States or the Civil Code of Quebec.

6. **THIS COURT ORDERS** that the Applicants shall be entitled to deduct and withhold from any Distribution to Canopy or the Administrative Agent, as applicable, such amounts as may be required to be deducted or withheld under any applicable law, and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order to such person as the remainder of the distribution in respect of which such withholding or deduction was made.

7. **THIS COURT ORDERS** that the Distributions shall not constitute a “distribution” by any director, officer, employee or agent of the Applicants or the Monitor, including their respective legal counsel, and such persons shall not constitute a “legal representative”, “representative” or a “responsible representative” of the Applicants or “other person” for purposes of Section 159, 227.1 and 227(5) of the *Income Tax Act* (Canada), Section 117 of the *Taxation Act*, 2007 (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada), Section 22 of the *Retail Sales Tax Act* (Ontario), Section 107 of the *Corporations Tax Act* (Ontario), or any federal, provincial, state or territorial tax legislation (collectively, the “**Statutes**”), and such persons, including the Monitor, in causing or assisting the

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Applicants to make any Distribution in accordance with this Order is not “distributing”, nor shall it be considered to have “distributed”, such funds for the purposes of the Statutes, and such persons shall not incur any liability under the Statutes for causing or assisting the Applicants in making any Distributions in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and such persons shall not have any liability for any of the Applicants’ tax liabilities regardless of how or when such liabilities may have arisen, and are hereby forever released, remised and discharged from any claims against such person under or pursuant to the Statutes or otherwise at law arising as a result of the Distributions contemplated in this Order, and any claims of such nature are hereby forever barred.

8. **THIS COURT ORDERS** that the Applicants are each hereby authorized, directed and empowered to take any further steps that they may deem necessary or desirable to complete the Distributions described in this Order.

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

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) the pendency of any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), in respect of the Applicants or their property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Applicants; and
- (d) the provision of any federal, provincial or other statute,

any Distributions made pursuant to this Order are final and irreversible and shall be binding upon any trustee in bankruptcy or receiver that may be appointed in respect of the Applicants or their Property, and shall not be void or voidable by creditors of the Applicants, nor shall any such distributions constitute or be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers-at-undervalue or other reviewable transactions under the BIA or any other applicable federal, provincial or other law, nor shall they constitute conduct which is oppressive, unfairly prejudicial to or which unfairly disregards the interests of any person, and shall, upon the

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receipt thereof, be free of all claims, liens, security interests, charges or other encumbrances granted by or relating to the Applicants or their Property.

### **MONITOR'S ENHANCED POWERS**

10. **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 this CCAA Proceeding, the CCAA and applicable law, and without altering in any way the obligations of the Applicants in this CCAA Proceeding, including the Applicants' obligations under the Transactions, the Monitor be and is hereby authorized and empowered, but not required, to exercise any powers which may be properly exercised by a board of directors or any officers of the Applicants to cause the Applicants, through the Applicants' Assistants (then engaged, if any), to, including without limitation:

- a. take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, the Applicants in order to facilitate the performance of any of the Applicants' powers or obligations, including, without limitation, as contemplated by the Transactions (including post-closing matters) or any Order of this Court;
- b. engage, retain, or terminate the services of any officer, employee, consultant, agent, representative, advisor, or other persons or entities. For greater certainty, any such officer, employee, consultant, agent, representative, advisor, or other persons or entities engaged or retained pursuant to this paragraph 10(b) shall thereafter be deemed to be an Assistant under the ARIO;
- c. perform such other functions or duties, and enter into any agreements or incur any obligations, as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down of the Applicants, the realization and/or sale of all of the Applicants' remaining assets and undertakings not transferred pursuant to the BioSteel Canada Approval and Vesting Order and the Manufacturing Approval and Vesting Order (the "**Remaining Property**"), authorizing the distribution of any net proceeds of the Transactions and/or the Remaining Property (the "**Proceeds**"), or any other related activities, including, without limitation, in connection with terminating this CCAA Proceeding;

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- d. exercise any rights of the Applicants;
- e. initiate, prosecute, and/or continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Applicants, the Remaining Property, or the cash and proceeds of the Applicants;
- f. deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Applicants that any taxing or regulatory authority may require, in order to confirm the appointment of an authorized representative of the Applicants (which may be a representative of the Monitor) for such purposes;
- g. claim any and all insurance refunds or tax refunds to which the Applicants is entitled on behalf of the Applicants;
- h. file, or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Applicants, (i) any tax returns, and (ii) the Applicants' employee-related remittances, T4 statements and records of employments 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; and
- i. take any steps reasonably incidental to the exercise by the Monitor of the powers listed above or the performance of any statutory obligations.

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

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

#### **GENERAL**

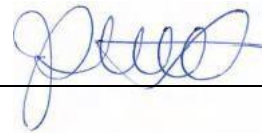
12. **THIS COURT ORDERS** that the Applicants or the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

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

14. **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.

15. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof.



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PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(DISTRIBUTION, STAY EXTENSION AND EXPANSION OF  
POWERS ORDER)**

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