

**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 BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

MOTION RECORD

November 10, 2023

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(as of November 8, 2023)

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IN THE MATTER OF THE *COMPANIES' CREDITORS
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TAB 1

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**NOTICE OF MOTION
(APPROVAL AND VESTING ORDERS AND ANCILLARY RELIEF ORDER RETURNABLE
NOVEMBER 16, 2023)**

The Applicant and the Additional Applicants will make a motion before the Honourable Madam Justice Conway of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on November 16, 2023 at 11:00 a.m., or as soon after that time as the motion may be heard by judicial videoconference via Zoom at Toronto, Ontario.

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 link:

[https://ca01web.zoom.us/j/61474879934?pwd=NDQvb3ZKRkN0b3hpTWNPU1RaaWt0QT09 -
success](https://ca01web.zoom.us/j/61474879934?pwd=NDQvb3ZKRkN0b3hpTWNPU1RaaWt0QT09-success)

THE MOTION IS FOR

1. An order (the “**Ancillary Order**”), among other things:
 - (i) adding BioSteel Manufacturing and BioSteel US as applicants (collectively the “**Additional Applicants**” or the “**US BioSteel Entities**”) in this proceeding with such rights, protections, and obligations as are afforded to the Applicant in these proceedings and extending the Charges to the Property of the Additional Applicants;
 - (ii) extending the Stay of Proceedings set out in the Amended and Restated Initial Order (the “**ARIO**”) through and including January 31, 2024;
 - (iii) appointing the Applicant as the foreign representative in respect of the Additional Applicants;
 - (iv) authorizing continued intercompany transactions between the Applicant, the Additional Applicants, and their affiliates;
 - (v) authorizing the payment of the Transaction Fee on a pro rata basis by BioSteel Canada and BioSteel Manufacturing;
 - (vi) authorizing the Applicant and the Additional Applicants (collectively, “**BioSteel**”) to discontinue its loyalty program; and
 - (vii) temporarily sealing the confidential appendix (the “**Confidential Appendix**”) which will be attached to the Second Report of the Monitor, to be filed (the “**Second Report**”).

2. An approval and vesting order (the “**BioSteel Canada AVO**”), among other things:
 - (a) approving the sale transaction of certain intellectual property, inventory, and related assets (the “**BioSteel Canada Transaction**”) contemplated by the Asset Purchase Agreement dated November 9, 2023, as amended (the “**BioSteel Canada Purchase Agreement**”), between DC Holdings LTD., dba Coachwood Group of Companies as buyer (“**DC Holdings**”), and BioSteel Canada, as seller; and
 - (b) vesting the purchased assets described in the BioSteel Canada Purchase Agreement (the “**BioSteel Canada Purchased Assets**”) in and to DC Holdings as permitted under the BioSteel Canada Asset Purchase Agreement.

3. An approval and vesting order (the “**Manufacturing AVO**”, together with the BioSteel Canada AVO, the “**Approval and Vesting Orders**”):
 - (a) approving the sale transaction of assets (the “**Manufacturing Transaction**”, together with the BioSteel Canada Transaction, the “**Transactions**”) contemplated by the Asset Purchase Agreement dated November 9, 2023, as amended (the “**Manufacturing Purchase Agreement**”), between Gregory Packaging, Inc., as buyer (“**GPI**”), and BioSteel Manufacturing, as seller;
 - (b) vesting the purchased assets described in the Manufacturing Purchase Agreement (the “**Manufacturing Purchased Assets**”) in, GPI as permitted under the Asset Purchase Agreement; and
 - (c) assigning to GPI the lease for industrial space in Verona, Virginia in connection with BioSteel Manufacturing’s operations (the “**Lease**”).

4. Such further and other relief as counsel may request and this Court deems just.

5. Unless otherwise noted, capitalized terms not defined herein have the meanings set out in the Sarah S. Eskandari Affidavit sworn November 10, 2023.

THE GROUNDS FOR THE MOTION ARE

a) The CCAA Proceeding

6. On September 14, 2023, the Applicant was granted protection under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List).

7. On September 19, 2023, the Applicant commenced the Chapter 15 Case.

8. At the Comeback Hearing on September 21, 2023, the Court granted the ARIO which, among other things, extended the Stay of Proceedings until November 17, 2023, and approved the engagement letter of Greenhill & Co. Canada Ltd., as financial advisor to the Applicant in this CCAA Proceeding (the "**Financial Advisor**"), and granted the Transaction Fee Charge up to a maximum amount of US\$2.5 million.

9. On September 21, 2023, the Court also granted the SISP Approval Order which, among other things approved the SISP and authorized the Applicant to implement the SISP pursuant to its terms. The SISP permitted the Applicant, working with its professionals, to solicit bids for the BioSteel business as a whole and for all or substantially all of the assets and/or shares of each of the US BioSteel Entities.

10. The SISP was developed based on advice of the Financial Advisor and the Monitor to balance BioSteel's cash needs with the desire to thoroughly canvass the market. The SISP provided for a period of 25 days to solicit interest, with such period commencing no later than

September 21, 2023, and ending on the deadline of October 16, 2023. Thereafter, there were further negotiations to clarify and finalize various bids.

11. In accordance with the terms of the SISP, the BioSteel Canada Transaction and the Manufacturing Transaction have been selected as the Successful Bids.

12. The BioSteel Canada Purchase Agreement has a condition that requires BioSteel to obtain the BioSteel Canada AVO in respect to the BioSteel Canada Purchased Assets.

13. The Manufacturing Purchase Agreement requires, among other things, (i) the Manufacturing AVO in respect of the Manufacturing Purchased Assets, (ii) an assignment of the lease to the extent that another resolution is not reached with the landlord, and (iii) orders of the US Bankruptcy Court recognizing the ancillary order (adding BioSteel Manufacturing as an applicant in this CCAA Proceeding) and the Manufacturing AVO.

b) The Relief Requested

(a) ***Ancillary Order***

14. The Ancillary Order is necessary to permit the consummation of the proposed Transactions and to facilitate the ultimate wind down of the Business.

15. The Ancillary Order provides for the relief as detailed below:

(a) Adding Applicants to the CCAA Proceeding. In order to obtain the Manufacturing AVO (including U.S. recognition thereof) and eventually wind down the Business, it was determined that the US BioSteel Entities should be added as applicants to the CCAA Proceeding. The Additional Applicants are insolvent, highly integrated with the Applicant and will have no business upon completion of the

Transactions. Accordingly, it is appropriate to add the Additional Applicants to the CCAA Proceeding and extend the provisions of the ARIO to the US BioSteel Entities.

- (b) The Stay Extension. The Applicant is seeking an extension to the Stay Period up and until January 31, 2024. The Applicant has been acting in good faith and with due diligence. The Cash Flow Statement will demonstrate that BioSteel will have sufficient liquidity to meet its obligations as they come due during the extended Stay Period.
- (c) Termination of the Loyalty Program. Upon completion of the SISP, there were no bidders in respect of the Loyalty Program. While there is general authority pursuant to the ARIO to permanently cease or shut down any of its business or operations, the Applicant is seeking explicit directions to discontinue the Loyalty Program as part of the wind up of the business.
- (d) Payment of the Transaction Fee. Following the closing of the Transactions, BioSteel will have completed an “M&A Transaction” by selling all or a material portion of its assets and the Transaction Fee will become payable. BioSteel believes that it is appropriate for the Transaction Fee to be split pro rata (based on the transaction purchase price) by BioSteel Canada and BioSteel Manufacturing.
- (e) Sealing of Confidential Appendix. The Confidential Appendix will contain detailed and competitively sensitive information regarding the bids received pursuant to the SISP, the disclosure of which prior to the closing of the Transactions would be harmful to the process and the ability to maximize value for stakeholders,

including the Applicant's ability to pursue an alternate transaction if the Transactions do not close. The proposed sealing order is supported and recommended by the Monitor.

(a) ***Approval and Vesting Orders***

16. The Applicant is seeking an approval and vesting order for each of the BioSteel Canada Transaction and the Manufacturing Transaction. Both Transactions represent the best realization value achieved through a fair and reasonable SISP approved by this Court. The Monitor oversaw the SISP which was conducted in a reasonable manner with efficacy and integrity. The Monitor and the secured lenders are supportive of the Transactions.

17. The assignment of the Lease is also a condition to the Manufacturing Transaction. The Lease is not in arrears and GPI has the financial ability to satisfy the obligations thereunder. The assignment will also ensure that the landlord will not have any monetary claims in connection with the lease against BioSteel Manufacturing or the Manufacturing Assets. In such circumstances, the provision for assignment of the Lease is both necessary and appropriate.

OTHER GROUNDS

18. The provisions of the CCAA, including s. 2, 3, 11, 11.02, 11.03 and 36, and the inherent and equitable jurisdiction of this Honourable Court.

19. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended.

20. Such further and other grounds as the lawyers may advise.

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

21. The Affidavit of Sarah Eskandari sworn November 10, 2023 and the exhibits attached thereto;
22. The Second Report of the Monitor, to be filed; and
23. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

November 10, 2023

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TO: SERVICE 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 BIOSTEEL SPORTS NUTRITION INC.

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

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

PROCEEDING COMMENCED AT
TORONTO

**NOTICE OF MOTION
(APPROVAL AND VESTING ORDERS AND ANCILLARY
RELIEF ORDER RETURNABLE NOVEMBER 16, 2023)**

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
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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 BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

AFFIDAVIT OF SARAH S. ESKANDARI

I, Sarah S. Eskandari, of the City of Napa, in the State of California, MAKE OATH AND
SAY:

1. I am the General Counsel of BioSteel Sports Nutrition Inc. ("**BioSteel Canada**" or the "**Applicant**"). I also serve as the General Counsel for BioSteel Canada's affiliates, BioSteel Sports Nutrition USA LLC ("**BioSteel US**") and BioSteel Manufacturing LLC ("**BioSteel Manufacturing**", and collectively with BioSteel US and BioSteel Canada, "**BioSteel**"). I have served in this position since December 2022. In that capacity, I have consulted with members of the Applicant's finance, accounting, legal, and operational teams, as well as the Applicant's Financial Advisor (as defined below) and other external advisors. As such, I have knowledge of matters contained in this Affidavit. Where I do not possess personal knowledge, I have stated the source of my information therein, or believe it to be true based upon my consultations with the parties listed above. Nothing in this Affidavit, or the making of this Affidavit, is intended to waive any legal or other privilege in favour of BioSteel.

2. Unless otherwise noted, capitalized terms not defined herein have the meanings set out in my Affidavit sworn September 13, 2023 (the “**Initial Eskandari Affidavit**”) and the SISP Approval Order, as applicable. A copy of the Initial Eskandari Affidavit (without exhibits) is attached hereto as **Exhibit “A”**.

I. Overview

3. I swear this Affidavit in support of the motion by the Applicant and the Additional Applicants (as defined below):

- (a) an order (the “**Ancillary Order**”), among other things:
 - (i) adding BioSteel Manufacturing and BioSteel US (collectively, the “**US BioSteel Entities**” or the “**Additional Applicants**”) as applicants in this proceeding with such rights, protections, and obligations as are afforded to the Applicant in these proceedings and extending the Charges to the Property of BioSteel Manufacturing and BioSteel US;
 - (ii) extending the Stay of Proceedings set out in the Amended and Restated Initial Order (the “**ARIO**”) through and including January 31, 2024;
 - (iii) appointing BioSteel Canada as the foreign representative in respect of the Additional Applicants;
 - (iv) authorizing continued intercompany transactions between the BioSteel Entities and their affiliates;
 - (v) authorizing the payment of the Transaction Fee on a pro rata basis by BioSteel Canada and BioSteel Manufacturing;

- (vi) authorizing BioSteel to discontinue its loyalty program; and
 - (vii) temporarily sealing the Confidential Appendix to the Second Report (each as defined below);
- (b) an approval and vesting order (the “**BioSteel Canada AVO**”), among other things:
- (i) approving the sale of certain intellectual property, inventory, and related assets (the “**BioSteel Canada Transaction**”) contemplated by the Asset Purchase Agreement dated November 9, 2023, as amended (the “**BioSteel Canada Purchase Agreement**”), between DC Holdings LTD., dba Coachwood Group of Companies as buyer (“**DC Holdings**”), and BioSteel Canada, as seller; and
 - (ii) vesting the purchased assets described in the BioSteel Canada Purchase Agreement (the “**BioSteel Canada Purchased Assets**”) in and to DC Holdings; and
- (c) an approval and vesting order (the “**Manufacturing AVO**”):
- (i) approving the sale of assets (the “**Manufacturing Transaction**”) contemplated by the Asset Purchase Agreement dated November 9, 2023, as amended (the “**Manufacturing Purchase Agreement**”, together with the BioSteel Canada Purchase Agreement, the “**Purchase Agreements**”), between Gregory Packaging, Inc., as buyer (“**GPI**”), and BioSteel Manufacturing, as seller;
 - (ii) vesting the purchased assets described in the Manufacturing Purchase Agreement (the “**Manufacturing Purchased Assets**”) in GPI; and

- (iii) assigning to GPI the lease for industrial space in Verona, Virginia (the “**Lease**”) in connection with BioSteel Manufacturing’s operations.

4. On October 31, 2023, the BioSteel Canada Transaction and the Manufacturing Transaction (collectively, the “**Transactions**”) were selected as the Successful Bids in the sales and investment solicitation process (the “**SISP**”) approved by this Court pursuant to the SISP Approval Order (as defined below). The Transactions collectively provide the best outcome to BioSteel’s stakeholders, when taking into account, among other factors, the price, certainty of closing and overall benefits to stakeholders, including employees. I understand that the Transactions are supported by the Monitor, and that the Monitor intends to file a report in connection with this motion (the “**Second Report**”).

II. BACKGROUND

5. BioSteel is a sports nutrition and hydration company, focused on high quality ingredients and with a strong presence in professional sports markets. BioSteel products, including RTDs, hydration mixes and supplements, are available at retailers across Canada, the United States and online. The Additional Applicants operate on a fully integrated basis with the Applicant to manufacture, market, and distribute BioSteel products.

6. As noted in my prior affidavits, beginning in late 2022, BioSteel and Canopy cooperatively undertook a broad marketing process to seek an additional investment in, or sale of, BioSteel. That process returned no actionable bids. A subsequent process directed by the Special Committee of BioSteel and its independent legal counsel in August and early September of 2023 also returned no bids that could be executed on a timely basis.

7. As described in detail in the Initial Eskandari Affidavit, the Applicant sought CCAA protection on an urgent basis to prevent enforcement actions against it and to allow for an orderly sale of the of the business of the Applicant. The Initial Order (as amended) extended the Stay of Proceedings to include the US BioSteel Entities. At that time, the boards of the Additional Applicants determined not to immediately seek CCAA protection as applicants.

8. The SISP was approved by an Order of this Court dated September 21, 2023 (the “**SISP Approval Order**”). The SISP permitted the Applicant, working with its professional advisors, to solicit bids for the business or assets of the Applicant and for all or substantially all of the assets and/or shares of each of the US BioSteel Entities. I am advised by Natalie Levine of Cassels Brock & Blackwell LLP, counsel to BioSteel, that the SISP Approval Order was granted on notice to the service list for these proceedings, and that no objection was raised by any party at the hearing.

9. Since the issuance of the SISP Approval Order, the Applicant with the assistance of its advisors and under the oversight of the Monitor, has conducted the SISP in accordance with its terms and in good faith.

10. The SISP resulted in various bids being submitted including for the entirety of the business of the BioSteel Entities (the “**Business**”) and for substantially all of the assets of BioSteel Canada and BioSteel Manufacturing. Following the binding bid deadline, and after carefully reviewing all of the bids submitted with BioSteel's legal advisors (including independent counsel to the Special Committee), the Financial Advisor and the Monitor, BioSteel's applicable boards determined that the BioSteel Canada Transaction and the Manufacturing Transaction collectively represent the best and highest offer submitted pursuant to the SISP and selected those transactions as

“Successful Bids” in accordance with the SISP. The boards also selected two back up bidders, which I understand will be described in further detail in the Second Report.

11. To facilitate the approval and implementation of the Manufacturing Transaction, distribution of sale proceeds and the ultimate wind down of the Business, the Applicant is now seeking to add the Additional Applicants as applicants in this CCAA Proceeding, along with other ancillary relief that will be required to complete this CCAA Proceeding.

III. HISTORY OF THIS CCAA PROCEEDING

12. On September 14, 2023 (the “**Filing Date**”), the Applicant was granted protection under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) (the “**Initial Order**”).

13. On September 19, 2023, the Applicant commenced the Chapter 15 Case before the United States Bankruptcy Court for the Southern District of Houston (the “**Bankruptcy Court**”) seeking an order to recognize and enforce the orders made in this CCAA Proceeding in the United States and protect against any potential adverse action taken by US-based parties.

14. At the Comeback Hearing on September 21, 2023, the Court granted two additional orders:

- (a) the ARIO that, among other things:
 - (i) extended the Stay of Proceedings until November 17, 2023;
 - (ii) increased the maximum amount of the Administration Charge to US\$1 million;

- (iii) increased the maximum amount of the Directors' Charge to US\$2,198,000; and
 - (iv) approved the Financial Advisor's engagement letter (the "**Financial Advisor Engagement Letter**") and granted the Transaction Fee Charge up to the maximum amount of US\$2.5 million; and
- (b) the SISP Approval Order that, among other things:
- (i) approved the SISP, and authorized the Applicant to implement the SISP pursuant to its terms; and,
 - (ii) authorized and directed the Applicant, Greenhill & Co. Canada Ltd., as financial advisor to the Applicant in this CCAA Proceeding (in such capacity, the "**Financial Advisor**"), and the Monitor, to perform their respective obligations and do all things reasonably necessary to perform their obligations under the SISP.

IV. THE APPLICANT'S ACTIVITIES SINCE THE COMEBACK HEARING

15. As described in the Initial Eskandari Affidavit, immediately prior to the commencement of the proceedings, each of the BioSteel Entities placed its respective business into hibernation in order to limit go forward costs during the SISP. Notwithstanding this hibernation, limited staff has remained at the expense of Canopy Growth Corporation ("**Canopy**") and its affiliates, to maintain limited operations and to facilitate the SISP.

16. Since the granting of the ARIO and the SISP Approval Order at the Comeback Hearing, the Applicant has been working in good faith and with due diligence to:

- (a) respond to numerous creditor and stakeholder inquiries regarding this CCAA Proceeding, including communicating with parties to the various Sponsorship Agreements and other commercial agreements, and, in certain circumstances, negotiating terminations or variations thereto, including any active or ongoing promotional contests related to the Sponsorship Agreements;
- (b) negotiate an agreement with the NHL and certain other parties to, in exchange for continued supply of BioSteel products, facilitate the continued sale of co-branded product and BioSteel marketing during the SISP to maintain the value of the BioSteel brand;
- (c) conduct its duties and obligations under the Court-approved SISP with a view to ultimately identifying and facilitating value-maximizing sale transactions for the benefit of stakeholders, including working with the Financial Advisor and the Monitor to conduct the SISP;
- (d) engage with various bidders in the SISP, with the assistance of the Financial Advisor and under the oversight of the Monitor, to address issues raised in the bids submitted in the SISP and select the “Successful Bids” and “Back-Up Bids”;
- (e) continue to sell inventory in the ordinary course in order to maintain the brand value and presence in retail locations and online for direct consumers during the CCAA Proceeding;
- (f) pause its loyalty program (described in more detail below) pending the completion of the SISP; and

- (g) work with its US counsel to obtain appropriate recognition orders in the United States and to respond to inquiries and/or potential actions from US stakeholders.

17. With a view to maintaining the brand value during the SISP, BioSteel worked with its affiliates to ensure that products could continue to be sold in the ordinary course, including direct to consumers online, to businesses in Canada, and to businesses in the United States through BioSteel US. Continued sales allowed BioSteel to maintain its “shelf space” at retailers and to remain top of mind for consumers. As described below, the strong consumer demand is among the reasons the purchaser of the BioSteel intellectual property is willing to make a substantial cash investment in the intellectual property of the business.

18. Now that the Court-approved SISP has been conducted and the successful bidders have been selected, BioSteel is seeking to close the Transactions described below and wind down the remaining Business, all subject to Court approval.

V. CONDUCT AND OUTCOME OF THE SISP

19. The Applicant developed the SISP in consultation with its professional advisors and the Monitor, in order to build on the marketing process that began prior to the Filing Date.

20. The SISP was developed based on advice of the Financial Advisor and the Monitor to balance BioSteel’s cash needs with the desire to thoroughly canvass the market. The SISP provided for a period of 25 days to solicit interest (the “**Solicitation Period**”), with such period commencing no later than September 21, 2023, and ending on the Qualified Bid Deadline of October 16, 2023. The Financial Advisor contacted 78 potentially interested parties during the SISP, including 20 parties who had shown interest in BioSteel before the commencement of the SISP. The majority of those parties executed non-disclosure agreements and 32 parties received

access to the virtual data room prepared in connection with the SISP to provide parties an opportunity to conduct additional due diligence on BioSteel. By the Qualified Bid Deadline, BioSteel had received eight bids, six of which substantially complied with the terms of the SISP and qualified as Qualified Bids as determined by the Applicant in consultation with the Financial Advisor and the Monitor. Nearly two weeks after the Qualified Bid Deadline, on October 30, 2023, BioSteel received another bid which did not comply with the Qualified Bid terms of the SISP and was not competitive from a financial perspective.

21. Based on the number and complex nature of the bids received, the Financial Advisor, on behalf of the Applicant, in consultation with the Monitor, notified bidders on three occasions that it had extended the deadline to select a Successful Bid (as defined in the SISP), first from October 23, 2023 to October 30, 2023 and subsequently to October 31, 2023 at 5:00 p.m. and then 11:59 p.m. on that date. I understand that the extensions, as permitted by the SISP, were made to allow the Applicant, with the assistance of the Financial Advisor and under the supervision of the Monitor, to continue to clarify and finalize the terms of the bids. During the time between the Qualified Bid Deadline of October 16, 2023 and October 31, 2023, bidders revised their bids following discussions with the Financial Advisor, on behalf of the Applicant.

22. In connection with the extension of the deadline to select a Successful Bid, the Applicant also notified bidders that (a) the milestone date for the motion to the Court for a transaction approval order was amended from November 3, 2023 to November 16, 2023 and (b) the milestone date for the outside date to close the Successful Bid was amended from November 15, 2023 to November 30, 2023.

23. After careful consideration of the bids received, including advice from BioSteel's legal advisors and the Financial Advisor, and with input from the Monitor and, as applicable, BioSteel

Canada's secured lender, the final bids from GPI and DC Holdings were selected as the Successful Bids. In accordance with the terms of the SISP, Back-Up Bids were also selected should the transactions provided for in the Successful Bids not close in accordance with their terms. I am advised by Noah Goldstein of KSV that the Monitor will provide additional information regarding the SISP, the Successful Bids and the Back-Up Bids in a confidential appendix to the Second Report (the "**Confidential Appendix**").

24. BioSteel is seeking an order sealing the Confidential Appendix until the Closing Date (as defined in each of the Purchase Agreements). I understand the Confidential Appendix will contain detailed and competitively sensitive information regarding the bids received pursuant to the SISP, the disclosure of which prior to the closing of the Successful Bids would be harmful to the process and the ability to maximize value for stakeholders, including the Applicant's ability to close an alternate transaction if the Successful Bids do not close.

25. Following additional negotiations on the form of documentation, on November 9, 2023, BioSteel Canada and BioSteel Manufacturing signed the transaction agreements described below.

VI. THE TRANSACTIONS

A. The BioSteel Canada Transaction¹

² Term	Details
Vendor	BioSteel Canada
Purchaser	DC Holdings
Purchase Price	As described in the Confidential Appendix (the “ Purchase Price ”).
Deposit	<p>In accordance with the SISP procedures, a deposit equal to 10% of the Purchase Price (the “Deposit”) was paid by DC Holdings to the Monitor, in trust.</p> <p>The Deposit is refundable if the BioSteel Canada Purchase Agreement is terminated in accordance with the provisions of section 8.1 on or prior to the Closing Date, except where the BioSteel Canada Purchase Agreement is terminated by BioSteel Canada in circumstances where there has been a material breach by DC Holdings of any material representation, warranty or covenant, and such breach is not cured on or before the Outside Date.</p>
Transaction Structure	The transaction shall be structured as a sale of substantially all of the assets of BioSteel Canada (other than certain inventory, accounts receivable and contracts).
Purchased Assets	<p>DC Holdings shall acquire the BioSteel Canada Purchased Assets, including but not limited to the following:</p> <ul style="list-style-type: none"> (a) all intangible assets and intellectual property; (b) all of BioSteel Canada’s formulas and recipes; (c) all inventory of BioSteel Canada, other than Excluded Inventory (as defined in the BioSteel Canada Purchase Agreement); and (d) certain specified fixed assets, furniture and fixtures.
Assumed Liabilities	DC Holdings shall not assume any liabilities of BioSteel Canada other than the costs and fees associated with recording the transfer and assignment of any registered Intellectual Property comprising a part of the BioSteel Canada Purchased Assets and all Liabilities from and after Closing in respect of any contracts underlying the intangible assets and intellectual

¹ Capitalized terms used in this section and not otherwise defined in this Affidavit have the meaning given to them in the BioSteel Canada Purchase Agreement. The BioSteel Canada Purchase Agreement (without schedules and redacted for confidential information) is attached hereto as **Exhibit “B”**. An unredacted copy of the BioSteel Canada Purchase Agreement will be included in the Confidential Appendix.

²Term	Details
	property included in the Purchased Assets which the Purchaser elects to assume (the “ Assumed Contracts ”).
Excluded Assets	<p>The following assets shall not be acquired by DC Holdings:</p> <ul style="list-style-type: none"> (a) all Excluded Inventory; (b) all pending and executory contracts or agreements to which BioSteel Canada is a party or by which BioSteel Canada is bound or in which BioSteel Canada has, or will at Closing have, any rights or by which any of its property or assets are or may be affected, other than the Assumed Contracts, if any; and (c) all accounts receivable owing to BioSteel Canada as of the Closing Date.
Excluded Liabilities	Excluded Liabilities means all Liabilities of BioSteel Canada relating to the operation of its business prior to the Closing, including any cure costs in respect of the Excluded Assets, other than the Assumed Liabilities, if any.
Employee Matters	The Purchaser shall not hire or assume any Employees related to the BioSteel Canada business.
Post-Closing Covenants	<p>For the period commencing on the Closing Date until the three month anniversary of the Closing Date (the “Sale Period”), DC Holdings shall have the exclusive right to sell any Excluded Inventory that has greater than 19 months of shelf life from the Closing Date and is not subject to any Encumbrance (the “Qualified Inventory”) on behalf of BioSteel Canada through DC Holdings’ distribution channels at a price as may be agreed upon by BioSteel Canada and DC Holdings, each acting reasonably (a “Qualified Sale”). Subject to the following paragraph, the Proceeds of each Qualified Sale shall be remitted directly to BioSteel Canada.</p> <p>DC Holdings shall be entitled to receive a percentage of the Net Sales of the Qualified Inventory subject to the applicable Qualified Sale (the “Qualified Sale Fee”), which Qualified Sale Fee shall be payable by BioSteel Canada to DC Holdings on a monthly basis.</p> <p>On or prior to the end of the Sale Period, DC Holdings shall have the right to acquire any of the remaining Qualified Inventory at the applicable cost of the Qualified Inventory. If DC Holdings does not notify BioSteel Canada of its intention to purchase the remaining Qualified Inventory by the end of the Sale Period, BioSteel Canada shall be permitted to sell such Qualified Inventory in its sole and absolute discretion.</p> <p>BioSteel Canada shall be permitted to sell any Excluded Inventory that is not Qualified Inventory (“Unqualified Inventory”) from and after the Closing Date to any party, in its sole and absolute discretion (other than to consumers within Canada or to wholesalers whose stated purpose at the time of sale is to resell such inventory in Canada).</p>

² Term	Details
	In certain circumstances where the Purchaser accepts any returns of Unqualified Inventory during the Sale Period, the Vendor shall pay the Purchaser 5% of the proceeds of the initial sale of such inventory.
Outside Date	November 30, 2023, or such later date as BioSteel Canada, with the consent of the Monitor, and DC Holdings may agree to in writing, each acting reasonably.
Material Conditions to be Satisfied before Closing	<p>Conditions to Closing in favour of the Parties:</p> <p><u>BioSteel Canada AVO</u>. The Court shall have issued and entered the BioSteel Canada AVO, which BioSteel Canada AVO shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the parties, each acting reasonably.</p> <p><u>U.S Recognition Order</u>. The U.S. Court shall have issued and entered the U.S. Recognition Order, which U.S. Recognition Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the parties, each acting reasonably.</p>

B. The Manufacturing Transaction³

Term	Details
Vendor	BioSteel Manufacturing
Purchaser	Gregory Packaging, Inc. (" GPI ")
Purchase Price	As described in the Confidential Appendix (the " GPI Purchase Price ").
Deposit	<p>In accordance with the SISP procedures, a deposit equal to 10% of the cash component of the GPI Purchase Price (the "Deposit") was paid by GPI to the Monitor, in trust.</p> <p>The Deposit is refundable if the Manufacturing Purchase Agreement is terminated in accordance with the provisions of section 8.1 on or prior to the Closing Date, except where the Manufacturing Purchase Agreement is</p>

³ Capitalized terms used in this section and not otherwise defined in this Affidavit have the meaning given to them in the Manufacturing Purchase Agreement. The Manufacturing Purchase Agreement (without schedules and redacted for confidential information) is attached hereto as **Exhibit "C"**. An unredacted copy of the Manufacturing Purchase Agreement will be included in the Confidential Appendix.

Term	Details
	terminated by BioSteel Manufacturing in circumstances where there has been a material breach by GPI of any material representation, warranty or covenant, and such breach is not cured on or before the Outside Date.
Transaction Structure	The transaction is structured as a sale of all or substantially all of the assets owned by BioSteel Manufacturing.
Purchased Assets	<p>GPI shall acquire the Manufacturing Purchased Assets which are comprised of all or substantially all of the assets of BioSteel Manufacturing being:</p> <ul style="list-style-type: none"> (a) the property, plant and equipment and other fixed assets listed in Exhibits B(1), B(2) and B(3) to the Manufacturing Purchase Agreement; (b) all inventories of BioSteel Manufacturing, including spare parts located at the Property; and (c) all production reports and records, equipment logs, operating guides and manuals relating to the above-noted assets.
Assumed Liabilities	GPI shall not assume any liabilities of BioSteel Manufacturing other than the Liabilities of BioSteel Manufacturing in respect of the Lease for the period from and after Closing, which shall be assigned by BioSteel Manufacturing to GPI pursuant to the terms of a lease assignment and landlord consent in form and substance satisfactory to the Parties, acting reasonably (the “ Lease Assignment and Landlord Consent ”) or an Assignment Order, as applicable.
Excluded Assets	GPI shall not acquire any assets of BioSteel Manufacturing other than the Manufacturing Purchased Assets.
Excluded Liabilities	Excluded Liabilities means all Liabilities of BioSteel Manufacturing and its affiliates relating to the operation of their respective businesses or assets (including the Manufacturing Purchased Assets) prior to the Closing (including any cure costs in respect of the Excluded Assets), other than all Liabilities of BioSteel Manufacturing in respect of the Lease for the period from and after Closing.
Employee Matters	<p>During the Interim Period, BioSteel Manufacturing and its affiliates shall provide GPI such information with respect to the Employees as may be reasonably required for GPI to assess whether it will offer employment to such Employees on Closing.</p> <p>Following the Closing, GPI shall have the right, but not any obligation, to make written offers of employment to any Employees that GPI wishes to employ on terms acceptable to GPI in its sole discretion.</p>
Outside Date	November 30, 2023, or such later date as BioSteel Manufacturing, with the consent of the Monitor, and GPI may agree to in writing, each acting reasonably; provided, however, that if the Bankruptcy Court determines not to hear the petition for entry of the BioSteel Recognition Order and the

Term	Details
	<p>motion for entry of the Bankruptcy Court Sale Order on an expedited basis, the Outside Date will be extended to the date that is 10 business days after the date of the Bankruptcy Court’s ruling on such petition and motion; provided that in no event should the Outside Date be extended beyond December 15, 2023.</p>
<p>Material Conditions to Closing to be Satisfied</p>	<p>Conditions to Closing in favour of the Parties:</p> <p><u>CCAA Proceedings.</u> BioSteel Manufacturing shall be added as an Applicant in the CCAA Proceeding.</p> <p><u>Manufacturing AVO.</u> The Court shall have issued and entered the Manufacturing AVO, which Manufacturing AVO shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.</p> <p><u>Bankruptcy Court Orders in the Chapter 15 Proceedings.</u> The Bankruptcy Court shall have issued and entered the following:</p> <ul style="list-style-type: none"> (a) the BioSteel Recognition Order (as defined below); and (b) the Bankruptcy Court Sale Order (as defined below), <p>which Orders shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably</p> <p>Conditions to Closing in favour of BioSteel Manufacturing:</p> <p><u>Assignment Order.</u> If the Assignment Order is required, the Court shall have issued and entered the Assignment Order, which Assignment Order shall not have been stayed, set aside or vacated, and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved. For greater certainty, if the Lease Assignment and Landlord Consent is obtained, this condition shall be deemed to be satisfied.</p>

VII. THE ADDITIONAL APPLICANTS

A. The Business of the Additional Applicants

26. In order to facilitate the Manufacturing Transaction and the ultimate wind-up of the remaining Business following the completion of the Transactions, the Applicant and the Additional

Applicants are seeking to add the Additional Applicants as applicants in this CCAA Proceeding. As noted in the Initial Eskandari Affidavit, notwithstanding the fact that the Additional Applicants are not subsidiaries of the Applicant, they function in a supportive role and are entirely dependent upon the Applicant for their operations, management and business. The Additional Applicants operate on a fully integrated basis with the Applicant to manufacture, market, and distribute BioSteel products. Additional information regarding the Additional Applicants is provided in the Initial Eskandari Affidavit and summarized and supplemented herein.

27. BioSteel US was incorporated in Delaware on October 27, 2020, to engage in the marketing and distribution of BioSteel branded products (produced for BioSteel Canada) to businesses in the United States. BioSteel Canada previously entered into its own distribution agreements with US based distributors, but following the incorporation of BioSteel US, the agreements were assigned to BioSteel US. BioSteel US fulfils business customer purchase orders by way of a supply and distribution agreement between BioSteel Canada and BioSteel US. BioSteel Canada provides all order processing, shipping and billing services and BioSteel US acquires title immediately before the onward sale to its customer. BioSteel US earns revenue from the sale of products in business-to-business transactions with customers in the United States. BioSteel US functions as a limited risk distributor, distributing only the Applicant's products. BioSteel US's assets generally comprise cash, third party trade accounts receivable, prepaid expenses and may also include amounts due from affiliates, including the Applicant and BioSteel Manufacturing.

28. BioSteel Manufacturing was incorporated in Delaware on October 8, 2019 as Coldstream Manufacturing I LLC. Prior to October 2022 it had no assets or operations. In October 2022, it changed its name to BioSteel Manufacturing LLC in connection with the acquisition of the plant where BioSteel's RTDs were produced in Verona, Virginia. BioSteel Manufacturing produced

RTDs for BioSteel Canada. In addition, pursuant to a manufacturing agreement dated November 8, 2022, BioSteel Manufacturing manufactured and supplied products to Flow Beverages Inc. The negotiated tolling fees charged by BioSteel Manufacturing to Flow Beverages ultimately resulted in BioSteel Manufacturing realizing a loss in servicing this contract, and since this same tolling fee was used to benchmark the tolling fees charged to BioSteel Canada, this contract also produced a loss, ultimately resulting in BioSteel Manufacturing operating at an overall loss. BioSteel Manufacturing owns certain valuable manufacturing equipment and is the tenant under the Lease.

29. The registered office of each of the Additional Applicants is 1209 Orange Street, in the City of Wilmington, Delaware, which is the office of its registered agent. However, the headquarters for the integrated BioSteel operations and the address from which corporate communications are sent on behalf of BioSteel is in Toronto.

30. As described in the Initial Eskandari Affidavit, Canopy and its affiliate 11065220 Canada Inc. ("**1106**") have advanced over \$366 million to BioSteel Canada. In the ordinary course, BioSteel Canada contracted for the manufacture of RTDs (both with BioSteel Manufacturing and through third parties), Hydration Mix (through third party CMOs) and other products and sells products both within Canada and online. Since the Filing Date, BioSteel Canada has not requested any production of product from BioSteel Manufacturing and has not paid for the supply of any goods. However, due to BioSteel Manufacturing's limited cash resources, BioSteel Canada has paid certain limited obligations of BioSteel Manufacturing to maintain the value of its assets and comply with applicable laws and Canopy Growth USA LLC ("**CG USA**") has paid certain employee and other obligations on BioSteel's behalf.

31. In the ordinary course, funds have been moved between BioSteel US, BioSteel Manufacturing and BioSteel Canada to meet the needs of the Business and reconciled for purposes of financial reporting and tax returns on an annual basis. The Initial Eskandari Affidavit attached a schedule of the bank accounts for BioSteel Canada. Attached hereto as **Exhibit “D”** is a summary of all the BioSteel bank accounts used in the operation of the Business, including one account for each of BioSteel US and BioSteel Manufacturing. The BioSteel bank accounts and the intercompany movement of funds in accordance with past practices between the BioSteel Entities and Canopy constitute the cash management system of BioSteel (the “**Cash Management System**”).

32. Prior to the commencement of the CCAA Proceeding, each of the Additional Applicants deposited a retainer with counsel to BioSteel in Toronto, Ontario.

33. Subject to the Additional Applicants being added as applicants to this CCAA Proceeding and to BioSteel Canada being appointed as the foreign representative of the Additional Applicants, BioSteel Canada intends to commence a proceeding under Chapter 15 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Houston and seek recognition of the CCAA proceedings with respect to each of the Additional Applicants (the “**BioSteel Recognition Order**”). BioSteel Canada also intends to seek an order, among other things, (i) recognizing the CCAA proceeding of each of the Additional Applicants, (ii) recognizing and enforcing the Manufacturing AVO and the BioSteel Canada AVO and (iii) approving, under section 363 of the Bankruptcy Code, the sale of BioSteel Manufacturing’s right, title, and interests in and to the Manufacturing Purchased Assets (the “**Bankruptcy Court Sale Order**”).

34. Notwithstanding that the Additional Applicants' registered offices are in the United States, their centre of main interests for purposes of insolvency proceedings is in Canada for the following reasons:

- (a) the Additional Applicants' only function is to further the business of BioSteel Canada including producing goods to be sold in the US and Canada and facilitating such sale, and they cannot function without the critical support from BioSteel Canada, Canopy, and its affiliates provided from Canada, and continued operation of BioSteel Canada;
- (b) many operational elements of the integrated Business are carried out by personnel that are located in Canada, including accounting, legal, human resources, insurance, payroll, regulatory, taxes, and records of maintenance and management;
- (c) historically, the Head of Operations, Contract Manufacturing Manager and Director of Quality Assurance were all based at the Toronto headquarters and directed and supervised the entire North American product development. Following the hibernation, the limited staff supervising these functions is almost entirely in Canada;
- (d) sales strategy was directed, both historically and during the CCAA, from Toronto, with any US sales personnel reporting to sales managers in Canada and seeking approvals for significant commitments. In person meetings to discuss US strategy and business plans for US distributors and customers including with the US-based sales team were held in Toronto;

- (e) each of the Additional Applicants has entered into contracts with the notice provisions requiring notice to be delivered in Ontario. For example, the majority of the BioSteel US distributor agreements list the BioSteel office in Ontario as the place for service of notice and counterparties accepted instructions from BioSteel personnel located in Toronto; and
- (f) the boards of directors of each of the BioSteel Entities are substantially similar and each currently include a board member that is resident in Canada (and have historically included a Canadian board member).

35. The Additional Applicants will not be able to continue to operate after the closing of the Transactions. More specifically:

- (a) All of the employees providing services to the Additional Applicants are employees of Canopy or its US affiliate. The Additional Applicants have no employees of their own and certain these employee costs incurred by Canopy or its affiliates since March of 2023 remain unreimbursed by the Additional Applicants. Canopy has already advised that it is unwilling to continue providing employee services to the Additional Applicants other than as needed to facilitate this proceeding and wind down BioSteel.
- (b) Since BioSteel Canada ceased placing orders for RTD production and Canopy gave notice of its intent to terminate most employees providing services to BioSteel, BioSteel Manufacturing has had no operating income. Following the closing of the Manufacturing Transaction, BioSteel Manufacturing will have no operating assets.

- (c) Upon closing of the BioSteel Canada Transaction, BioSteel US will have no go forward operations and will need to wind down. BioSteel US is party to over 200 distribution agreements, as well as a limited number of Sponsorship Agreements. Without go-forward employees or access to its single source of products (BioSteel Canada), BioSteel US will have no ability to continue to operate.

36. In light of the foregoing, following the closing of the Transactions, the Additional Applicants will have limited assets remaining and will need to wind down their operations.

B. The Additional Applicants are Insolvent

i. Secured Obligations

37. Canopy and 1106, each in their respective capacities as a co-borrower, entered into a Credit Agreement (the “**Canopy Credit Agreement**”) dated as of March 18, 2021 as amended on October 24, 2022 and July 13, 2023 among Canopy, 1106, the lenders party thereto (the “**Senior Secured Lenders**”) and Wilmington Trust, National Association, as administrative agent (in such capacity, the “**Administrative Agent**”) and collateral agent (in such capacity, the “**Collateral Agent**”). Under the Canopy Credit Agreement, the Senior Secured Lenders established a non-revolving term loan facility in an initial principal amount of up to US\$750,000,000.

38. On March 18, 2021, the Senior Secured Lenders to the Canopy Credit Agreement advanced an initial aggregate principal amount equal to US\$750,000,000. As at November 1, 2023, approximately US\$430 million in principal was outstanding under the Canopy Credit Agreement.

39. In connection with the Canopy Credit Agreement, BioSteel US and BioSteel Manufacturing entered into a Guarantee Agreement dated as of March 18, 2021 (as amended and supplemented

from time to time, the “**Guarantee**”) among the Administrative Agent and each of the guarantors party thereto, including each of BioSteel US and BioSteel Manufacturing (collectively, the “**Guarantors**”). Pursuant to the Guarantee, each of BioSteel US and BioSteel Manufacturing unconditionally guarantees to the Administrative Agent, jointly and severally with the other Guarantors, as a primary obligor and not merely as a surety, the due and punctual payment and performance of the Obligations (as such term is defined in the Canopy Credit Agreement).

40. In connection with the Canopy Credit Agreement and the Guarantee, BioSteel US and BioSteel Manufacturing, each in their respective capacities as pledgors, entered into: (i) a Canadian Pledge and Security Agreement dated as of March 18, 2021 (as amended and supplemented from time to time, the “**Canadian Security Agreement**”) among the Collateral Agent and each of the pledgors party thereto, including each of BioSteel US and BioSteel Manufacturing (collectively, the “**Pledgors**”), and (ii) a US Pledge and Security Agreement dated as of March 18, 2021 (as amended and supplemented from time to time, the “**US Security Agreement**” and together with the Canadian Security Agreement, the “**Security Agreements**”) among the Collateral Agent and certain of the Pledgors party thereto, including each of BioSteel US and BioSteel Manufacturing. The Security Agreements grant broad security interests in all right, title and interest in or to each Pledgor’s undertakings, assets and properties now owned or at any time thereafter acquired by such Pledgor in which such Pledgor now has or at any time in the future may acquire any right, title or interest.

41. I understand that on November 8, 2023, the Administrative Agent and Canopy entered into a Limited Waiver Agreement that, among other things, waives any default that may arise as a result of the commencement of proceedings by BioSteel and preserves the rights of the Administrative Agent and Senior Secured Lenders to enforce and collect on their claims as secured creditors against the Additional Applicants in these proceedings or to take actions in

furtherance of same. The Limited Waiver Agreement gives the Additional Applicants the flexibility necessary to commence these proceedings, while preserving the rights of the Administrative Agent and the Senior Secured Lenders to enforce and collect on their claims as secured creditors and to receive all of the net proceeds received by the Additional Applicants in connection with the disposition of their respective assets pursuant to the Manufacturing Transaction.

42. I am advised by Ms. Levine that searches were conducted against the Additional Applicants on November 3, 2023 under the *Personal Property Security Act* (Ontario). The only registrations identified were in favour of the Administrative Agent in respect of the Canopy Credit Agreement. I am further advised by Rachel Biblo Block of Akin Gump Strauss Hauer & Feld LLP, US counsel to BioSteel, that lien searches run in the applicable jurisdictions in the United States returned only registrations in favour of the Administrative Agent.

ii. Unsecured Obligations

43. BioSteel US's unsecured creditors include distributors and retailers, BioSteel Canada in respect of product purchased from BioSteel Canada, a limited number of Sponsors, and CG USA pursuant to a master services agreement. The amounts currently owed to distributors are estimated to be under US\$1 million, but claims associated with the Sponsorship Agreements have been or may be asserted in excess of US\$12.3 million. In addition, BioSteel US estimates that the total amount owing to CG USA as of September 30, 2023 was approximately US\$5.6 million and additional amounts are owed to BioSteel Canada in connection with the inventory sales described above. BioSteel US also has claims against BioSteel Canada.

44. BioSteel Manufacturing's unsecured creditors include service providers, suppliers and other contract counterparties. As at November 1, 2023, BioSteel Manufacturing estimates that it owes unsecured creditors approximately US\$ 3.4 million in addition to the approximately US\$4.4

million it owes to CG USA in respect of intercompany services (including employees). BioSteel Manufacturing owes additional amounts to BioSteel US and BioSteel Canada in connection with advances made in the course of its operations.

45. The Additional Applicants do not have audited financial statements. Financial statements for the Additional Applicants for the period ending March 31, 2023, prepared by the BioSteel finance team, are attached hereto as **Exhibit “E”**.

VIII. THE REQUESTED STAY EXTENSION

46. I am advised by Noah Goldstein of KSV that a projected cash flow statement for the Applicant for period ending January 31, 2024 (the “**Cash Flow Statement**”) will be attached to the Second Report. The Cash Flow Statement, which has been prepared on a consolidated basis for BioSteel, demonstrates that BioSteel will have sufficient liquidity to meet its obligations as they come due during the Stay Period.

47. I am advised by Noah Goldstein of KSV that the Cash Flow Statement contemplates that during the Stay Period:

- (a) BioSteel will close the BioSteel Canada Transaction and the Manufacturing Transaction prior to the end of the requested stay extension;
- (b) BioSteel will not make payments under the Sponsorship Agreements and will consent to termination of such agreements as and when requested by the counterparties;
- (c) BioSteel will continue to sell any remaining inventory on hand as permitted under the agreements and will continue to collect accounts receivable in the ordinary course;

- (d) BioSteel will return to Court to seek appropriate distribution orders in respect of the net proceeds received from the Transactions; and
- (e) BioSteel will work with its advisors to plan for an orderly wind down in an efficient manner.

48. I believe BioSteel continues to work in good faith and with due diligence to advance the CCAA Proceeding.

IX. THE BIOSTEEL LOYALTY PROGRAM

49. BioSteel has historically operated a loyalty program in the United States and Canada which allowed individual customers to collect points redeemable for, among other things, discounts on BioSteel products and merchandise associated with certain BioSteel sponsors under its Sponsorship Agreements. Approximately 45,000 individuals registered to participate in the Loyalty Program. A copy of the FAQ in respect of the Loyalty Program is attached hereto as **Exhibit "F"**. BioSteel estimates that the liability in respect of the Loyalty Program could reach over \$2 million, although its internal estimates of point redemptions were substantially lower, based on historical trends.

50. Immediately following the commencement of the CCAA Proceeding, BioSteel received an influx of requests to redeem points. In light of BioSteel's commitment not to request any services under its Sponsorship Agreements, BioSteel immediately disabled any redemptions related to products and merchandise associated with athletes or sports leagues subject to Sponsorship Agreements. At the same time, consistent with the ARIO's provisions regarding setoff, BioSteel paused redemption of points earned pre-filing against post-filing redemptions and accrual of additional points on purchases. After consultation with the Monitor, BioSteel determined that it

could not, without further order of the Court, continue to honour these pre-filing obligations. Instead, BioSteel sought to have the loyalty program assumed through a transaction in the SISP. Unfortunately, the Loyalty Program is not an assumed liability under either of the Successful Bids.

51. Accordingly, the Applicant is seeking specific authorization to terminate the Loyalty Program. Although the Applicant does not expect to conduct a claims process in respect of unsecured claims, if such a process is conducted, Loyalty Program participants would be entitled to file a proof of claim in respect of any amounts owed.

X. PAYMENT OF THE TRANSACTION FEE

52. Among other things, the ARIO approves the retention of the Financial Advisor by BioSteel Canada to conduct a sales process for all of the Business. The ARIO also granted the Transaction Fee Charge up to amount of US\$2.5 million. Pursuant to the Financial Advisor Engagement Letter, the Transaction Fee is payable upon (i) consummation of a Restructuring (as defined in the Financial Advisor Engagement Letter); (ii) consummation of an M&A Transaction (as defined in the Financial Advisor Engagement Letter); or (iii) the Special Committee or BioSteel Canada determine to wind up the business following either an M&A Transaction or a Restructuring.

53. Following the closing of the Transactions, BioSteel will have completed an M&A Transaction by selling all or a material portion of its assets and the Transaction Fee will become payable. The Financial Advisor Engagement Letter also provides for crediting of the Monthly Advisory Fees (as defined in the Financial Advisor Engagement Letter), against the Transaction Fee. I am advised by Noah Goldstein of the Monitor that the calculation of the Transaction Fee will be described in the Second Report.

54. The Financial Advisor has been retained to pursue a sale of the Business of all of the BioSteel Entities and its retention was approved by each of the BioSteel Entities. As such, I understand that the Financial Advisor has agreed with BioSteel that the Transaction Fee will be split proportionally as between BioSteel Canada and BioSteel Manufacturing based on the purchase price for each transaction, subject to the granting of the Ancillary Order and the application of the Charges to all of the BioSteel Entities as set out therein.

XI. RELIEF SOUGHT

A. Ancillary Order

55. In order to facilitate the Transactions, BioSteel is seeking the Ancillary Order. The relief sought in the Ancillary Order will assist with (i) the consummation of the proposed Transactions consistent with the requirements of the BioSteel Canada Purchase Agreement, the Manufacturing Purchase Agreement and the existing orders of this Court and (ii) the next steps in the CCAA Proceeding. As described above, the Ancillary Order provides for the sealing of the Confidential Appendix to protect against the disclosure of commercially sensitive information prior to the closings.

B. Approval and Vesting Orders

56. Each of the proposed Transactions requires that BioSteel seek an approval and vesting order to consummate the applicable Transaction.

57. Consistent with the BioSteel Canada Purchase Agreement, BioSteel is seeking an the BioSteel Canada AVO in respect of the BioSteel Canada Purchased Assets. The BioSteel Canada Purchase Agreement does not require an assignment order in respect of contracts and does not require recognition by the United States Bankruptcy Court.

58. The Manufacturing Purchase Agreement requires, among other things, (i) the Manufacturing AVO in respect of the Manufacturing Purchased Assets, (ii) an assignment of the Lease to the extent that another resolution is not reached with the landlord, (iii) orders of the US Bankruptcy Court recognizing CCAA proceeding of BioSteel Manufacturing, and the Ancillary Order, among other things, adding BioSteel Manufacturing as an applicant in this CCAA Proceeding (i.e., the BioSteel Recognition Order), and (iv) the Manufacturing AVO.

59. The assignment of the Lease is an integral component of the Manufacturing Transaction because it ensures that, on closing of the Manufacturing Transaction, the landlord will not have any monetary claims in connection with the Lease against BioSteel Manufacturing or the Manufacturing Purchased Assets, thereby facilitating the sale. Following completion of the Manufacturing Transaction, GPI will own all of the assets located at the Verona Facility and BioSteel Manufacturing will no longer be leasing or occupying the premises. I understand that GPI intends to continue to use the leased facility in connection with operating the Manufacturing Purchased Assets from that location. I understand that since entering into the Manufacturing Purchase Agreement, BioSteel Manufacturing and GPI have made efforts to engage with the landlord to negotiate a consensual assignment of the Lease but as of the date of swearing this affidavit, no agreement has been reached. The Manufacturing Transaction is conditional upon the assignment of the Lease and therefore such assignment is essential to closing the highest and best offer obtained in the SISP for the Manufacturing Purchased Assets. I am advised by Michael Nessim of the Financial Advisor that GPI, as part of its bid, has provided evidence that it has and will continue to have the financial wherewithal to perform the obligations under the Lease. I also understand that rent has been paid through November 30, 2023.

XII. CONCLUSION

60. The Applicant has been working in good faith and with due diligence to advance the Transactions for the benefit of all stakeholders. The Applicant believes that the relief requested in the Motion is the best available option for the Applicant, the Additional Applicants, and their stakeholders in the circumstances.

61. I swear this Affidavit in support of BioSteel's motion returnable November 16, 2023 and for no other or improper purpose.

SWORN BEFORE ME by videoconference on November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)

Commissioner: Natalie E. Levine
LSO#: 64908K

Sarah S. Eskandari

This is Exhibit "A" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

**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 BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

AFFIDAVIT OF SARAH S. ESKANDARI

I, Sarah S. Eskandari, of the City of Napa, in the state of California, MAKE OATH AND
SAY:

1. I am the General Counsel of BioSteel Sports Nutrition Inc. ("**BioSteel Canada**" or the "**Applicant**"). I also serve as the General Counsel for BioSteel Sports Nutrition USA LLC ("**BioSteel US**") and BioSteel Manufacturing LLC ("**BioSteel Manufacturing**"), which are not applicants in this proceeding (the "**CCA Proceeding**") but are the subject of certain limited relief requested on this Application. I have served in this position since December 2022. In that capacity, I have consulted with members of the Applicant's finance, accounting, legal, and operational teams, as well as the Applicant's Financial Advisor (as defined below) and other external advisors. As such, I have knowledge of matters contained in this Affidavit. Where I do not possess personal knowledge, I have stated the source of my information therein, or believe it to be true based upon my consultations with the parties listed above. Nothing in this Affidavit, or the making of this Affidavit, is intended to waive any legal or other privilege in favour of the Applicant.

I. OVERVIEW

2. The Applicant, operating with BioSteel US and BioSteel Manufacturing, (collectively “**BioSteel**” or the “**BioSteel Entities**”), is a sports nutrition and hydration company, focused on high quality ingredients and with a strong presence in professional sports markets. BioSteel products, including ready-to-drink sports drinks (“**RTDs**”), hydration mixes and supplements, are available at retailers across Canada, the United States and online.

3. BioSteel has made significant investments in sponsorships and endorsements, including rights to “rinkside” advertisements, use of proprietary logos, athlete-centered promotions, and social media participation. BioSteel has partnered with, among others, the National Hockey League (“**NHL**”) and the National Hockey League Players Association (“**NHLPA**”), certain National Basketball Association (“**NBA**”) teams (including the Toronto Raptors), the Toronto Blue Jays, and a number of professional athletes in various sports.

4. Founded in Canada, BioSteel’s packaging confirms it is a “proudly Canadian company.” In connection with the planned and expected growth of the brand in the United States, BioSteel Manufacturing acquired a facility for the production of RTDs in the United States and BioSteel began marketing and distributing products in the United States through BioSteel US.

5. Since 2019, the Applicant’s operations and growth initiatives have been funded in large part by a secured loan and a credit facility (“**Secured Financing Facility**”) provided initially by Canopy Growth Corporation (“**Canopy**”) and subsequently by Canopy and a wholly-owned affiliate of Canopy, 11065220 Canada Inc. (“**1106**”) and together with Canopy, the “**Lenders**” and each a “**Lender**”), as well as via equity financing and shared services support provided by Canopy and its affiliates. Canopy directly owns over 90% of the equity interests of the Applicant and, indirectly, via wholly-owned subsidiaries, 100% of the equity interests of the remaining BioSteel Entities. Pursuant to the Secured Financing Facility, Canopy and 1106 have collectively advanced

to date over \$366 million¹ to the Applicant. Notwithstanding the already significant investments made by Canopy and 1106 in BioSteel's development and marketing, BioSteel remains significantly cash flow negative and requires continued support from Canopy and its affiliates which is estimated, based on current operations and balance sheet position, to average approximately \$15 million per month.

6. Beginning in late 2022, BioSteel and Canopy cooperatively undertook a broad marketing process to seek an additional investment in or sale of BioSteel. That process returned no actionable bids. As described in detail below, in the summer of 2023, a special committee of the Applicant's board was formed (the "**Special Committee**") to explore strategic alternatives for the Applicant, which included refocusing its sale efforts. The Special Committee engaged the Financial Advisor (as defined below) to assist in developing a process to solicit interest in BioSteel from potentially interested parties. In light of the Applicant's rapidly deteriorating liquidity condition and based on feedback from Canopy regarding its diminishing willingness to provide financial and operational support for the business, the Special Committee set a deadline of September 5, 2023 to receive transaction proposals from interested parties. Multiple parties provided indications of interest for all or portions of the BioSteel business, but all such indications were subject to significant conditions, including additional lengthy due diligence periods and/or financing conditions, and no party offered committed financing to fund the operations of the BioSteel business during its diligence period.

7. On September 13, 2023, Canopy informed the Applicant that neither it nor its affiliates intend to make any further cash or shared services investment in BioSteel's business and at the same time, Canopy demanded repayment under the Secured Financing Facility. Without ongoing

¹ All references to currency in this Affidavit are references to Canadian dollars unless otherwise indicated.

financial and services support from Canopy or its affiliates, the Applicant cannot meet its obligations as they come due. As a result, the Special Committee determined that it was in the Applicant's best interest to conserve cash, put the business into hibernation, and seek protection under the CCAA to allow the Applicant to maximize value for stakeholders through a court-supervised sales process. The Applicant intends to use the CCAA process to complete the solicitation work that began pre-filing and to identify and close a transaction for the assets and/or business of BioSteel as efficiently as possible.

8. This Affidavit is sworn in support of an application (the "**Application**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") for an order (the "**Initial Order**"), among other things:

- (a) declaring that the Applicant is a "debtor company" to which the CCAA applies;
- (b) appointing KSV Restructuring Inc. ("**KSV**" or the "**Proposed Monitor**") to monitor the assets, business, and affairs of the Applicant (if appointed in such capacity, the "**Monitor**");
- (c) staying, for an initial period of not more than 10 days (the "**Initial Stay Period**"), all proceedings and remedies taken or that might be taken in respect of any of the BioSteel Entities, the Monitor or 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**"), or affecting the Applicant's business (the "**Business**") or any of the Applicant's current and future assets, licences, undertakings, and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the "**Property**") or the business or property of the US BioSteel

Entities (as defined below), except with the written consent of the Applicant and the Monitor, or with leave of the Court (the “**Stay of Proceedings**”);

- (d) authorizing the Applicant to continue to utilize the Cash Management System (as defined below) including maintaining the banking arrangements currently in place for the Applicant;
- (e) authorizing the Applicant to pay, with the consent of the Monitor, pre-filing amounts of certain critical suppliers to the BioSteel Entities;
- (f) authorizing the Applicant to act as the foreign representative in respect of the within proceeding for the purpose of having this CCAA Proceeding recognized and approved in a jurisdiction outside of Canada, and authorizing the Applicant to apply for foreign recognition and approval of this CCAA Proceeding, as necessary, in any jurisdiction outside of Canada, including the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”); and
- (g) granting the following charges (collectively, the “**Charges**”) over the Applicant’s Property:
 - (i) the Administration Charge (as defined below) up to a maximum amount of US\$750,000; and
 - (ii) the Directors’ Charge (as defined below) up to a maximum amount of US\$1,279,000.

9. If the proposed Initial Order is granted, the Applicant intends to bring a motion within 10 days (the “**Comeback Hearing**”) to seek:

- (a) an order (the “**SISP Approval Order**”), among other things:
- (i) approving a sale and investment solicitation process related to BioSteel (the “**SISP**”), and authorizing the Applicant to implement the SISP pursuant to its terms;
 - (ii) authorizing and directing the Applicant, Greenhill & Co. Canada Ltd., as financial advisor to the Applicant in this CCAA Proceeding (in such capacity, the “**Financial Advisor**”), and the Monitor, to perform their respective obligations and do all things reasonably necessary to perform their obligations under the SISP; and
 - (iii) declaring that the Financial Advisor and the Monitor, and their respective affiliates, partners, directors, employees, agents, and controlling persons, shall have no liability with respect to any losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor or the Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court; and
- (b) an amended and restated Initial Order (the “**ARIO**”), among other things:
- (i) extending the Stay of Proceedings until November 15, 2023;
 - (ii) increasing the maximum amount of the Administration Charge to US\$1 million;

- (iii) increasing the maximum amount of the Directors' Charge to US\$2,198,000; and
- (iv) approving the Financial Advisor's engagement letter and granting the Transaction Fee Charge (as defined below) up to the maximum amount of US\$2.5 million.

II. BACKGROUND

A. Corporate Structure

10. The Applicant was incorporated in Ontario on August 26, 2009, as BioSteel Sports Supplements Inc. under the *Business Corporations Act*, R.S.O. 1990, c. B-16. On October 1, 2019, the Applicant was continued under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 and amalgamated with 11351249 Canada Inc. The Applicant is currently extra-provincially registered in the Northwest Territories and Ontario. The Applicant is also registered as a foreign profit corporation in the state of New Jersey. The Applicant's registered office and primary place of business is 87 Wingold Avenue, Unit 1, Toronto. Copies of the Applicant's federal corporate profile and the extra provincial corporate profiles in the Northwest Territories and Ontario, are attached hereto as **Exhibit "A"**.

11. BioSteel US and BioSteel Manufacturing (the "**US BioSteel Entities**") operate on an integrated basis with the Applicant to manufacture, market, and distribute BioSteel products. The US BioSteel Entities are intertwined in the Applicant's Business, notwithstanding the fact that they are not subsidiaries of the Applicant.

12. BioSteel US was incorporated in Delaware on October 27, 2020, to engage in the marketing and distribution of BioSteel branded products to businesses in the United States. BioSteel Manufacturing was incorporated in Delaware on October 8, 2019 as Coldstream

Manufacturing I LLC and in October 2022, it changed its name to BioSteel Manufacturing LLC in connection with the acquisition of the plant where RTDs are produced in Verona, Virginia. The registered office for both entities is 1209 Orange Street, in the City of Wilmington, Delaware.

13. A simplified organizational chart showing the BioSteel Entities and certain affiliates is attached hereto as **Exhibit "B"**.

B. The Acquisition

14. In October 2019, the shareholders of the Applicant and Canopy entered into a share purchase agreement (the "**SPA**"), pursuant to which Canopy agreed to acquire approximately 72% of the issued and outstanding shares of the Applicant. Immediately following closing, Canopy completed an incremental equity investment in the Applicant, bringing its ownership percentage to 76.7%. At the time of the closing, the BioSteel business was conducted entirely through the Applicant.

15. In connection with the SPA, Canopy, the Applicant, and the now-minority shareholders of the Applicant entered into a unanimous shareholders agreement ("**USA**") to establish their respective rights and obligations with respect to the issued and unissued shares of the Applicant and the management and conduct of the affairs of the Applicant.

16. The board of directors was reconstituted in accordance with the USA but certain members of management, including the co-founders of the business, stayed on as employees to continue to try to grow the brand.

17. The USA included a mechanism whereby Canopy could exercise a call option to purchase all of the minority shareholders' remaining shares of the Applicant as well as those shares of optionholders who had acquired shares in the Applicant through the exercise of stock options.

The minority shareholders had a corresponding put option to compel Canopy to make those purchases.

18. In August 2021, Canopy purchased 441,512 shares in the Applicant bringing Canopy's share ownership in the Applicant to 78.6%.

19. In October 2022, Canopy exercised its option to purchase one-half of the minority shareholders' shares in the Applicant and all of the shares held by optionholders that were acquired pursuant to the exercise of stock options. As of December 2022, Canopy had increased its ownership in the Applicant to approximately 90.4%.

C. The BioSteel Review

20. In connection with the preparation of Canopy's consolidated financial statements for the fiscal year ended March 31, 2023, Canopy identified certain trends in the recording of sales by BioSteel and began an internal review (the "**BioSteel Review**"). Through the BioSteel Review, Canopy identified misstatements, primarily overstatements, related to the recognition of revenue, primarily related to the Applicant's business-to-business sales in markets outside of Canada and the United States.

21. As a result of the BioSteel Review, Canopy restated its consolidated financial statements. All individuals implicated in the revenue misstatements are no longer involved with BioSteel (other than certain individuals in their capacities as minority shareholders) and an independent director was later added to the board of directors of each of the BioSteel Entities. BioSteel continues to evaluate its claims against the former members of BioSteel's management in connection with the information uncovered during the BioSteel Review.

III. THE BUSINESS OF THE APPLICANT

22. BioSteel's mission is to create healthy and trusted sports nutrition and hydration products. It has built its reputation on producing high quality products endorsed by respected and well-known figures and franchises in the professional sports world.

23. Historically, the BioSteel business was conducted entirely through the Applicant, however, in connection with its aggressive growth strategy, primarily within the United States market, the business was expanded to operate first through BioSteel US and then later through BioSteel Manufacturing.

24. Currently, the Applicant contracts with BioSteel Manufacturing and third parties for the manufacture of RTDs, "Hydration Mix", and other products pursuant to proprietary formulas owned by the Applicant. The Applicant then sells the products directly to businesses and consumers primarily in North America, including to BioSteel US, which markets and distributes to businesses in the United States. BioSteel now relies on Canopy and Canopy's affiliates to provide all employees required to operate BioSteel's business, including, without limitation, personnel providing administrative, legal, tax and other support.

A. Products

25. The non-commercial version of the Hydration Mix was developed in 2005 by athletes looking for a healthier sports drink. By 2009, the Applicant was marketing its Hydration Mix for sale to professional sports teams in North America and began to gain a reputation as the hydration product of choice for high performance athletes. BioSteel differentiates itself from competitors with a focus on nutrition and quality ingredients. BioSteel's products include:

- (a) RTDs: “Ready to Drink” ‘Sports Drink’ products are sugar free, and gluten free, with several electrolytes. The RTDs are packaged in an eco-friendly Tetra Pak Prisma Aseptic carton package.
- (b) Hydration Mix: The powdered Hydration Mix (which is mixed with water to drink) is the Applicant’s flagship product for professional sports teams. The Hydration Mix comes in 8 core flavours and is available in additional “limited time” flavors.
- (c) Other: BioSteel supplements its core product lines with protein powders, sports greens, and specialty nutrition powders, as well as BioSteel branded merchandise.

B. Production and Warehousing

26. Until last year, the Applicant was reliant on third-party, non-affiliate contract manufacturing organizations (“**CMO**”) to provide processing, manufacturing, packaging and storage services. In November 2022, BioSteel Manufacturing, with equity capital provided indirectly by 1106, acquired certain manufacturing assets in Verona, Virginia (the “**Verona Facility**”) from a BioSteel Canada CMO, Flow Beverage Corp. (“**Flow**”), including the lease for the manufacturing premises, five production lines and access to a warehouse pursuant to a related warehouse agreement. BioSteel Manufacturing also entered into a transition services agreement with Flow to facilitate the continued operation of the Verona Facility. This acquisition allowed BioSteel to bring the production of RTDs substantially “in house” and to eliminate certain underproduction penalties that had been imposed by the CMO agreement with Flow, which penalties arose when the Applicant’s production volume fell below certain thresholds. Except for certain input materials supplied by CMOs, the Applicant owns all of the inputs into the manufacturing process and all of the semi-finished and finished products. BioSteel Manufacturing and an affiliate of Flow have also

entered into a co-manufacturing agreement and warehousing services agreement, pursuant to which BioSteel Manufacturing provides certain CMO services for Flow at the Verona Facility.

27. When the Verona Facility cannot meet BioSteel's RTD product demand, BioSteel supplements production of RTDs through a CMO facility located in Aurora, Ontario. The Applicant's Hydration Mix and other products continue to be produced for the Applicant by third parties.

28. The Applicant has also entered into agreements with third party warehousing and logistics providers in the United States and Canada to store finished products before they are sold and distributed.

C. Sales and Distribution

29. BioSteel products are sold in thousands of physical stores in Canada and the United States. The primary distribution channels include food, drug and mass retailers, convenience stores, gas stations and specialty fitness retailers. The Applicant also conducts sales through online platforms such as Amazon and its own website. A small portion of product is also sold directly to sports teams. The Applicant was responsible for all of BioSteel's sales outside of Canada and the United States, but as of summer 2023, the Applicant began the process of deprioritizing sales outside of Canada and the United States.

30. BioSteel has entered into sales and distribution contracts with distributors, who are, in certain cases, granted exclusive control over specific territories, as well as large retailers.

31. In connection with BioSteel's expansion into the United States, an affiliate of Canopy formed BioSteel US in 2020. Since its formation, BioSteel US has entered into distribution agreements and retail sale agreements for the sale of BioSteel products to businesses in the

United States. BioSteel US fulfils business customer purchase orders by way of a supply and distribution agreement between the Applicant and BioSteel US pursuant to which the Applicant provides all order processing, shipping and billing services and BioSteel US acquires title immediately before the onward sale to its customer. The terms of BioSteel US's agreement with the Applicant provide that the Applicant will accept returns of product sold by BioSteel US and therefore such returns are delivered to and processed by the Applicant, and the value of the returned product reduces both BioSteel US's receivable due from its business customer and the Applicant's receivable due from BioSteel US. The sales/purchases and returns between the Applicant and BioSteel US are recorded in the preparation of the respective entity's financial statements. These existing arrangements being practised by the parties were memorialized in a legal documents/agreements prior to the filing.

D. Sponsorship and Marketing

32. BioSteel has successfully leveraged its connections with professional athletes and sports organizations into endorsement and marketing opportunities and has historically focused a significant portion of its marketing spend on athlete endorsements. The sponsorship and endorsement contracts described in this section are referred to as the **"Sponsorship Agreements"**.

33. The Sponsorship Agreements were generally entered into by the Applicant, however, once formed, BioSteel US entered into certain of these agreements. The Applicant has entered into agreements with professional sports teams such as the Toronto Raptors, athletic organizations such as the NHL and the NHLPA, and individual professional athletes. These Sponsorship Agreements provide for, among other things, sponsored posts on athletes' social media accounts, athlete appearances in marketing campaigns, in-game and in-arena branding, and the rights to use certain trademarks including logos in advertising campaigns.

34. BioSteel's Sponsorship Agreement with the NHL and NHLPA is its most significant sponsorship commitment. Both the Applicant and BioSteel US have signed the Sponsorship Agreement with the NHL and NHLPA, as well as certain related agreements for the services of specific NHL players. Pursuant to the terms of the NHL Sponsorship Agreement, BioSteel, among other things, gains the right to: use NHL and NHLPA trademarks (such as the NHL name and shield logo); camera-visible rinkside marketing of the BioSteel brand during the NHL regular season and playoffs through multimedia broadcasts of games (including television); and the representation by the NHL that BioSteel is the "Official Hydration Partner of the NHL and NHLPA" for a term of 8 years, ending in June 2030. The most recent payment under the NHL Sponsorship Agreement was due on September 1, 2023. BioSteel did not remit the payment to the NHL when due.

35. BioSteel also has product placement and other marketing agreements with sports agencies, health clubs/gyms, and sports arenas. Among other things, these agreements provide for BioSteel product placement or exclusive placement in facilities and use of BioSteel products in various types of media. In addition, BioSteel also enters into traditional promotion and marketing contracts with retailers, offering discounts, incentives for improved placement in-store, and rebates for volume purchases.

36. Given both the Applicant's financial distress and the lack of revenue driven by certain of these Sponsorship Agreements, the Applicant (and where applicable, BioSteel US) ceased making certain payments under the Sponsorship Agreements starting in the spring of 2023. Certain of the counterparties have delivered notices of default and/or termination.

37. The estimated upcoming payments that are scheduled to come due under the Sponsorship Agreements between October 1, 2023 and March 31, 2024 are approximately \$12 million in aggregate (excluding amounts that are already past due). The Applicant does not

intend to use the services of the counterparties following the commencement of this CCAA Proceeding and does not intend to make the upcoming payments due under the contracts.

38. To the extent that a potential buyer in the SISP (if approved) wishes to acquire BioSteel's rights under any of the Sponsorship Agreements, the Applicant intends to work with the applicable counterparties to arrive at proposed cure amounts or other negotiated resolutions as may be necessary to transition any Sponsorship Agreements.

E. Intellectual Property

39. The Applicant is the owner of all intellectual property that is material to the BioSteel business, including the proprietary formulas and other information related to the production of the RTDs, Hydration Mix and powders.

40. The Applicant is the owner and exclusive licensor of over a dozen trademarks (both registered and unregistered) in the United States and Canada, which include marketing campaign slogans, iterations of BioSteel's corporate name, and artistic designs based upon BioSteel's corporate name. The Applicant has also registered some of its trademarks outside of Canada. The Applicant has no registered patents.

F. Regulatory Matters

41. In Canada, BioSteel is regulated under the *Food and Drugs Act* (Canada) as RTDs are considered "food" within the definition of that act. The Hydration Mix and powders are considered "Natural Health Products" and are governed by the Natural Health Product Regulations under the *Food and Drugs Act*. In the United States, BioSteel is federally regulated by the US Food and Drug Administration under the US version of the *Food and Drugs Act*, as well as certain state level regulations.

42. BioSteel has registered its brands which use naturally occurring substances (characterized as medicinal or non-medicinal) with the Natural and Non-prescription Health Products Directorate of Canada, an agency of Health Canada. The Applicant is a site license holder from Health Canada, which gives the Applicant the authorization to manufacture, package, label and/or import natural health products. The Applicant also holds a Safe Food for Canadians License from the Canadian Food Inspection Agency which grants the Applicant the authority to, among other things, mix raw inputs for the manufacture of its products, and package its products for export.

G. Intercompany Services

43. The Applicant and Canopy are parties to a master services agreement which, *inter alia*, permits Canopy to provide services to the Applicant on an as-needed basis if and when requested, subject to the ability of Canopy to refuse (by written notice) to provide any services it is unable to provide to the Applicant. The services covered under the agreement relate to all business functions, including operations, supply chain, finance, human resources, legal, information technology, research and development, tax, treasury, corporate development, facilities, marketing and sales, and corporate communications. The master services agreement provides that the Applicant is to reimburse third party costs incurred by Canopy in the provision of the services and the Applicant is also to be charged cost plus a mark up necessary to ensure Canopy earns an arm's length return for services.

44. Each of the US BioSteel Entities are party to a master services agreement with Canopy Growth USA (as defined below) which mirrors the construct of the Applicant's Master Services Agreement with Canopy. The transactions between these parties have been recorded in the parties' respective financial accounts and the existing arrangements being practised by the parties were memorialized in a legal documents/agreements prior to the filing.

H. Employees

45. Until the co-founder's recent departure from BioSteel to form part of a potential bidding consortium, the co-founder was the only employee of BioSteel Canada. Limited remittances for the co-founder remain unpaid but are expected to be paid in during this CCAA Proceeding.

46. All other personnel providing services to BioSteel are employees of Canopy or Canopy Growth USA, LLC (an indirect, wholly-owned subsidiary of Canopy, incorporated in the United States) ("**Canopy Growth USA**"). As applicable, Canopy or Canopy Growth USA pays the employees directly and remits all applicable source deductions. Pursuant to the respective Master Services Agreement, Canopy or Canopy Growth USA, as applicable, charges the applicable BioSteel Entity for the employee related costs. In light of BioSteel's financial difficulties, BioSteel has significant outstanding obligations to Canopy and Canopy Growth USA for employee related costs for the period March 2023 through the date hereof. Canopy has continued to pay the employees and remit source deductions notwithstanding BioSteel's failure to pay the charges when due.

47. For August 2023, the aggregate monthly charge for employees was approximately \$1.7 million and approximately 190 employees provided services to BioSteel on a fulltime basis. Of these employees, approximately 90 were providing services at the Verona, Virginia facility in the United States. The balance of the employees worked in sales, marketing and other corporate capacities.

48. Canopy has provided notice to the Applicant that, Canopy and Canopy Growth USA intend to terminate or make unavailable to the Applicant of the majority of employees who were dedicated to BioSteel. Canopy has agreed to provide BioSteel with a limited number of its

employees to provide certain necessary continuing services, including to assist in the SISP, if approved.

I. Lease and Landlord

49. The Applicant is the tenant under a lease, dated March 2, 2018, as amended, for office space at 87 Wingold Avenue, Unit 1, with 87 WG Corp. as the owner of the leased property. The Applicant has a net monthly rent obligation of approximately \$21,000.

50. In connection with the acquisition of the Verona Facility, BioSteel Manufacturing acquired the deed of lease for real property located at 33 Lake View Court, Verona, Virginia. Monthly rent is approximately US\$34,000. The Applicant is not the tenant under the lease, but it owns certain of the goods within the Verona Facility.

J. Tax Matters

51. The Applicant remits federal goods and services taxes and harmonized sales taxes in Canada (“**GST/HST**”) on a monthly basis. Depending on the sales and purchases in a specific month, the monthly remittances over the past year have varied from approximately \$700,000 being payable to a refund of approximately \$260,000. The Applicant is registered for sales and local tax purposes in certain states within the United States, with sales tax obligations of the Applicant on a quarterly basis estimated as approximately US\$6,000, but which varies based upon sales.

52. BioSteel currently has no employees but has one former employee on salary continuation and therefore remits payroll and source deductions for such former employee. Source deductions and applicable remittances in connection with other former employees have been made as required, other than for the limited amounts that remain outstanding in respect of the co-founder.

53. As of the date hereof, I am not aware of any material overdue amounts or disputes in respect of the Applicant's tax obligations.

K. Secured Indebtedness

i) PPSA Searches

54. I am advised by Natalie Levine of Cassels Brock & Blackwell LLP ("**Cassels**") that searches in the personal property registries for all of the jurisdictions in Canada in which the Applicant is registered were conducted on September 11, 2023. A summary of the searches is attached hereto as **Exhibit "C"**. The searches show only two active registrations: one in favour of RBC in respect of the cash collateral account described above, and one in favour of Canopy Growth Corporation in respect of the BioSteel Loan Agreement.

ii) The BioSteel Loan Agreement

55. The Applicant's operations have been funded, in large part, by the Secured Financing Facility. Specifically, the Applicant entered into the tenth amended and restated loan agreement dated as of July 13, 2023 (the "**BioSteel Loan Agreement**") among the Applicant as borrower, Canopy and 1106 as Lenders, and Canopy in its capacity as agent for and on behalf of the Lenders (in such capacity, the "**Agent**"). The previous amendment and restatement to the BioSteel Loan Agreement have, among other things, increased the size of and/or added additional tranches of funding available as part of a revolving facility and provided BioSteel the ability to borrow in US dollars.

56. Pursuant to the BioSteel Loan Agreement, the Lenders established the Secured Financing Facility in favour of the Applicant. The facility is comprised of the following tranches: (i) a non-revolving tranche with a maximum amount of \$4,500,000 ("**Tranche A**"); (ii) a revolving tranche with a maximum amount of \$15,000,000 ("**Tranche B**"); (iii) a revolving tranche with a maximum

amount of \$60,000,000 (“**Tranche C**”); (iv) a revolving tranche with a maximum amount of \$70,000,000 (“**Tranche D**”); (v) a revolving tranche with a maximum amount of \$200,000,000 (“**Tranche E**”); and (vi) a revolving tranche with a maximum amount of \$40,000,000 (“**Tranche F**” and together with Tranche B, Tranche C, Tranche D and Tranche E, the “**Other Tranches**”). Under the terms of the BioSteel Loan Agreement, Tranche A is a non-revolving loan facility and amounts repaid thereunder cannot be reborrowed. The Other Tranches, on the other hand, comprise revolving loan facilities and any amount advanced thereunder can be advanced again following its repayment. Interest that accrued and continues to accrue on the amounts owing under the facility, which is to be paid quarterly in arrears, was historically paid through incremental quarterly draws on the facility. However, payments have not been made in respect of interest that has accrued after December 31, 2022.

57. The obligations of the Applicant under the BioSteel Loan Agreement are secured by a tenth amended and restated general security agreement dated as of July 13, 2023 (the “**Security Agreement**”). Pursuant to the Security Agreement, the Applicant granted to the Agent, for its own benefit and as agent for each of the Lenders, a security interest in all right, title and interest in and to all real and personal property which is now or hereafter owned by the Applicant or in which the Applicant now has or hereafter acquires any interest or rights of any nature whatsoever, subject to customary limited exclusions.

58. As at July 31, 2023, the Applicant owed Canopy the principal amount of \$69,729,929.65, plus accrued and unpaid interest of \$5,122,161.77, and owed 1106 the principal amount of US\$218,452,976.56, plus accrued and unpaid interest of US\$16,336,604.82.

L. Cash Management and Intercompany Transfers

59. The Applicant maintains 4 bank accounts (two at Royal Bank of Canada (“**RBC**”), one at TD Bank, and one at M&T Bank). All of the accounts other than the M&T Bank account in the United States, are in Toronto. The Applicant also has a deposit, invested in a guaranteed investment certificate, with RBC in the amount of \$68,750 which is used to support the Applicant’s credit cards and in respect of which RBC has also registered a lien. A summary of the Applicant’s bank accounts is attached hereto as **Exhibit “D”**.

60. BioSteel’s collective operations are funded by advances under the BioSteel Loan Agreement to the Applicant. In the ordinary course of business and as described above, the Applicant engages in intercompany transactions with BioSteel US, BioSteel Manufacturing, Canopy and certain of its affiliates.

M. Litigation

61. In the ordinary course of business, BioSteel is involved in litigation regarding, among other things, contract disputes and consumer protection matters.

62. In particular, the Applicant is the defendant in a putative consumer class action filed in the Eastern District of New York, on January 27, 2023, by Plaintiff, Laura Bedson on behalf of all consumers who purchased BioSteel RTDs in the Blue Raspberry, Peach Mango, White Freeze, Mixed Berry, and Rainbow Twist flavors. The complaint alleges the Applicant misled consumers in its marketing of the RTDs under applicable New York law. The complaint further alleges that BioSteel’s RTD products contain per- and polyfluoralkyl substances known as “PFAS”. The Applicant moved to dismiss the complaint and the plaintiff has refiled an amended complaint which the Applicant has further sought to dismiss pursuant to Fed. R. Civ. P. Rules 12(b)(6) and 12(b)(1).

IV. FINANCIAL DIFFICULTIES AND THE NEED FOR CCAA PROTECTION

A. The Applicant is Insolvent

63. The Applicant is insolvent. It does not have adequate liquidity to operate its Business in the ordinary course. Canopy and its affiliates are no longer willing to fund the Applicant's operating costs and protection under the CCAA is the Applicant's only option to stabilize and preserve the value of its assets.

64. Financial statements for the Applicant for the period ending March 31, 2023, prepared by the BioSteel finance team, are attached hereto as **Exhibit "E"**. The Applicant does not have audited financial statements on a standalone basis.

65. The Applicant currently owes approximately \$366 million plus interest under the BioSteel Loan Agreement and has granted security over its assets in respect of such amounts. In addition to the approximately \$4.6 million owing to Canopy and its affiliates on an unsecured basis, the Applicant has unsecured trade liabilities of approximately \$40.4 million related to, among other things, Sponsorship Agreements, marketing costs, warehousing, storage and materials supplied to CMOs for production.

66. The other BioSteel Entities' sources of cash are in large part directly or indirectly dependent upon the continued operation of the Applicant and they have granted security over substantially all of their assets in connection with a loan facility made available to 1106.

B. Cash Flow Forecast

67. I am advised by Noah Goldstein of KSV that a projected cash flow statement for the Applicant for period ending September 29 (the "**Cash Flow Statement**") will be attached to the Proposed Monitor's Pre-Filing Report (the "**Pre-Filing Report**").

68. The Cash Flow Statement demonstrates that, assuming, among other things, BioSteel does not fund any further production of product during the Initial Stay Period, the Applicant will have sufficient liquidity to fund its obligations during the Initial Stay Period.

69. The Cash Flow Statement has been prepared on the basis that:

- (a) the Applicant will pause procurement of any additional product;
- (b) the Applicant will not make payments in respect of Sponsorship Agreements or any other agreements which it does not intend to use during the Initial Stay Period and will not request any services under the Sponsorship Agreements or other such agreements; and
- (c) the Applicant intends to sell any remaining product on hand other than those products that are subject to restrictions under specific Sponsorship Agreements, as applicable.

70. I am advised by Noah Goldstein of KSV that the Cash Flow Statement has been prepared with the assistance of the Proposed Monitor and is accompanied by the prescribed representations in accordance with the CCAA.

C. Response to Financial Difficulties

71. At the end of 2022, BioSteel retained Goldman Sachs & Co. LLC (“**Goldman**”) to conduct a broad marketing process to identify a sale or investment in the business that would allow the business to continue as a going concern, with or without Canopy’s involvement.

72. Due to concerns identified regarding BioSteel’s financial reporting (as discussed above), the sales process stalled during the BioSteel Review and BioSteel re-examined the size of the

investment required to grow the business. The sales process was restarted in June 2023 with the benefit of refined financial information.

73. By July 2023, Goldman had engaged with 24 potential buyers, of which 16 entered into non-disclosure agreements, 4 were granted access to the BioSteel virtual dataroom and 3 participated in management calls. The feedback from potential buyers noted, among other concerns, that significant investment would be required and that the timeline for a return on the investment in BioSteel's current form was too long. No indications of interest or bids were received by the beginning of August 2023.

74. In August 2023, after being advised that certain members of management were considering a management buy-out offer, the Special Committee was formed to explore and implement strategic alternatives for BioSteel, including evaluating any offers received from management. Shortly thereafter, the relevant members of management resigned to focus their efforts on a bid in the sales process. Cassels has provided legal advice to Canopy and all of its subsidiaries, including BioSteel (following the acquisition), on Canadian legal matters since 2017 and as such, Cassels has significant institutional knowledge related to BioSteel. In connection with the formation of the Special Committee, alongside the assistance of Cassels, the Special Committee retained Chaitons LLP to serve as its independent and conflicts counsel. Canopy has retained Fasken Martineau DuMoulin LLP to represent its interests in connection with BioSteel in this CCAA Proceeding.

75. The Special Committee also retained the Financial Advisor to capitalize on its expertise in distressed M&A situations and explore alternative strategies to maximize the value of the BioSteel brand. The Financial Advisor designed and launched a refreshed marketing process to identify proposals for a transaction or investment in BioSteel. The Financial Advisor contacted the parties who had previously been contacted in the Goldman process, along with other industry and

financial parties. The Financial Advisor's process letter called for proposals by September 5, 2023. Through that process, 20 parties executed nondisclosure agreements and 18 were granted access to the virtual dataroom and undertook diligence.

76. On September 5, 2023, six preliminary, non-binding proposals were received. Unfortunately, all of the proposals were highly conditional and required significant time to complete, among other things, due diligence before the parties could make a determination about whether to submit a binding bid. Importantly, none of the parties that submitted proposals fully committed financing necessary to meet BioSteel's immediate operating needs through completion of their respective diligence periods. As a result, the Special Committee determined that seeking the benefit of Court protection would provide the best opportunity to maximize the value of BioSteel for stakeholders.

V. RELIEF SOUGHT

A. Relief to Be Sought at the Initial Hearing on this Application

77. At the initial hearing on this Application, the Applicant will seek an initial order that tracks the model used in this jurisdiction with limited modifications to address the nature of this CCAA Proceeding.

i) Stay of Proceedings under the CCAA

78. BioSteel requires a broad Stay of Proceedings to prevent, among other things, the exercise of contractual remedies by its contractual counterparties and creditors. The Stay of Proceedings, as extended to protect the US BioSteel Entities, is intended to stabilize and preserve the value of the integrated BioSteel business.

79. As noted above, the BioSteel Entities operate an integrated business. Due to the integration of the business and operations of the BioSteel Entities, the Applicant is seeking to

extend the Stay of Proceedings to the non-applicant BioSteel Entities. 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 the BioSteel Entities (including actions against the non-applicant entities that will directly impact the Applicant) and their stakeholders.

80. Additionally, the Stay of Proceedings will provide the Applicant the necessary time to finalize and if approved, conduct the SISP. At the initial hearing on this Application, the Applicant will seek a stay of not more than 10 days, consistent with the CCAA.

ii) Continued Use of the Cash Management System

81. In order to sell the Applicant's Business in the most efficient manner possible, the Applicant requires continued access to the Cash Management System, including: (i) all of the applicable bank accounts, and (ii) the ability to continue to transfer between its accounts (collectively, the "**Cash Management System**"). Notwithstanding the anticipated hibernation of the business, a limited amount of product will continue to move through the system and must be delivered to customers in order to preserve the value of the inventory before it becomes stale or unusable. The Applicant intends to record all transactions and share such information with the Monitor.

82. I am advised by Noah Goldstein at KSV that the cash flow does not contemplate repayment of any pre-filing obligations to Canopy or its affiliates or any payment to Canopy for post-filing employee services.

iii) The Proposed Monitor

83. The Applicant seeks the appointment of KSV as Monitor. I am advised by Noah Goldstein of KSV that KSV has consented to act as Monitor of the Applicant in this CCAA Proceeding, subject to the Court's approval.

84. I am also advised by Noah Goldstein of KSV that KSV is a licensed insolvency trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and is not subject to any of the restrictions on who may be appointed as Monitor, as set out in subsection 11.7(2) of the CCAA.

85. KSV became involved with the Applicant in August 2023 in the event that it became necessary for the Applicant to commence this CCAA Proceeding. Since the beginning of KSV's involvement, KSV has assisted in reviewing the Cash Flow Statement and has participated in strategic discussions regarding the Applicant's financial and liquidity position, available options, and the relief requested by the Applicant in connection with this CCAA Proceeding. KSV together with its legal counsel, Bennett Jones LLP, have also assisted the Applicant in the preparation of the SISP.

iv) Administration Charge

86. The Applicant is seeking a charge on the Property in priority to all other charges, in the maximum amount of US\$750,000 (the "**Administration Charge**") to secure the fees and disbursements of the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and Special Committee, and the Financial Advisor to the Applicant (solely in respect of their monthly fees), in each case incurred in connection with the services rendered to the Applicant both before and after the commencement of this CCAA Proceeding. The amount is necessary to protect the

beneficiaries of the Administration Charge during the first 10 days of this CCAA Proceeding. The Applicant will be seeking an increase to the Administration Charge at the Comeback Hearing.

87. I am advised by Noah Goldstein of KSV that the Applicant worked with the Proposed Monitor to estimate the proposed quantum of the Administration Charge based on the nature of this CCAA Proceeding and the expected demands on critical professionals prior to the Comeback Hearing.

v) Directors and Officers Indemnity and Charge

88. The Applicant is seeking customary provisions indemnifying the Directors and Officers of the BioSteel Entities against any obligations and liabilities they may incur as a director or officer of the BioSteel Entities after the commencement of this CCAA Proceeding (the “**D&O Indemnity**”).

89. It is my understanding that in some circumstances directors and officers can be held liable for certain obligations of a company, including those owing to employees and government entities.

90. The BioSteel Entities, through Canopy, maintain director’s and officer’s liability insurance (“**D&O Insurance**”). The current D&O Insurance policies include an aggregate amount of US\$20 million in coverage. However, this coverage is subject to certain deductibles, exclusions, or some combination of the foregoing, all of which creates a degree of uncertainty.

91. The BioSteel Entities have certain overlapping directors, including the same independent director. The Directors and Officers have indicated that they will not continue their service with the BioSteel Entities during the post-filing period unless the Initial Order grants a charge on the Applicant’s Property in a sufficient amount to secure the D&O Indemnity.

92. The Applicant seeks a charge on the Property in the maximum amount of US\$1,279,000 (the “**Directors’ Charge**”) as security for the D&O Indemnity. The proposed Directors’ Charge would apply only to the extent that the Directors and Officers do not have coverage under the D&O Insurance and will rank second in priority, in accordance with the priority set out in the proposed Initial Order.

93. The Directors’ Charge will allow the BioSteel Entities to continue to benefit from the expertise and knowledge and continued involvement of the Directors and Officers.

94. The quantum of the Directors’ Charge is necessary to protect the Directors and Officers in the first 10 days of this CCAA Proceeding, having regard to the potential personal liabilities that they may be exposed to in respect of the Applicant’s obligations in the period before the Comeback Hearing. The Applicant will be seeking an increase to the Directors’ Charge at the Comeback Hearing. The Applicant believes that the Directors’ Charge is reasonable in the circumstances.

95. I am advised by Noah Goldstein at KSV that the Applicant has worked with the Proposed Monitor to calculate the quantum of the Directors’ Charge by reference to the above-noted potential liabilities and that the Proposed Monitor is supportive of the Directors’ Charge and its quantum.

vi) Chapter 15 Case

96. Because the Applicant has assets in the United States, including significant inventory in third party warehouses and with BioSteel Manufacturing, the Applicant intends to initiate a case under the Bankruptcy Code seeking an order to recognize and enforce the CCAA orders in the United States and protect against any potential adverse action taken by US-based parties (the “**Chapter 15 Case**”).

97. The Applicant intends to file the Chapter 15 Case in the United States Bankruptcy Court for the Southern District of Texas.

98. The centre of main interest of the Applicant is in Canada. The Applicant is a corporation incorporated under the federal laws of Canada. Its head office and registered office are in Toronto. The Applicant's key decision makers are located in Canada. Many operational elements of the integrated BioSteel business are carried out by personnel that are located in Canada, including accounting, legal, human resources, insurance, payroll, regulatory, taxes, and treasury.

99. I am advised by US counsel to the Applicant that the Chapter 15 Case is appropriate under the circumstances to protect the value of the BioSteel business and the BioSteel brand as a whole within the United States.

B. Relief to be Sought at the Comeback Hearing

100. At the Comeback Hearing, the Applicant intends to seek approval of the proposed SISP Approval Order and an ARIO.

i) SISP Approval Order

101. The Applicant anticipates building on the extensive sales processes conducted twice over the course of 2023 to continue efforts to identify the best and highest offer for the Applicant's assets. Given the integrated nature of the BioSteel business, the SISP (if approved) will also facilitate the sale of the equity or all of assets of the US BioSteel Entities. Given the extensive pre-filing sales processes, the Applicant believes that an expedited, court-supervised process that engages with the parties most likely to propose an executable transaction will yield the best and highest results for stakeholders. The Applicant expects that a purchaser may require an approval and vesting order, and the proposed SISP will contemplate a timeline for Court approval and

closing. Additional details regarding the SISP and the proposed timelines will be provided before the Comeback Hearing.

ii) ARIO

102. At the Comeback Hearing, the Applicant intends to seek an ARIO. The most significant amendments anticipated to be sought in the ARIO are described below.

a) Permitted Restructuring

103. At the Comeback Hearing, the Applicant intends to seek additional authorization in connection with permitted restructurings such as contract disclaimers, termination or downsizing and disposition of non-material assets. The language requested follows the language in the Ontario model order.

b) Financial Advisor Engagement

104. As noted above, the Applicant retained the Financial Advisor to assist with the pre-filing sales process and to assist with evaluating potential transactions. At the Comeback Hearing, the Applicant also intends to seek approval of the Financial Advisor's engagement letter and the Transaction Fee Charge (as described below). A copy of the Financial Advisor's engagement letter is attached hereto as **Exhibit "F"**.

c) Amendments to the Charges

105. The Charges proposed in the Initial Order are designed for the initial 10-day statutory stay period only. The proposed ARIO provides for the following amendments and additions to the Charges:

- (a) Administration Charge: US\$1 million. The hourly professionals will have significant work in the period following the initial hearing on this Application, including in assisting the Applicant with managing contract counterparties, addressing sale process inquiries based on the information already in the market, and coordinating with US professionals in connection with the Chapter 15 Case. If the ARIO and the SISP Approval Order are granted, the professionals will have additional work ahead of them to facilitate the SISP;
- (b) Directors' Charge: US\$2,198,000. The increased quantum of the Directors' Charge is intended to reflect the potential obligations and liabilities that the Directors and Officers may face during the proposed stay extension, taking into account reasonable assumptions regarding the remaining employee obligations, payment of sales tax and other regulatory obligations. I understand that more information will be provided to the Court by the Proposed Monitor; and
- (c) Transaction Fee Charge: US\$2.5 million. The Financial Advisor's engagement letter contains a success fee provision in connection with the completion of a successful restructuring or sale transaction (the "**Transaction Fee**"). The Applicant will request that the Transaction Fee portion of such compensation be granted a priority charge on the Applicant's Property, behind the Administration Charge and the Directors' Charge, to provide certainty to the Financial Advisor that it will be compensated for its services in accordance with the terms of its engagement letter (the "**Transaction Fee Charge**"). The Transaction Fee Charge is necessary and reasonable in the circumstances as it is a condition of the retention of the Financial Advisor.

VI. URGENCY

106. The Applicant requires immediate protection under the CCAA to prevent enforcement actions against the Applicant and allow for an orderly sale of the Applicant's Business. The Applicant's limited access to funding has required the Applicant to seek protection to seek a near term solution to its financial challenges.

107. In light of, among other things, the nature of the BioSteel business as a whole, the framework and flexibility provided by the CCAA would provide the most effective, efficient and equitable method through which to pursue a sale.

108. This Application is therefore being brought on an urgent basis.

109. I swear this Affidavit in support of the relief sought by the Applicant and for no improper purpose.

SWORN BEFORE ME by videoconference on September 13, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)

Commissioner: Natalie E. Levine
LSO#: 64908K

Sarah S. Eskandari

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-

-00CL

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

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF SARAH S. ESKANDARI

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Lawyers for the Applicant

This is Exhibit "B" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

ASSET PURCHASE AGREEMENT

This Agreement is made as of the 9th day of November, 2023 (the “**Effective Date**”)

AMONG:

BIOSTEEL SPORTS NUTRITION INC., a corporation incorporated pursuant to the laws of Canada (“**BioSteel**” or the “**Vendor**”)

– and –

DC HOLDINGS LTD., dba Coachwood Group of Companies, a corporation incorporated pursuant to the laws of Ontario (the “**Purchaser**”)

WHEREAS:

A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued September 14, 2023 (as may be further amended or amended and restated from time to time, the “**Initial Order**”), the BioSteel was granted, among other things, creditor protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. was appointed as Monitor of the BioSteel (in such capacity, the “**Monitor**”).

B. In connection with the proceedings initiated by the Initial Order (the “**CCAA Proceedings**”), on September 21, 2023, BioSteel sought and obtained an order of the Court approving, among other things, a sale and investment solicitation process (the “**SISP**”), to be conducted by BioSteel, with the assistance of its advisors and under the oversight of the Monitor, to solicit interest in, and opportunities for, one or more or any combination of executable transactions involving the business and/or assets of BioSteel and/or the equity or all or substantially all of the assets of each of its affiliates, BioSteel Sports Nutrition USA LLC and BioSteel Manufacturing LLC.

C. In accordance with the terms of the SISP, the Purchaser has submitted an offer to purchase the Purchased Assets (as defined herein) from the Vendor.

D. The Vendor wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Vendor, the Purchased Assets, subject to, and in accordance with, the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto (collectively, the “**Parties**”, and each, a “**Party**”) hereby acknowledge and agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Advertising**” means any public notice, representation or promotional and marketing activities, in each case, of the Vendor, that is intended to attract attention to the Excluded Inventory for sale by the Vendor.

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act* (Ontario).

“**Agreement**” means this asset purchase agreement, including any schedules or exhibits appended to this asset purchase agreement, in each case as may be supplemented, amended or amended and restated from time to time in accordance with the terms hereof, with the consent of the Monitor, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code, directive, decree or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order of the Court, in form and substance satisfactory to the Purchaser, BioSteel and the Monitor, each acting reasonably, among other things, approving and authorizing this Agreement and the Transaction and vesting in the Purchaser (or as it may direct) all the right, title and interest of BioSteel in and to the Purchased Assets owned by BioSteel free and clear of Encumbrances, Liability or Claims.

“**Assignment and Assumption Agreement**” means an assignment and assumption agreement evidencing the assignment to the Purchaser of the Vendors’ interest in, to and under the Assumed Contracts and the assumption by the Purchaser of all of the Assumed Liabilities, in form and substance satisfactory to the Parties, acting reasonably.

“**Assumed Contracts**” means the Underlying Contracts that the Purchaser has elected to assume from the Vendor in accordance with Section 2.3, if any, including as such Assumed Contracts may be amended, restated, supplemented or otherwise modified from time to time.

“**Assumed Liabilities**” means all Liabilities under any Assumed Contract, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

“**Authorization**” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

“**BioSteel**” has the meaning set out in the recitals hereto.

“**Books and Records**” means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including Tax and accounting books and records, used or intended for use by, and in the possession of the Vendor or its Affiliates in connection with the ownership or operation of the Purchased Assets.

“**Business**” means the business conducted by the Vendor, being BioSteel.

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

“**Cash Purchase Price**” has the meaning set out in Section 3.3(b).

“**CCAA**” has the meaning set out in the recitals hereto.

“**CCAA Proceedings**” has the meaning set out in the recitals hereto.

“**Claims**” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment or reassessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person, complaints, grievance, petition, application, charge, investigation, indictment, prosecution, judgement, debt, liability, damage, or loss, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, known or unknown, disputed or undisputed, contractual, legal or equitable.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is five (5) Business Days after the date upon which the conditions set forth in ARTICLE 7 have been satisfied or waived, other than any conditions set forth in ARTICLE 7 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendor and the Purchaser in writing, each acting reasonably); provided that the Closing Date shall be no later than the Outside Date.

“**Closing Time**” means 12:01 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.

“**Court**” has the meaning set out in the recitals hereto.

“**Cure Costs**” means, in respect of an Assumed Contract, all amounts, costs, fees and expenses required to be paid to secure a counterparty’s or any other necessary Person’s consent to the assignment of such Assumed Contract.

“**Data Room**” means the virtual data room as of 12:00 a.m. (Toronto time) on the date of this Agreement, relating to the business and affairs of the Vendor, access to which has been provided to the Purchaser.

“**Deposit**” has the meaning set out in Section 3.3(a).

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any individual who is employed by Canopy Growth Corporation or Canopy Growth USA, LLC and in such capacity provided services to the Vendor immediately prior to the Closing Date.

“**Encumbrance**” means any security interest, debenture, lien, Claim, charge, right of retention, trust, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, assignment (as security), royalty interest, defect of title or adverse claim of any nature or kind, mortgage or right of a third party (including any contractual right, such as a purchase option, call or similar right of a third party in respect of securities, right of first refusal, right of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, RSC, 1985, c. E-15.

“**Excluded Assets**” means those assets of the Vendor that are not Purchased Assets, which for greater certainty are listed at Schedule “C” hereto.

“**Excluded Inventory**” means [REDACTED]

“**Excluded Liabilities**” means all Liabilities of the Vendor relating to the operation of its Business prior to Closing, other than the Assumed Liabilities, if any.

“**General Conveyance**” means a bill of sale and general conveyance evidencing the conveyance to the Purchaser of the Vendor’s interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), judicial body, regulatory authority, tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation having jurisdiction over the Vendor, the Purchaser or the Purchased Assets.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act*, and any provincial, territorial or foreign legislation imposing a similar value added or multi-staged tax.

“**Income Tax Act**” means the *Income Tax Act*, RSC, 1985, c. 1 (5th Supp.).

“**Initial Order**” has the meaning set out in the recitals hereto.

“**Interim Period**” means the period beginning on the Effective Date and ending at the Closing Time.

“**Intellectual Property**” means all intellectual property rights, including any of the following: (i) patents and patent applications; (ii) registered and unregistered trademarks, service marks and trade names, pending trademark and service mark registration applications; (iii) registered and unregistered copyrights, and applications for registration of copyrights; and (iv) internet domain names.

“**IP Assignment Agreement**” means an IP assignment agreement, in a form acceptable to the Parties acting reasonably, to be entered into by the Purchaser and the Vendor, pursuant to which the Vendor will assign to the Purchaser all of its rights, title and interests in the Purchased Intellectual Property.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Licence Term**” has the meaning set out in Section 5.8(e).

“**Monitor**” has the meaning set out in the recitals hereto.

“**Monitor’s Certificate**” means the certificate of the Monitor contemplated by the Approval and Vesting Order certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Purchase Price.

“**Net Sales**” means the aggregate sale proceeds of the Qualified Inventory actually paid to the Purchaser (on behalf of the Vendor) from customers in connection with a Qualified Sale (for the avoidance of doubt, net of any applicable GST/HST), less distribution costs, returns, allowances and discounts.

“**Organizational Documents**” means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

“**Outside Date**” means 11:59 pm (Toronto time) on November 30, 2023 or such later date and time as the Vendor, with the consent of the Monitor, and the Purchaser may agree to in writing, each acting reasonably.

“**Parties**” has the meaning set out in the recitals hereto.

“**Party**” has the meaning set out in the recitals hereto.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“**Purchased Assets**” means all of the Vendor’s right, title and interest in and to the business, assets, properties, goodwill, rights and claims of the Vendor related to the Business on the Closing Date (excluding any rights or claims relating to or arising from any contract of the Vendor that is not an Assumed Contract, if any), wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected in the Books and Records of the Vendors, including the assets listed at Schedule “B” hereto, in each case, other than Excluded Assets (which for certainty includes all contracts that are not Assumed Contracts).

“**Purchased Intellectual Property**” means the Intellectual Property comprising a part of the Purchased Assets.

“**Purchase Price**” has the meaning set out in Section 3.1.

“**Purchaser**” has the meaning set out the recitals hereto.

“**Qualified Inventory**” has the meaning set out in Section 5.7(a).

“**Qualified Sale**” has the meaning set out in Section 5.7(b).

“**Qualified Sale Fee**” has the meaning set out in Section 5.7(b).

“**Return Fee**” has the meaning set out in Section 5.8(e).

“**Returned Inventory**” has the meaning set out in Section 5.8(e).

“**Sale Period**” has the meaning set out in Section 5.7(a).

“**SISP**” has the meaning set out in the recitals hereto.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties, fees, assessments, imposts, levies and other charges of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, fines, or additions with respect thereto and any interest in respect of such additions or penalties and any Liability for the payment of any amounts of the type described in this paragraph as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

“**Transaction**” means all of the transactions contemplated by this Agreement, including the purchase and sale of the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, conveyance fees, security interest filing or recording fees and any other similar or like taxes or charges imposed by a Governmental Authority, including any related penalties and interest, in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST/HST.

“**Underlying Contracts**” has the meaning set out in Section 2.3.

“**Unqualified Inventory**” has the meaning set out in Section 5.8(a).

“**U.S. Court**” means the United States Bankruptcy Court for the Southern District of Texas.

“**U.S. Recognition Order**” means an order of the U.S. Court in form and substance satisfactory to the Purchaser, the Vendor and the Monitor, each acting reasonably, among other things, recognizing the Approval and Vesting Order.

“**Vendor**” has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 General Construction

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendor or the Purchaser, or any Affiliates thereof.

1.5 Currency

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

1.6 Statutes

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

1.7 Schedules & Amendments to Schedules

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

SCHEDULES

- Schedule “A” - Allocation Schedule
- Schedule “B” - Purchased Assets
- Schedule “C” - Excluded Assets

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendor shall sell, assign, transfer and convey to the Purchaser, and the Purchaser shall purchase and assume from the Vendor, all of the Vendor’s right, title and interest in, to and under the Purchased Assets.

2.2 Transfer of Purchased Assets and Assumption of Liabilities

Provided that Closing occurs and subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendor to the Purchaser on the Closing Date and the Purchaser agrees to assume, discharge, perform and fulfill all of the Assumed Liabilities, if any, from and after the Closing Date.

2.3 Underlying Contracts

The Vendor acknowledges that the Purchaser is not assuming any contracts of the Vendor; provided that the Purchaser, shall have the right, at any time prior to five Business Days prior to the Closing Date, to elect

to assume any contracts underlying the intangible assets and intellectual property set out in Schedule “B” (the “**Underlying Contracts**”) by notifying the Vendor in writing of the Underlying Contract or Underlying Contracts that it wishes to assume, with no adjustment to the Purchase Price. In the event that the Purchaser does not notify the Vendor of its desire to assume an Underlying Contract in accordance with the preceding sentence, the Purchased Asset that is subject to such Underlying Contract and/or such Underlying Contract shall not be included as a Purchased Asset on Closing. Notwithstanding anything to the contrary in this Agreement, and subject to Section 5.3, to the extent that the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Purchaser of any Purchased Asset that is subject to an Assumed Contract and/or any Assumed Contract would require the consent, authorization, approval or waiver of a Person who is not a Party or an Affiliate of a Party, and such consent, authorization, approval or waiver shall not have been obtained before Closing, this Agreement shall not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale, assignment, transfer, conveyance or delivery, thereof; provided that, subject to the satisfaction or waiver of the conditions contained in ARTICLE 7, Closing shall occur notwithstanding the foregoing without any adjustment to the Purchase Price on account thereof. To the extent that any Cure Costs are payable with respect to any Assumed Contract, the Purchaser shall be responsible for and shall pay all such Cure Costs, which shall be paid directly to the applicable counterparty, which Cure Costs shall be in addition to and shall not form part of the Purchase Price.

2.4 Excluded Liabilities

The Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any Excluded Liabilities. Notwithstanding the foregoing, the Purchaser shall assume the responsibility for any and all costs associated with recording the transfer and assignment of any registered Intellectual Property comprising a part of the Purchased Assets.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The aggregate consideration payable by the Purchaser for the Purchased Assets shall be \$ [REDACTED] plus the assumption of the Assumed Liabilities, if any (the “**Purchase Price**”). The Purchase Price shall be satisfied in accordance with Section 3.3. The Purchase Price shall not be subject to any claim for set off, reduction or adjustment or any similar claim or mechanism of any kind whatsoever.

3.2 Allocation of the Purchase Price

The Purchaser and the Vendor agree that the Purchase Price shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as shown in the allocation schedule attached hereto as Schedule “A” or as otherwise mutually agreed by the accountants for each of the Purchaser and the Vendor, acting reasonably in the interest of both parties. For greater certainty, the value of the Assumed Liabilities has been taken into account with respect to the determination of the aggregate Purchase Price payable pursuant to this Article 3 and the assumption of such Assumed Liabilities, if any, by the Purchaser does not constitute separate or additional consideration hereunder in respect of the Purchased Assets.

3.3 Satisfaction of Purchase Price

The Purchaser shall pay the Purchase Price in accordance with the following:

- (a) Deposit. The Parties acknowledge that the Purchaser has paid a deposit in the amount of CAD \$ [REDACTED], being 10% of the Purchase Price (the “**Deposit**”), which Deposit is being held by the Monitor in trust, and, subject to Section 8.2, shall (inclusive of all interest earned thereon, if any) be credited against the Purchase Price at Closing;

- (b) Balance of Purchase Price. An amount equal to the Purchase Price less the Deposit (the “**Cash Purchase Price**”) shall be paid in cash by the Purchaser to the Monitor on the Closing Date, by wire transfer of immediately available funds; and
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, if any, which the Purchaser shall assume on the Closing Date, shall be satisfied by the Purchaser paying, performing, and/or discharging such Assumed Liabilities as and when they become due.

3.4 Transfer Taxes

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser’s acquisition of the Purchased Assets.
- (b) Where the Vendor is required under Applicable Law to collect or pay Transfer Taxes, the Purchaser will pay the amount of such Transfer Taxes to the Monitor (on behalf of the Vendor) at Closing.
- (c) Except where the Vendor is required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendor will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner. If the Vendor is required under Applicable Law to pay any such Transfer Taxes which are not paid by the Purchaser at Closing, the Purchaser shall promptly reimburse the Vendor the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes.
- (d) The Purchaser shall indemnify the Vendor and the Monitor for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendor may pay or for which the Vendor or the Monitor may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.
- (e) Notwithstanding the foregoing, if available, the Purchaser and the Vendor shall jointly execute an election under section 167 of the *Excise Tax Act* in connection with the transfer of the Purchased Assets contemplated herein, and the Purchaser shall file such election with its applicable Tax return for the reporting period in which the sale of the Purchased Assets takes place. Any GST/HST incurred in connection with the purchase and sale of the Purchased Assets contemplated by this Agreement, including where an election pursuant to subsection 167(1) of the *Excise Tax Act* is not or cannot be validly made in respect of the Purchased Assets, shall be borne by Purchaser.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Vendor

The Vendor hereby represents and warrants as of the date hereof and as of the Closing Time as follows, and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendor is a corporation incorporated and existing under the laws of Canada, and is in good standing under such statute and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Company Authorization. The execution, delivery and, subject to obtaining of the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendor of this Agreement has been authorized by all necessary corporate action on the part of the Vendor.
- (c) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms, subject only to obtaining the Approval and Vesting Order.
- (d) No Employees. The Vendor does not employ any employees, including any Employees.
- (e) No Proceedings. To the knowledge of the Vendor, there are no proceedings pending or threatened against the Vendor that would reasonably be expected to delay, restrict or prevent the Vendor from fulfilling any of its obligations set forth in this Agreement.
- (f) GST/HST Registration. BioSteel is a registrant for purposes of GST/HST, and its registration number is 85012 0866.

4.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendor as of the date hereof and as of the Closing Time, and acknowledges that, the Vendor is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the Province of Ontario, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Company Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) No Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.

- (f) No Consents or Authorizations. Subject only to obtaining the Approval and Vesting Order, no consent, approval, waiver or other Authorization is required from any Governmental Authority or any other Person, in connection with the execution, delivery or performance of this Agreement by the Purchaser, and each of the agreements to be executed and delivered by the Purchaser hereunder or the purchase of any of the Purchased Assets hereunder, except for any Authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Purchaser to consummate the Transaction.
- (g) Brokers' or Finders' Fees. The Purchaser has not incurred any obligation or liability, contingent or otherwise, for any broker's or finder's fees or commissions in respect of this Transaction for which the Vendor shall have any obligation or liability to pay.
- (h) Solvency. The Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.
- (i) GST/HST Registration. The Purchaser is a registrant for purposes of GST/HST, and its registration number is 77977 4926.

4.3 As is, Where is

The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an "*as is, where is*" basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, the Purchaser acknowledges and agrees that: (a) no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever, including with respect to the Purchased Assets; and (b) the Monitor has not provided any representations and warranties in respect of any matter or thing whatsoever in connection with the Transaction contemplated hereby, including with respect to the Purchased Assets. The disclaimer in this Section 4.3 is made notwithstanding the delivery or disclosure to the Purchaser or its directors, officers, employees, agents or representatives of any documentation or other information (including financial projections or supplemental data not included in this Agreement). Without limiting the generality of the foregoing and unless and solely to the extent expressly set forth in this Agreement or in any documents required to be delivered pursuant to this Agreement, any and all conditions, warranties or representations, expressed or implied, pursuant to Applicable Law do not apply hereto and are hereby expressly waived by the Purchaser. The Purchaser further acknowledges, agrees and confirms that it has conducted its own investigations, due diligence and analysis in satisfying itself as to all matters relating to the Vendor and its assets, liabilities and business, including without limitation, the Purchased Assets and the Assumed Liabilities, if any. Until Closing, the Purchased Assets shall remain at the risk of the Vendor. After Closing occurs, the Purchased Assets shall be at the sole risk of the Purchaser regardless of the location of the Purchased Assets.

ARTICLE 5 COVENANTS

5.1 Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Outside Date.

5.2 Motion for Approval and Vesting Order and Motion for U.S. Recognition Order

As soon as practicable after the Parties' execution of this Agreement, BioSteel shall (i) serve and file with the Court an application for the issuance of the Approval and Vesting Order seeking relief that will, *inter alia*, approve this Agreement and the Transaction and (ii) serve and file with the U.S. Court a motion for the issuance of the U.S. Recognition Order. The Purchaser shall cooperate with BioSteel in its efforts to obtain the issuance and entry of the Approval and Vesting Order and the U.S. Recognition Order.

5.3 Interim Period

During the Interim Period, except (a) as otherwise expressly contemplated or permitted by this Agreement (including the Approval and Vesting Order), (b) as necessary in connection with the CCAA Proceedings, (c) as otherwise provided in the Initial Order and any other Court orders prior to the Closing Time, or (d) as consented to by the Purchaser and the Vendor, such consent not to be unreasonably withheld, conditioned or delayed, the Vendor shall use commercially reasonable efforts to (i) continue to maintain the Purchased Assets in substantially the same manner as on the Effective Date; and (ii) obtain any consent, approval or similar authorization or waiver required to permit the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Purchaser of any Purchased Asset that is subject to an Assumed Contract and/or any Assumed Contract on Closing.

5.4 Insurance Matters

Until Closing, the Vendor shall keep in full force and effect all existing insurance policies in relation to the Purchased Assets (if any) and give any notice or present any Claim under any such insurance policies consistent with past practice of the Vendor in the ordinary course of business.

5.5 Employee Matters

The Vendor acknowledges that the Purchaser is not assuming any Employees.

5.6 Actions to Satisfy Closing Conditions

- (a) The Vendor agrees to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.2 are satisfied on or prior to the Closing Date; and
- (b) The Purchaser agrees to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.3 are satisfied on or prior to the Closing Date.

5.7 Excluded Inventory Matters

- (a) The Parties hereby acknowledge and agree that for a period commencing on the Closing Date until the date that is 120 days following the Closing Date (the "**Sale Period**"), all Excluded Inventory that has greater than 19 months of shelf life from the Closing Date and that is not subject to any Encumbrance (the "**Qualified Inventory**") shall be subject to the terms of this Section 5.7.
- (b) At any time during the Sale Period, the Purchaser shall have the exclusive right to sell the Qualified Inventory on behalf of the Vendor through the Purchaser's distribution channels at a price as may be agreed to in writing by the Vendor and the Purchaser, each acting reasonably (a "**Qualified Sale**"). Upon the closing of a Qualified Sale, the Purchaser shall be entitled to receive a fee in an amount equal to ■% of the Net Sales of the Qualified Inventory subject to the applicable Qualified Sale (the "**Qualified Sale Fee**"). Within 10 Business Days of the last day of each calendar month of the Sale Period, the Purchaser shall remit the proceeds of all Qualified Sale(s) completed during the preceding month

directly to the Vendor, without deduction, and thereafter, and within 10 Business Days of receipt by the Vendor of the proceeds of the preceding month's proceeds of Qualified Sale(s), the Vendor shall pay to the Purchaser an amount equal to the Qualified Sale Fee in respect of such Qualified Sales. The Qualified Sale Fee may, at the discretion of the Vendor, be offset against any amounts owing to the Purchaser from the Vendor.¹ █% of any amounts received by the Purchaser in respect of Qualified Sales following the Sale Period shall be remitted directly to the Vendor upon the Purchaser's receipt of same. Unless otherwise agreed to in writing by the Vendor, no returns of Qualified Inventory sold during the Sale Period shall be made to or accepted by the Vendor; provided however, that the Purchaser may, in its sole discretion and at its sole cost and expense, accept returns of Qualified Inventory.

- (c) On or prior to the end of the Sale Period, the Purchaser shall have the right to acquire any of the Qualified Inventory that was not sold in accordance with Section 5.7(b) at the applicable cost of the Qualified Inventory. In the event that the Purchaser does not notify the Vendor of its desire to acquire the Qualified Inventory by the end of the Sale Period in accordance with the preceding sentence, the Vendor shall be permitted to sell such Qualified Inventory in its sole and absolute discretion. In the event that the Purchaser notifies the Vendor of its desire to acquire any of the Qualified Inventory by the end of the Sale Period, the Vendor and the Purchaser shall enter into an agreement of purchase and sale, in a form satisfactory to both Parties, each acting reasonably, with respect to the Qualified Inventory.
- (d) Notwithstanding anything herein, the Purchaser shall not be liable in any manner whatsoever for issues related to the nature or quality of the Excluded Inventory, including the Qualified Inventory regardless of whether the same is sold by the Purchaser or Vendor.

5.8 Sale of Unqualified Inventory

- (a) Notwithstanding the provisions of Section 5.7, the Parties hereby acknowledge and agree that the Vendor shall be permitted to sell any Excluded Inventory that is not Qualified Inventory ("**Unqualified Inventory**") from and after the Closing Date to any party, in its sole and absolute discretion; provided that the Vendor agrees that it will not sell Unqualified Inventory to consumers located in Canada or to wholesalers for purposes of resale in Canada (as determined solely based on representations made to the Vendor by such consumers or wholesalers, as applicable, at the time of sale).²
- (b) Within 30 days of the earlier of (a) the sale of all or substantially all of the Unqualified Inventory and (b) the end of the License Term, the Vendor will provide to the Purchaser the contact information and sales details in connection with the sale of the Unqualified Inventory to the extent permitted in accordance with any confidentiality terms between the Vendor and the buyer(s) of such inventory.
- (c) For a period of 24 months following the Closing Date (the "**License Term**"), the Purchaser shall grant the Vendor and any trustee in bankruptcy appointed in respect thereof a non-exclusive, royalty-free, fully sublicensable license to use the Purchased Intellectual Property for the purpose of offering for sale, sale and marketing of Unqualified Inventory during the License Term in accordance with the proviso in Section 5.8(a); █
█
█

¹ Qualified Inventory to be sold at or around the Manufacturer's Suggested Retail Price levels to maintain brand value.

² For greater certainty, to the Vendor's knowledge, the Excluded Inventory is labelled for sale in the United States (rather than Canada).

- [REDACTED]
- [REDACTED]
- (d) The Parties acknowledge and agree that in no event shall the Vendor be required to accept returns of Unqualified Inventory at any time following the Closing Date; provided however, that the Purchaser may, in its sole discretion and, subject to Section 5.8(e), at its sole cost and expense, accept returns of Unqualified Inventory.
 - (e) In the event the Purchaser accepts any return of Unqualified Inventory (the “**Returned Inventory**”) during the Sale Period, the Vendor shall pay the Purchaser an amount equal to ■% of the amount shown on the invoice that was issued upon the sale of such Returned Inventory *less* any reasonable distribution costs incurred by the Vendor in respect of such Returned Inventory (the “**Return Fee**”). The Return Fee shall only be payable by the Vendor in the event that there was a misrepresentation made by the Vendor with respect to the age or quality of the Returned Inventory at the time of sale and such fee shall be paid within 10 Business Days following the Vendor’s receipt of written notice from the Purchaser setting out: (i) a description of the Returned Inventory (including the type and quantity of Returned Inventory), and (ii) the reason for such return, and shall be accompanied by (x) evidence of payment by the Purchaser of the amount refunded in respect of such Returned Inventory, (y) proof of such misrepresentation being made by the Vendor at the time of sale, and (z) such other supporting documentation as the Vendor may reasonably request, in each case such evidence, proof or documentation, as applicable, satisfactory to the Vendor acting reasonably.
 - (f) Notwithstanding anything herein, the Purchaser shall not be liable in any manner whatsoever for issues related to the nature or quality of the Excluded Inventory, including the Unqualified Inventory regardless of whether the same is sold by the Purchaser or Vendor.

5.9 Treatment of Qualified Sale Fee and Return Fee

The Vendor hereby agrees that the obligations to pay the Qualified Sale Fee and the Return Fee set out in Sections 5.7 and 5.8, respectively, constitute post-filing obligations of the Vendor, which are not stayed by the Initial Order and shall be paid in accordance with the terms hereof notwithstanding the CCAA Proceedings. The Vendor shall not: (i) seek an order staying the payment or enforcement by the Purchaser of the Qualified Sale Fee or Return Fee, (ii) seek a meetings order for, or Court approval of, any plan of compromise or arrangement that would compromise or otherwise affect the payment of the Qualified Sale Fee or Return Fee, or (iii) seek to terminate the CCAA Proceedings or assign the Vendor into bankruptcy prior to end of the Sale Period and payment of the final Qualified Sale Fee and any Return Fee.

ARTICLE 6 CLOSING ARRANGEMENTS

6.1 Closing

Closing shall take place electronically on the Closing Date effective as of the Closing Time (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

6.2 Vendor's Closing Deliveries

At the Closing Time, the Vendor shall deliver or cause to be delivered to the Purchaser the following:

- (a) subject to Section 2.3, the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing;
- (b) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (c) a true copy of the U.S. Recognition Order, as issued and entered by the U.S. Court;
- (d) if applicable, the Tax election contemplated by Section 3.4 duly executed by the Vendor;
- (e) the General Conveyance, duly executed by the Vendor;
- (f) the IP Assignment Agreement, duly executed by the Vendor;
- (g) if applicable, the Assignment and Assumption Agreement, duly executed by the Vendors;
- (h) a certificate of an officer of each Vendor dated as of the Closing Date confirming that all of the representations and warranties of such Vendor contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that such Vendor has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (i) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

6.3 Purchaser's Closing Deliveries

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor (or to the Monitor, as applicable), the following:

- (a) the Cash Purchase Price;
- (b) if applicable, payment to the Monitor (or evidence of payment by the Purchaser to the relevant Governmental Authorities) of all Transfer Taxes required by Applicable Law to be collected on Closing, in accordance with Section 3.4;
- (c) if applicable, the Tax election contemplated by Section 3.4, duly executed by the Purchaser;
- (d) the General Conveyance, duly executed by the Purchaser;
- (e) the IP Assignment Agreement, duly executed by the Purchaser;
- (f) if applicable, the Assignment and Assumption Agreement, duly executed by the Purchaser;
- (g) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and

- (h) such other agreements, documents and instruments as may be reasonably required by the Vendor to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 Conditions Precedent in Favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (b) U.S. Recognition Order. The U.S. Court shall have issued and entered the U.S. Recognition Order, which U.S. Recognition Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (c) No Order. No Applicable Law and no final or non-appealable judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction.
- (d) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (e) Monitor's Certificate. The Monitor shall have provided an executed copy of the Monitor's Certificate confirming that all conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendor.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in this Section 7.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

7.2 Conditions Precedent in Favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Vendor's Deliverables. The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 6.2.
- (b) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 4.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.

- (c) No Breach of Covenants. The Vendor shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 7.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in this Section 7.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendor to terminate this Agreement.

7.3 Conditions Precedent in Favour of the Vendor

The obligation of the Vendor to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents and payments contemplated in Section 6.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition in this Section 7.3 may be waived by the Vendor in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. If any condition set forth in this Section 7.3 is not satisfied or performed on or prior to the Outside Date, the Vendor may elect on written notice to the Purchaser to terminate the Agreement.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendor (with the consent of the Monitor) and the Purchaser; or
- (b) by the Vendor (with the consent of the Monitor) or the Purchaser upon written notice to the other Parties if: (i) the Closing has not occurred on or prior to the Outside Date; or (ii) the Approval and Vesting Order is not obtained on or before November 30, 2023 (subject to availability of the Court); provided in each case that the failure to close or obtain such order, as applicable, by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement; or
- (c) by written notice from the Purchaser to the Vendor:

- (i) in accordance with Section 7.1 or Section 7.2; or
 - (ii) if there has been a material breach by the Vendor of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and: (i) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.2 impossible by the Outside Date; or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendor, and such breach has not been cured within ten (10) days following the date upon which the Vendor received such notice, unless the Purchaser is in material breach of its obligations under this Agreement; and
- (d) by written notice from the Vendor (with the consent of the Monitor) to the Purchaser:
- (i) in accordance with Section 7.1 or Section 7.3; or
 - (ii) if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendor, and: (A) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.3 impossible by the Outside Date; or (B) if such breach is curable, the Vendor has provided prior written notice of such breach to the Purchaser, and such breach has not been cured within ten (10) days following the date upon which the Purchaser received such notice, unless the Vendor is in material breach of its obligations under this Agreement.

8.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of this Section 8.2 (Effects of Termination) and Section 9.8 (Governing Law), each of which will survive termination; provided that if this Agreement is terminated:

- (a) in accordance with Section 8.1(d)(ii), the Monitor (on behalf of the Vendor) shall be entitled to retain the Deposit and the full amount of the Deposit shall be forfeited to the Vendor; or
- (b) for any other reason, the Deposit shall be returned to the Purchaser.

In the event of termination of this Agreement under Section 8.1(d)(ii) pursuant to which the Monitor (on behalf of the Vendor) shall be entitled to retain the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre-estimate of liquidated damages representing the Vendor's losses and Liabilities as a result of Closing not occurring and agree that the Vendor shall not be entitled to recover from the Purchaser any amounts that are in excess of the Deposit as a result of Closing not occurring. The Purchaser hereby waives any claim or defence that the amount of the Deposit is a penalty or is otherwise not a genuine pre-estimate of the Vendor's damages.

ARTICLE 9 GENERAL

9.1 Access to Books and Records; Tax Co-Operation

For a period of six years from the Closing Date or for such longer period as may be required for the Vendor (or any trustee in bankruptcy of the estate of the Vendor) to comply with any Applicable Law, the Purchaser shall:

- (a) retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Monitor and the Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendor) have the right to inspect and to make copies (at their own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser; and
- (b) use commercially reasonable efforts to assist the Vendor, including providing any reasonable information requested by the Vendor, with respect to any queries or questions that the Vendor may have in order to facilitate any Tax filings or Tax related questions or disputes that may arise following the Closing Date.

9.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered by same-day courier or by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

DC HOLDINGS LTD., dba Coachwood Group
13455 Sylvestre Drive
Windsor, ON N8P 2L9

Attention: Dan Crosby
Email: dan@coachwoodgroup.com

with a copy to:

Pearsall, Marshall, Halliwill & Seaton LLP
22 Queens Avenue
Leamington, ON N8H 3G8

Attention: David Halliwell
Email: dhalliwill@pmhslaw.com

- (b) in the case of the Vendor, as follows:

BioSteel Sports Nutrition Inc.
c/o Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON M5K 1K7

Attention: Michael Nessim and Usman Masood
Email: Michael.nessim@greenhill.com and usman.masood@greenhill.com

with a copy to:

Cassels Brock & Blackwell LLP
40 Temperance Street, Suite 3200
Toronto, ON M5H 0B4

Attention: Ryan Jacobs and Natalie Levine
Email: rjacobs@cassels.com and nlevine@cassels.com

(c) in each case, with a further copy to the Monitor as follows:

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20
Toronto, Ontario, M5J 2W4

Attention: Noah Goldstein and Ross Graham
Email: ngoldstein@ksvadvisory.com and rgraham@ksvadvisory.com

with a copy to:

Bennett Jones LLP
3400 One First Canadian Place PO Box 130
Toronto, Ontario, M5X 1A4

Attention: Sean Zweig and Jesse Mighton
Email: zweigs@bennettjones.com; mightonj@bennettjones.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

9.3 Public Announcements

The Vendor and the Monitor shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Immediately following receipt of the Approval and Vesting Order, the Purchaser shall be permitted to issue a press release or other announcement concerning the Transaction with the consent of the Vendor, acting reasonably.

9.4 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

9.5 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.6 Entire Agreement

This Agreement and the attached Schedules hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendor (with the consent of the Monitor) and the Purchaser.

9.7 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of Ontario therefrom.

9.9 Assignment

The Purchaser cannot assign any of its rights or obligations under this Agreement without the prior written consent of the Vendor and the Monitor. Notwithstanding the forgoing, this Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendor or the Monitor, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendor and the Monitor; and (iii) such assignee agrees in writing to be bound by the terms of this Agreement to the extent of the assignment and a copy of such assumption agreement is delivered to the Vendor and the Monitor forthwith after having been entered into; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

9.10 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

9.12 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

9.13 Non-Waiver

No waiver of any condition or other provision, in whole or in part, shall constitute a waiver of any other condition or provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.

9.14 Expenses

Each of the Parties shall pay their respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

9.15 Monitor's Certificate

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel, and the Closing shall be deemed to have occurred.

9.16 Monitor's Capacity

In addition to all of the protections granted to the Monitor under the CCAA, the Initial Order and any other order of the Court in this CCAA Proceeding, the Vendor and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Vendor and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever.

[Signature Page Follows]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

BIOSTEEL SPORTS NUTRITION INC.

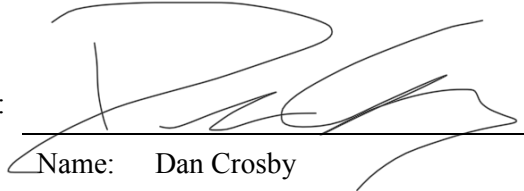
By: 

Name: Eugene I. Davis

Title: Director

I have authority to bind the Vendor.

DC HOLDINGS LTD.

By: 

Name: Dan Crosby

Title: CEO

I have authority to bind the Purchaser.

This is Exhibit "C" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

ASSET PURCHASE AGREEMENT

This Agreement is made as of the 9th day of November, 2023 (the “**Effective Date**”)

AMONG:

BIOSTEEL MANUFACTURING LLC, a Delaware limited liability company (“**BioSteel**” or the “**Vendor**”)

- and -

GREGORY PACKAGING, INC., a New Jersey corporation (the “**Purchaser**”)

WHEREAS:

A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued September 14, 2023 (as may be further amended or amended and restated from time to time, the “**Initial Order**”), BioSteel Sports Nutrition Inc., a corporation incorporated pursuant to the laws of Canada (“**BioSteel Canada**”), was granted, among other things, creditor protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the “**CCA**”), and KSV Restructuring Inc. was appointed as Monitor of BioSteel Canada (in such capacity, the “**Monitor**”).

B. In connection with the proceedings initiated by the Initial Order (the “**CCA Proceedings**”), on September 21, 2023, BioSteel Canada sought and obtained an order of the Court approving, among other things, a sale and investment solicitation process (the “**SISP**”), to be conducted by BioSteel Canada, with the assistance of its advisors and under the oversight of the Monitor, to solicit interest in, and opportunities for, one or more or any combination of executable transactions involving the business and/or assets of BioSteel Canada and/or the equity or all or substantially all of the assets of each of its affiliates, BioSteel Sports Nutrition USA LLC and BioSteel.

C. BioSteel Canada filed a Verified Petition for (I) Recognition of Foreign Main Proceeding, (II) Recognition of the Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Bankruptcy Court**”) commencing Case No. 23-90777 (the “**Chapter 15 Proceedings**”), and the Bankruptcy Court entered an order on October 11, 2023 recognizing the CCA Proceedings as a foreign main proceeding (the “**CCA Proceedings Recognition Order**”) under chapter 15 of title 11 of the United States Bankruptcy Code (the “**Bankruptcy Code**”).

D. In accordance with the terms of the SISP, the Purchaser has submitted an offer to purchase the Purchased Assets (as defined herein) from BioSteel.

E. As set forth below, BioSteel Canada shall bring a motion to add BioSteel as an applicant in the CCA Proceedings and shall, among other things, obtain entry of the BioSteel Recognition Order (as defined herein).

The Vendor wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Vendor, the Purchased Assets, subject to, and in accordance with, the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto (collectively, the “**Parties**”, and each, a “**Party**”) hereby acknowledge and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Agreement**” means this asset purchase agreement, including any schedules or exhibits appended to this asset purchase agreement, in each case as may be supplemented, amended or amended and restated from time to time in accordance with the terms hereof, with the consent of the Monitor, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code, directive, decree or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order of the Court, in form and substance satisfactory to the Purchaser, BioSteel Canada, BioSteel and the Monitor, each acting reasonably, among other things, approving and authorizing this Agreement and the Transaction and vesting in the Purchaser (or as it may direct) all the right, title and interest of BioSteel in and to the Purchased Assets owned by BioSteel.

“**Approved Customers and Suppliers**” has the meaning set out in Section 5.4.

“**Assignment Order**” means an order of the Court pursuant to section 11.3 of the CCAA, in form and substance satisfactory to the Purchaser, BioSteel and the Monitor, each acting reasonably, assigning to the Purchaser the rights and obligations of BioSteel under the Lease, from and after Closing.

“**Assumed Liabilities**” means all Liabilities of the Vendor under the Lease from and after the Closing Time; provided, however, no Liabilities shall be assumed unless and until the execution of the Lease Assignment and Landlord Consent or the Court has granted the Assignment Order.

“**Authorization**” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

“**Bankruptcy Code**” has the meaning set out in the recitals hereto.

“**Bankruptcy Court**” has the meaning set out in the recitals hereto.

“**Bankruptcy Court Assignment Order**” means an order of the Bankruptcy Court in the Chapter 15 Proceedings under section 365 of the Bankruptcy Code in form and substance satisfactory to the

Purchaser recognizing and enforcing the Assignment Order and approving the assignment of the Lease to Purchaser.

“Bankruptcy Court Sale Order” means an order of the Bankruptcy Court in the Chapter 15 Proceedings in form and substance satisfactory to the Purchaser (i) recognizing and enforcing the Approval and Vesting Order, (ii) approving, under section 363 of the Bankruptcy Code, the sale of the Debtors’ rights, title, and interests in and to the Purchased Assets to the Purchaser pursuant to this Agreement, free and clear of all liens, claims, encumbrances, and other interests, (ii) finding that Purchaser is a Good Faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, (iii) approving and authorizing Vendor to consummate the transactions contemplated hereby.¹

“BioSteel” has the meaning set out in the recitals hereto.

“BioSteel Canada” has the meaning set out in the recitals hereto.

“BioSteel Recognition Order” means an Order of the Bankruptcy Court recognizing the CCAA Proceedings of BioSteel in the Chapter 15 Proceedings.

“Books and Records” means all production reports and records, equipment logs, operating guides and manuals (whether stored or maintained in hard copy, digital electronic format or otherwise) relating to the Purchased Assets and in the possession of the Vendor or its affiliates.

“Business Day” means a day on which banks are open for business in New York, New York, but does not include a Saturday, Sunday or statutory holiday in the New York.

“Cash Purchase Price” has the meaning set out in Section 3.3(b).

“CCAA” has the meaning set out in the recitals hereto.

“CCAA Proceedings” has the meaning set out in the recitals hereto.

“CCAA Proceedings Recognition Order” has the meaning set out in the recitals hereto.

“Chapter 15 Proceedings” has the meaning set out in the recitals hereto.

“Claims” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment or reassessment, litigation, prosecution, third party action, arbitral proceeding or proceeding, complaint or allegation, by or before any Person, complaints, grievance, petition, application, charge, investigation, indictment, prosecution, judgement, debt, liability, damage, or loss, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, known or unknown, disputed or undisputed, contractual, legal or equitable.

“Closing” means the closing and consummation of the Transaction.

“Closing Date” means the date that is three (3) Business Days after the date upon which the conditions set forth in Article 7 have been satisfied or waived, other than any conditions set forth

¹ For greater certainty, a 363 sale process is not required for the entry of this order.

in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendor and the Purchaser in writing, each acting reasonably); provided that the Closing Date shall be no later than the Outside Date; provided further that the Closing shall not occur prior to November 30, 2023 without the mutual agreement of Vendor and Purchaser.

“**Closing Time**” means 12:01 a.m. (New York 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.

“**Court**” has the meaning set out in the recitals hereto.

“**Deposit**” has the meaning set out in Section 3.3(a).

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any individual who is employed by Canopy Growth Corporation or Canopy Growth USA, LLC and in such capacity provided services to Vendor prior to the Closing Date.

“**Encumbrance**” means any security interest, debenture, lien, Claim, charge, right of retention, trust, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, assignment (as security), royalty interest, defect of title or adverse claim of any nature or kind, mortgage or right of a third party (including any contractual right, such as a purchase option, call or similar right of a third party in respect of securities, right of first refusal, right of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excluded Assets**” means any assets of the Vendor that are not Purchased Assets.

“**Excluded Liabilities**” means all Liabilities of the Vendor and its affiliates relating to the operation of their respective businesses or assets (including the Purchased Assets) prior to Closing (including any cure costs), other than the Assumed Liabilities.

“**General Conveyance**” means a bill of sale and general conveyance evidencing the conveyance to the Purchaser of the Vendor’s interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), judicial body, regulatory authority, tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation having jurisdiction over the Vendor, the Purchaser, or the Purchased Assets.

“**Holdback**” means \$ [REDACTED].

“**Holdback Outside Date**” means December 15, 2023.

“**Holdback Payment**” means an amount equal to the product obtained from the following formula:

$A \times (B / 15)$

where:

A = the Holdback

B = the number of clear calendar days (up to a maximum of 15 days) between the Closing Date and the Property Acquisition Date, provided the Property Acquisition Date occurs after the Closing Date. In the event that the Property Acquisition Date occurs on or before the Closing Date, B shall be equal to 0 and the Holdback Payment shall be nil.

“Holdback Refund” means an amount equal to the Holdback less the Holdback Payment.

“Initial Order” has the meaning set out in the recitals hereto.

“Interim Period” means the period beginning on the Effective Date and ending at the Closing Time.

“Landlord” means Hansen Partners, LLC, or any successor or assign of Hansen Partners, LLC.

“Lease” means the Deed of Lease made February 13, 2019 by and between the Landlord, as landlord, and Flow Beverages, Inc., as tenant, for the Property as assigned by Flow Beverages, Inc. as tenant to the Vendor pursuant to a lease assignment and landlord consent made effective as of November 8, 2022 by and among Flow Beverages Inc., as the assignor, the Vendor, as the assignee, the Landlord, as landlord, and Canopy Growth Corporation, as indemnifier.

“Lease Assignment and Landlord Consent” means a lease assignment and landlord consent evidencing the assignment to the Purchaser of the Vendor’s interest in, to and under the Lease and the assumption by the Purchaser of all of the Liabilities of the Vendor in respect of the Lease, the Landlord’s consent thereto and release of the Vendor’s obligations under the Lease after the Closing Date, in form and substance satisfactory to the Parties, acting reasonably.

“Liability” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“Monitor” has the meaning set out in the recitals hereto.

“Monitor’s Certificate” means the certificate of the Monitor contemplated by the Approval and Vesting Order certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Purchase Price.

“Non-Disclosure Agreement” means the non-disclosure agreement dated September 26, 2023 between the Purchaser and BioSteel Canada, on behalf of itself and its affiliates.

“Order” means any award, writ, injunction, consent, settlement, determination, assessment, judgement, stay, temporary restraining order, order, decree or other restraint entered, issued, made or rendered by any Governmental Authority.

“Organizational Documents” means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

“Outside Date” means 11:59 pm (New York time) on November 30, 2023 or such later date and time as the Vendor, with the consent of the Monitor, and the Purchaser may agree to in writing, each acting reasonably; provided, however, that if the Bankruptcy Court determines not to hear the petition for entry of the BioSteel Recognition Order and the motion for entry of the Bankruptcy Court Sale Order on an expedited basis, then the Parties agree that the Outside Date will be extended to the date that is 10 Business Days after the date of the Bankruptcy Court’s ruling on such petition and motion; provided further that in no event should the Outside Date be extended beyond December 15, 2023.

“Parties” has the meaning set out in the recitals hereto.

“Party” has the meaning set out in the recitals hereto.

“Person” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

“Property” means the property located at 33 Lakeview Court, Verona, Virginia 24482 being Lot 12 of Mill Place Commerce Park, Middle River District, Augusta County, Virginia.

“Property Acquisition Date” means the date that the Purchaser, or an affiliate of the Purchaser, acquires the Property from the Landlord.

“Purchase Price” has the meaning set out in Section 3.1.

“Purchased Assets” means all of the Vendor’s right, title and interest in and to each of the assets listed at Schedule “B” hereto, including relevant Books and Records, rights and claims of the Vendor related to the Purchased Assets on the Closing Date (excluding any rights or claims relating to or arising from any contract of the Vendor but including any transferable manufacturer warranties relating to the Purchased Assets), in each case, other than the Excluded Assets.

“Purchaser” has the meaning set out in the recitals hereto.

“Representatives” means, with respect to a Person, such Person’s directors, officers, accountants, investment bankers, auditors, legal, financial and other advisors, consultants, agents and other representatives acting on its behalf.

“SISP” has the meaning set out in the recitals hereto.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, state, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, customs duties, fees, assessments, imposts, levies and other charges of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, fines, or additions with respect thereto and any interest in respect of such additions or penalties and any Liability for the payment of any amounts of the type described in this paragraph as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

“**Transaction**” means the purchase and sale of the Purchased Assets contemplated by this Agreement.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, conveyance fees, security interest filing or recording fees and any other similar or like taxes or charges imposed by a Governmental Authority, including any related penalties and interest, in connection with the sale, transfer or registration of the transfer of the Purchased Assets.

“**Vendor**” has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 General Construction

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendor or the Purchaser, or any affiliates thereof.

1.5 Currency

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in the lawful currency of the United States of America unless otherwise specifically indicated.

1.6 Statutes

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

1.7 Schedules & Amendments to Schedules

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

SCHEDULES

- Schedule "A" - Allocation Schedule
- Schedule "B" - Purchased Assets
- Schedule "C" - Approved Customers and Suppliers

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendor shall sell, assign, transfer and convey to the Purchaser, and the Purchaser shall purchase and assume from the Vendor, all of the Vendor's right, title and interest in, to and under the Purchased Assets, free and clear of all Encumbrances.

2.2 Transfer of Purchased Assets

Provided that Closing occurs and subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of, and rights in, the Purchased Assets shall transfer from the Vendor to the Purchaser on the Closing Date and the Purchaser agrees to assume, discharge, perform and fulfill all of the Assumed Liabilities, if any, from and after the Closing Date.

2.3 Intentionally Omitted

2.4 Excluded Liabilities

The Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any Excluded Liabilities.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The aggregate consideration payable by the Purchaser for the Purchased Assets shall be \$ [REDACTED] plus the assumption of the Assumed Liabilities, if any, and less the amount of the Holdback paid to the Purchaser, if any (the “**Purchase Price**”). The Purchase Price shall be satisfied in accordance with Section 3.3. The Purchase Price shall not be subject to any claim for set off, reduction or adjustment or any similar claim or mechanism of any kind whatsoever.

3.2 Allocation of the Purchase Price

The Purchaser and the Vendor agree that the Purchase Price shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as shown in the allocation schedule attached hereto as Schedule “A”. For greater certainty, the value of the Assumed Liabilities has been taken into account with respect to the determination of the aggregate Purchase Price payable pursuant to this Article 3 and the assumption of such Assumed Liabilities, if any, by the Purchaser does not constitute separate or additional consideration hereunder in respect of the Purchased Assets.

3.3 Satisfaction of Purchase Price

The Purchaser shall pay the Purchase Price in accordance with the following:

- (a) Deposit. The Parties acknowledge that the Purchaser has paid a deposit in the amount of \$ [REDACTED], being 10% of the Purchase Price (the “**Deposit**”), which Deposit is being held by the Monitor in trust, and, subject to Section 8.2, shall (inclusive of all interest earned thereon, if any) be credited against the Purchase Price at Closing;
- (b) Balance of Purchase Price. An amount equal to the Purchase Price less the Deposit (the “**Cash Purchase Price**”) shall be paid in cash by the Purchaser to the Monitor on the Closing Date, by wire transfer of immediately available funds;
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, if any, which the Purchaser shall assume on the Closing Date, shall be satisfied by the Purchaser paying, performing, and/or discharging such Assumed Liabilities as and when they become due; and
- (d) Holdback Payment. If applicable, a portion of the Cash Purchase Price equal to the Holdback shall be held by the Monitor in trust until the earlier of the Property Acquisition Date or the Holdback Outside Date. If the Holdback Outside Date occurs prior to the Property Acquisition Date, the Monitor shall refund the entire amount of the Holdback to the Purchaser within two Business Days of the Holdback Outside Date, by wire transfer of immediately available funds. If the Property Acquisition Date occurs on or prior to the Holdback Outside Date, the Monitor shall release the Holdback Refund to the Vendor within two Business Days of the Property Acquisition Date and the Monitor shall refund the Holdback Payment, if any, to the Purchaser within two Business Days of the Property Acquisition Date, by wire transfer of immediately available funds. The Monitor’s determination of the Holdback Payment and the Holdback Refund shall be final and binding on both the Purchaser and the Vendor.

3.4 Transfer Taxes

The Parties agree that:

- (a) The Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets.
- (b) The Purchaser shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendor will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner.
- (c) The Purchaser shall indemnify the Vendor and the Monitor for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendor may pay or for which the Vendor or the Monitor may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Vendor

The Vendor hereby represents and warrants as of the date hereof and as of the Closing Time as follows, and acknowledges that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendor is a limited liability company, duly organized and validly existing and in good standing under the laws of Delaware and is qualified to do business in every jurisdiction in which the nature of its business or ownership of property requires it to be so qualified (except in such jurisdictions where the failure to be so duly qualified and in good standing would not reasonably be expected to have a material adverse effect on the Vendor, its business or ownership of the Purchased Assets), and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Company Authorization. The execution, delivery and, subject to obtaining of Approval and Vesting Order, BioSteel Recognition Order and Bankruptcy Court Sale Order in respect of the matters to be approved therein, performance by the Vendor of this Agreement has been authorized by all necessary company action on the part of the Vendor.
- (c) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms, subject only to obtaining the Approval and Vesting Order, BioSteel Recognition Order and Bankruptcy Court Sale Order.
- (d) No Proceedings. To the knowledge of the Vendor, there are no proceedings pending or threatened against the Vendor that would reasonably be expected to delay, restrict or prevent the Vendor from fulfilling any of its obligations set forth in this Agreement.
- (e) Lease in Good Standing: The Lease is in full force and effect and in good standing, including that all rent has been paid as and when due, including all rent for November,

2023, and, to the Vendor's knowledge, there are no Liabilities of Vendor under the Lease (other than the requirement to perform in accordance with the terms of the Lease in the ordinary course, including the obligation to pay rent when due).

4.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendor as of the date hereof and as of the Closing Time, and acknowledges that, the Vendor is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the laws of New Jersey, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Company Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to obtaining the Approval and Vesting Order, BioSteel Recognition Order and Bankruptcy Court Sale Order.
- (e) No Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (f) No Consents or Authorizations. Subject only to obtaining the Approval and Vesting Order, BioSteel Recognition Order and Bankruptcy Court Sale Order, and any consents, approvals or waivers required in connection with the transfer of the Purchased Assets, if applicable, no consent, approval, waiver or other Authorization is required from any Governmental Authority or any other Person, in connection with the execution, delivery or performance of this Agreement by the Purchaser, and each of the agreements to be executed and delivered by the Purchaser hereunder or the purchase of any of the Purchased Assets hereunder, except for any Authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Purchaser to consummate the Transaction.
- (g) Brokers' or Finders' Fees. The Purchaser has not incurred any obligation or liability, contingent or otherwise, for any broker's or finder's fees or commissions in respect of this Transaction for which the Vendor shall have any obligation or liability to pay.

- (h) Solvency. The Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

4.3 Good Faith

The Purchaser and Vendor acknowledge, agree and confirm that this Agreement and the Transaction were negotiated, proposed and entered into by the Vendor and the Purchaser in good faith, without collusion, and from arms' – length bargaining positions and that the Purchaser is a good faith purchaser within the meaning of section 363(m) of the United States Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby.

4.4 As is, Where is

The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the Purchased Assets shall be sold and delivered to the Purchaser on an “*as is, where is*” basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, the Purchaser acknowledges and agrees that: (a) no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever, including with respect to the Purchased Assets; and (b) the Monitor has not provided any representations and warranties in respect of any matter or thing whatsoever in connection with the Transaction contemplated hereby, including with respect to the Purchased Assets. The disclaimer in this Section 4.3 is made notwithstanding the delivery or disclosure to the Purchaser or its directors, officers, employees, agents or representatives of any documentation or other information (including financial projections or supplemental data not included in this Agreement). Without limiting the generality of the foregoing and unless and solely to the extent expressly set forth in this Agreement or in any documents required to be delivered pursuant to this Agreement, any and all conditions, warranties or representations, expressed or implied, pursuant to Applicable Law do not apply hereto and are hereby expressly waived by the Purchaser. The Purchaser further acknowledges, agrees and confirms that it has conducted its own investigations, due diligence and analysis in satisfying itself as to all matters relating to the Vendor and its assets, liabilities and business, including without limitation, the Purchased Assets and the Assumed Liabilities, if any. Until Closing, the Purchased Assets shall remain at the risk of the Vendor. After Closing occurs, the Purchased Assets shall be at the sole risk of the Purchaser regardless of the location of the Purchased Assets.

ARTICLE 5 COVENANTS

5.1 Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Outside Date.

5.2 Motion for Orders

As soon as practicable after the Parties' execution of this Agreement, BioSteel Canada shall (a) serve and file with the Court a motion for the issuance of an order adding BioSteel as an applicant in the CCAA Proceedings and authorizing BioSteel Canada to act as foreign representative on behalf of BioSteel; (b)

serve and file with the Court a motion seeking (i) the Approval and Vesting Order, and (c) serve and file with the Bankruptcy Court a motion for the issuance of (i) the BioSteel Recognition Order, and (ii) the Bankruptcy Court Sale Order. The Purchaser shall cooperate with BioSteel Canada in its efforts to obtain the issuance and entry of the Orders contemplated under this Section 5.2; provided, however, the Parties agree that the submissions to the Bankruptcy Court will be filed following the submissions to the Court in recognition of the fact that the issued and entered Approval and Vesting Order will need to be submitted to the Bankruptcy Court. The service list and draft motion materials shall be provided to the Purchaser in advance for its review and comment and shall be in a form satisfactory to the Purchaser, acting reasonably.

5.3 Assignment Order

In the event that the Property Acquisition Date has not occurred and the Lease Assignment and Landlord Consent cannot reasonably be obtained by November 9, 2023 (or such other date agreed to between the Vendor and the Purchaser), BioSteel shall (i) serve and file with the Court a motion for the issuance of the Assignment Order, and (ii) serve and file with the Bankruptcy Court a motion for the Bankruptcy Court Assignment Order, provided, however, the Parties agree that the submissions to the Bankruptcy Court will be filed following the submissions to the Court in recognition of the fact that the issued and entered Assignment Order will need to be submitted to the Bankruptcy Court. For greater certainty, the Parties agree that the Assignment Order may form part of the Approval and Vesting Order, and the Bankruptcy Court Assignment Order may form part of the Bankruptcy Court Sale Order.

5.4 Interim Period; Inspection

During the Interim Period, except (a) as otherwise expressly contemplated or permitted by this Agreement (including the Approval and Vesting Order), (b) as necessary in connection with the CCAA Proceedings, (c) as otherwise provided in the Initial Order and any other Court orders prior to the Closing Time, or (d) as consented to by the Purchaser and the Vendor, such consent not to be unreasonably withheld, conditioned or delayed, the Vendor shall: (i) use commercially reasonable efforts to continue to maintain and safeguard the Purchased Assets in substantially the same manner as on the Effective Date (including without limitation uniformed security presence at all times and at least two people in the facility during normal business hours), (ii) afford the Purchaser and its Representatives reasonable access during normal business hours to all of the properties owned or leased by the Vendor and the Purchased Assets, and (iii) permit and use commercially reasonable efforts to facilitate communications between the Purchaser and those suppliers and customers of the Vendor set forth in Schedule “C” hereto (the “**Approved Customers and Suppliers**”). Before the Closing, without the prior written consent of the Vendor, which may be withheld for any reason, the Purchaser and its affiliates and Representatives shall not contact any suppliers to, or customers of, the Vendor, save and except for the Approved Customers and Suppliers (which list may be modified by written agreement between the Parties with email being sufficient). The Purchaser shall, and shall cause its and its affiliates and Representatives to, abide by the terms of the Non-Disclosure Agreement with respect to any access or information provided under this Section 5.4.

5.5 Insurance Matters; Risk of Loss; Inspection of Purchased Assets

Until Closing, the Vendor shall keep in full force and effect all existing insurance policies in relation to the Purchased Assets (if any) and give any notice or present any Claim under any such insurance policies consistent with past practice of the Vendor or its affiliates in the ordinary course of business. The risk of loss or damage to the Purchased Assets shall be borne by the Purchaser from and after the Closing Time. The risk of loss or damage to the Purchased Assets shall be borne by the Vendor during the Interim Period. If an insured loss does occur during the Interim Period and the Closing occurs, the insurance proceeds attributable to the damaged or destroyed Purchased Assets will be payable to the Purchaser on Closing, and

all right, title and interest of the Vendor to any such amounts not paid as of the Closing Time will be assigned to the Purchaser.

For the purpose of the immediately preceding paragraph, Purchaser and its Representatives shall have the right to inspect the Purchased Assets at the Property immediately prior to Closing (which inspection may be attended by Vendor and its Representatives) in order to confirm that (i) Vendor possesses at the Property and will deliver to Purchaser at Closing all or substantially all the Purchased Assets and (ii) all or substantially all of the Purchased Assets are not lost, damaged or destroyed beyond repair or otherwise damaged in a manner that materially impacts the value, use or operation of the Purchased Assets.

5.6 Employee Matters

- (a) The Vendor and its affiliates will provide to the Purchaser such information with respect to the Employees as may be reasonably required for the Purchaser to assess whether the Purchaser will offer employment to the Employees following the Closing.
- (b) Before Closing, the Vendor and its affiliates will use commercially reasonable efforts to facilitate communications between the Purchaser and its Representatives and the Employees in order for Purchaser to discuss with the Employees the potential for post-Closing employment with Purchaser (including the terms of any such employment). Purchaser shall, and shall cause its and its affiliates and Representatives to, abide by the terms of the Non-Disclosure Agreement with respect to any access or information provided under this Section 5.6.
- (c) Following the Closing in the sole discretion of the Purchaser, the Purchaser shall have the right, but shall not have any obligation, to make written offers of employment to any Employees that the Purchaser wishes to employ on terms acceptable to Purchaser in its sole discretion.

5.7 Actions to Satisfy Closing Conditions

- (a) The Vendor agrees to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.2 are satisfied on or prior to the Closing Date; and
- (b) The Purchaser agrees to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.3 are satisfied on or prior to the Closing Date.

5.8 Lease Security Deposit Amount; Mutual Termination of Lease

Concurrently with the Closing, and the execution of the Lease Assignment and Landlord Consent or the Parties' receipt of the Assignment Order, as applicable (but not if the Lease is terminated in accordance with this Section 5.8), the Purchaser shall pay a deposit to the Landlord in an amount equal to \$300,000 or such other amount reasonably requested by the Landlord to replace the Security Deposit Amount (as defined in the Lease) in order to ensure that the Security Deposit Amount is refunded to the Vendor. In the event that the Property Acquisition Date occurs simultaneously with or immediately prior to the Closing or prior to the Closing Date, the Purchaser, as landlord of the Property, shall refund the Security Deposit Amount to the Vendor.

Notwithstanding anything in this Agreement to the contrary (but subject in all respect to the last sentence of the immediately preceding paragraph), if the acquisition of the Property occurs simultaneously with or immediately prior to the Closing, the parties agree that Vendor and Purchaser (or its affiliated purchaser of the Property) will mutually terminate the Lease, in which event it will not be necessary for Purchaser to assume the Lease as contemplated in this Agreement.

ARTICLE 6 CLOSING ARRANGEMENTS

6.1 Closing

Closing shall take place electronically on the Closing Date effective as of the Closing Time (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

6.2 Vendor's Closing Deliveries

At the Closing Time, the Vendor shall deliver or cause to be delivered to the Purchaser the following:

- (a) the Purchased Assets, which shall be delivered at the Property as of the Closing;
- (b) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (c) a true copy of the CCAA Proceedings Recognition Order, as issued and entered by the Bankruptcy Court;
- (d) a true copy of the BioSteel Recognition Order, as issued and entered by the Bankruptcy Court;
- (e) a true copy of the Bankruptcy Court Sale Order issued and entered by the Bankruptcy Court;
- (f) the General Conveyance, duly executed by the Vendor;
- (g) except as provided in Section 5.8, the Lease Assignment and Landlord Consent, duly executed by the Vendor, or if the Lease Assignment and Landlord Consent is not obtained, true copies of the Assignment Order as issued and entered by the Court and Bankruptcy Court Assignment Order as issued and entered by the Bankruptcy Court;
- (h) a certificate of an officer of the Vendor dated as of the Closing Date confirming that all of the representations and warranties of such Vendor contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that such Vendor has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (i) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

6.3 Purchaser's Closing Deliveries

At or before the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor (or to the Monitor, as applicable), the following:

- (a) the Cash Purchase Price;
- (b) the purchaser exemption certificate in respect of Transfer Taxes;
- (c) the General Conveyance, duly executed by the Purchaser;
- (d) except as provided in Section 5.8, if the Landlord consents to the assignment of the Lease by the Vendor to the Purchaser, the Lease Assignment and Landlord Consent, duly executed by the Purchaser and the Landlord;
- (e) a certificate of an officer of the Purchaser dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (f) such other agreements, documents and instruments as may be reasonably required by the Vendor to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 Conditions Precedent in Favor of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) CCAA Proceedings. BioSteel shall be added as an applicant in the CCAA Proceedings.
- (b) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.
- (c) Bankruptcy Court Orders in the Chapter 15 Proceedings. The Bankruptcy Court shall have issued and entered the following:
 - (i) the BioSteel Recognition Order; and
 - (ii) the Bankruptcy Court Sale Order

which Orders shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has

not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably.

- (d) No Order. No Applicable Law and no final or non-appealable judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction.
- (e) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (f) Monitor's Certificate. The Monitor shall have provided an executed copy of the Monitor's Certificate confirming that all conditions to Closing have either been satisfied or waived by both the Purchaser and the Vendor.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in this Section 7.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

7.2 Conditions Precedent in Favor of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Vendor's Deliverables. The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 6.2.
- (b) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement, each of the representations and warranties contained in Section 4.1 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Vendor shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 7.2 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in this Section 7.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendor to terminate this Agreement.

7.3 Conditions Precedent in Favor of the Vendor

The obligation of the Vendor to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents and payments contemplated in Section 6.3.
- (b) Assignment Order. If the Assignment Order is required, the Court shall have issued and entered the Assignment Order, which Assignment Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably. For greater certainty, if the Lease Assignment and Landlord Consent is obtained, this condition under this Section 7.3(b) shall be deemed to be satisfied.
- (c) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (d) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition in this Section 7.3 may be waived by the Vendor in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. If any condition set forth in this Section 7.3 is not satisfied or performed on or prior to the Outside Date, the Vendor may elect on written notice to the Purchaser to terminate this Agreement.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendor (with the consent of the Monitor) and the Purchaser; or
- (b) by the Vendor (with the consent of the Monitor) or the Purchaser upon written notice to the other Parties if: (i) the Closing has not occurred on or prior to the Outside Date; or (ii) the Approval and Vesting Order, BioSteel Recognition Order and Bankruptcy Court Sale Order are not obtained on or before the Outside Date; provided in each case that the failure to close or obtain such order, as applicable, by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement; or
- (c) by written notice from the Purchaser to the Vendor:
 - (i) in accordance with Section 7.1 or Section 7.2;

- (ii) if all or substantially all of the Purchased Assets are lost, damaged beyond repair or destroyed during the Interim Period in accordance with the provisions of Section 5.5; or
 - (iii) if there has been a material breach by the Vendor of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and: (i) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.2 impossible by the Outside Date; or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendor, and such breach has not been cured on or before the Outside Date, unless the Purchaser is in material breach of its obligations under this Agreement; and
- (d) by written notice from the Vendor (with the consent of the Monitor) to the Purchaser:
- (i) in accordance with Section 7.1 or Section 7.3; or
 - (ii) if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendor, and: (A) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.3 impossible by the Outside Date; or (B) if such breach is curable, the Vendor has provided prior written notice of such breach to the Purchaser, and such breach has not been cured on or before the Outside Date, unless the Vendor is in material breach of its obligations under this Agreement.

8.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of this Section 8.2 (Effects of Termination) and Section 9.8 (Governing Law), each of which will survive termination; provided that if this Agreement is terminated:

- (a) in accordance with Section 8.1(d)(ii), the Monitor (on behalf of the Vendor) shall be entitled to retain the Deposit and the full amount of the Deposit shall be forfeited to the Vendor; or
- (b) for any other reason, the Deposit shall be returned to the Purchaser.

In the event of termination of this Agreement under Section 8.1(d)(ii) pursuant to which the Monitor (on behalf of the Vendor) shall be entitled to retain the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre-estimate of liquidated damages representing the Vendor's losses and Liabilities as a result of Closing not occurring and agree that the Vendor shall not be entitled to recover from the Purchaser any amounts that are in excess of the Deposit as a result of Closing not occurring. The Purchaser hereby waives any claim or defense that the amount of the Deposit is a penalty or is otherwise not a genuine pre-estimate of the Vendor's damages.

**ARTICLE 9
GENERAL**

9.1 Access to Books and Records; Tax Co-Operation

For a period of six years from the Closing Date or for such longer period as may be required for the Vendor (or any trustee in bankruptcy of the estate of the Vendor) to comply with any Applicable Law, the Purchaser shall:

- (a) retain all original Books and Records that constitute Purchased Assets and are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Monitor and the Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendor) have the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser; and
- (b) use commercially reasonable efforts to assist the Vendor, including providing any reasonable information requested by the Vendor, with respect to any queries or questions that the Vendor may have in order to facilitate any Tax filings or Tax related questions or disputes that may arise following the Closing Date.

9.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered by same-day courier or by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

Gregory Packaging, Inc.
1125 Easton Road
Bethlehem, PA 18015
Attention: Dan Reed and Ned Reed
Email: dan@suncupjuice.com and ned@suncupjuice.com

with a copy to:

Womble Bond Dickinson (US) LLP
One Wells Fargo Center
Suite 3500
301 South College Street
Charlotte, NC 28202
Attention: Russ Ferguson and Patrick Strubbe
Email: russ.ferguson@wbd-us.com and patrick.strubbe@wbd-us.com

- (b) in the case of the Vendor, as follows:

BioSteel Manufacturing LLC
c/o Canopy Growth Corporation
1 Hershey Drive

Smiths Falls, Ontario
K7A 0A8

Attention: Legal
Email: contracts@canopygrowth.com

with a copy to:

Cassels Brock & Blackwell LLP
40 Temperance Street, Suite 3200
Toronto, ON M5H 0B4

Attention: Ryan Jacobs and Natalie Levine
Email: rjacobs@cassels.com and nlevine@cassels.com

- (c) in each case, with a further copy to the Monitor as follows:

KSV Restructuring Inc.
220 Bay Street, 13th Floor
PO Box 20
Toronto, Ontario M5J 2W4

Attention: Noah Goldstein and Ross Graham
Email: ngoldstein@ksvadvisory.com and rgraham@ksvadvisory.com

with a copy to:

Bennet Jones LLP
First Canadian Place
100 King Street West, Suite 3400
Toronto, Ontario M5X 1A4

Attention: Sean Zweig and Jesse Mighton
Email: zweigs@bennettjones.com and mightonj@bennettjones.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (New York time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (New York time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

9.3 Public Announcements

The Vendor and the Monitor shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Subject to the forgoing, no press release or other announcement concerning the Transaction shall be made by the Purchaser or the Vendor without the prior consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned).

9.4 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

9.5 Survival

The representations and warranties of the Parties contained in this Agreement shall terminate as of the Closing, provided that the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.6 Entire Agreement

This Agreement, the attached Schedules hereto and the Non-Disclosure Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendor (with the consent of the Monitor) and the Purchaser.

9.7 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.8 Governing Law

All questions concerning the construction, validity and interpretation of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Delaware without giving effect to any choice of law or conflict of law provision (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

9.9 Assignment

The Purchaser cannot assign any of its rights or obligations under this Agreement without the prior written consent of the Vendor and the Monitor. Notwithstanding the forgoing, this Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the Vendor or the Monitor, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendor and the Monitor; and (iii) such assignee agrees in writing to be bound by the terms of this Agreement to the extent of the assignment and a copy of such assumption agreement is delivered to the Vendor and the Monitor forthwith after having been entered into; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

9.10 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

9.12 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

9.13 Non-Waiver

No waiver of any condition or other provision, in whole or in part, shall constitute a waiver of any other condition or provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.

9.14 Expenses

Each of the Parties shall pay their respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

9.15 Monitor's Certificate

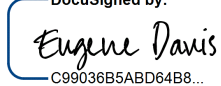
The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel, and the Closing shall be deemed to have occurred.

9.16 Monitor's Capacity

In addition to all of the protections granted to the Monitor under the CCAA, the Initial Order and any other order of the Court in the CCAA Proceedings, the Vendor and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Vendor and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever.

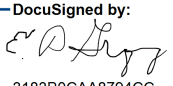
IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

BIOSTEEL MANUFACTURING LLC

DocuSigned by:

C99036B5ABD64B8...
By: _____
Name: Eugene I. Davis
Title: Director

I have authority to bind the Vendor.

GREGORY PACKAGING, INC.

DocuSigned by:

3183B0CAA8794CC...
By: _____
Name: Edward P. Gregory
Title: President

I have authority to bind the Purchaser.

This is Exhibit "D" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

Company	Company Country	CCY	Bank	Last 4 digits of account	Account Type	Bank Country
BioSteel Sports Nutrition Inc.	CANADA	CAD	Royal Bank of Canada	**8834	Chequing	CANADA
BioSteel Sports Nutrition Inc.	CANADA	USD	Royal Bank of Canada	**2190	Chequing	CANADA
BioSteel Sports Nutrition Inc.	CANADA	USD	M&T Bank	**6922	Chequing	USA
BioSteel Sports Nutrition Inc.	CANADA	USD	TD Bank	**4198	Chequing	CANADA
Biosteel Sports Nutrition Inc.	CANADA	CAD	Royal Bank of Canada	**5680	GIC	CANADA
Biosteel Sports Nutrition USA LLC	USA	USD	M&T Bank	**7664	Chequing	USA
Biosteel Manufacturing LLC	USA	USD	M&T Bank	**1146	Chequing	USA

This is Exhibit "E" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

Biosteel Manufacturing LLC - E_US10
As at and For the Period Ended March 31, 2023

Description	USD
Cash and Cash Equivalents & Restricted Cash	1,012,269
Accounts receivable	1,440,391
Other Current Assets & Prepaid Expenses	87,391
Intercompany Current Assets	2,617,380
Property Plant and Equipment (PP&E)	20,380,400
Other long-term assets	300,000
ASSETS	25,837,832
Accounts Payable	3,435,570
Accrued Liabilities	278,207
Other current liabilities	166,834
Intercompany Current Liabilities	2,277,838
Other long-term liabilities	1,546,048
LIABILITIES	7,704,497
Share capital	18,700,000
Retained Earnings (Deficit)	(566,666)
EQUITY	18,133,334
LIABILITIES AND EQUITY	25,837,832

Gross Sales	1,923,391
Intercompany Revenue	4,132,421
Revenue	6,055,811
Cost of Good Sold - Avg Cost/ Actual	(253,195)
COGS Intercompany	4,075,240
Gross Margin	2,233,766
Selling-General and Administrative Expenses	1,904,696
Depreciation and Amortization	782,695
Acquisition-related costs	92,958
Operating Expenses	2,780,349
Operating Income	(546,582)
Other Income/Expenses	(20,083)
NET INCOME(LOSS)	(566,666)

This version of the income statement/ balance sheet for the period ended March 31, 2023 is a draft which is intended to be used to prepare corporate tax returns for the taxation year ended March 31, 2023. It is possible that during the course of the tax return preparation and review process information will be identified that requires changes to be made.

BioSteel Sports Nutrition USA LLC
Balance Sheet
As at March 31, 2023
USD

Total Bank	1,322,604.75
Total Accounts Receivable	5,064,236.84
Total Other Current Asset	(30,431.85)
Total ASSETS	6,356,409.74
Total Credit Card	12.33
Total - 2131100 - Commodity Tax Payable	17,089.25
Total - 2132101 - Payroll Liabilities	1,149,555.51
Total - 2491100 - Intercompany Trade Payables	4,055,782.85
Total Current Liabilities	5,222,439.94
Retained Earnings	586,940.52
Net Income	547,029.28
Total Equity	1,133,969.80
Total Liabilities & Equity	6,356,409.74

This version of the balance sheet for the period ended March 31, 2023 is a draft which is intended to be used to prepare corporate tax returns for the taxation year ended March 31, 2023. It is possible that during the course of the tax return preparation and review process information will be identified that requires changes to be made.

BioSteel Sports Nutrition USA LLC
Income Statement
For the period ended March 31, 2023
USD

Total - Income	32,264,786.96
Total - Cost Of Sales	12,871,935.38
Gross Profit	19,392,851.58
Total - 6120100 - Sales & Marketing Overhead	8,573,690.07
Total - 6121099 - Advertising and Promotion	156,325.42
Total - 6311900 - Salaries & Benefits	7,975,981.95
Total - 6312902 - Payroll Taxes	447,255.55
Total - 6325700 - Office Costs	287,368.32
Total - 6341100 - Travel and Entertainment	1,273,990.84
Total - 6351000 - Professional Fees	66,176.89
Total - 6355201 - Interest and Bank Charges	(239.10)
Total - 6363100 - IT Costs	9,755.48
Total - Expense	18,790,305.42
Net Ordinary Income	602,546.16
Total - Other Expense	(55,516.88)
Net Income	547,029.28

This version of the income statement for the period ended March 31, 2023 is a draft which is intended to be used to prepare corporate tax returns for the taxation year ended March 31, 2023. It is possible that during the course of the tax return preparation and review process information will be identified that requires changes to be made.

This is Exhibit "F" referred to in the Affidavit of Sarah S. Eskandari sworn November 10, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The deponent was located in the City of Napa, in the state of California and I was located in the City of Toronto in the Province of Ontario.



Commissioner for Taking Affidavits (or as may be)

Commissioner: Natalie E. Levine
LSO# : 64908K

#TEAMBIOSTEEL REWARDS FAQ

WHAT IS #TEAMBIOSTEEL REWARDS?

#TeamBioSteel Rewards is our loyalty program - designed to show appreciation to our community. Earn points for shopping, signing up to our email newsletter, reviewing our products, connecting with us on social and more. Redeem your points for products, merchandise, gift cards and even signed #TeamBioSteel athlete gear. Earn more points and you'll reach higher membership tiers. Each tier comes with its own set of benefits to enjoy.

HOW DO I JOIN?

Join online by creating an account and selecting the opt-in checkbox while creating an account. To create an account, click My Account in the top right corner of the website. Once you create your account, sign in and click My Rewards. Join Now.

HOW DOES THE MY REWARDS DASHBOARD WORK?

When you click My rewards, there will be five tabs: Benefits, Earn, Redeem, Activity and Receipt Upload.

Benefits: See the perks associated with each membership tier.

Earn: See the different ways in which you can earn points.

Redeem: See the items that you can redeem your points on including the point values of each item.

Activity: This is a log of all the actions taken in your Rewards account.

Receipt Upload: Upload receipts from purchases made at other retailers to earn #TeamBioSteel points.

HOW DO I ACCESS MY REWARDS DASHBOARD?

Log into your account and select the My Rewards tab. You will see your name, points and all other information associated to your account.

HOW DO I EARN POINTS?

Click the "Earn" tab under your My Rewards to see the several ways you can earn points. Receive points for when you make a purchase, write a review, subscribe to our newsletter, refer a friend, connect on Instagram, and during our #TeamBioSteel Athlete Achievements.

WHEN WILL I SEE MY POINTS IN MY ACCOUNT?

Points from shopping will be held in a pending status until the product is shipped and delivered to your address.

DO MY POINTS EXPIRE?

No, your points will never expire! Once they have been generated in your account, your points can be redeemed at any future date.

HOW DO I REDEEM MY POINTS?

Visit the My Rewards dashboard in your account to see your available points and rewards, and click the "Redeem" tab. Once you are eligible for a reward, you will be able to redeem items. Click the redeem button under a specific item you wish to claim. A coupon will be generated with a link to Claim Now, where you can claim your reward right away, or at check out.

HOW DO I REDEEM AN EGIFT CARD?

Follow the same steps listed above to redeem your prize. You will be prompted with a coupon code for the value of your eGift card. You can use this by applying the coupon at the checkout. eGift cards are valid for 365 days from the time they are generated and the value of the gift is applicable to the displayed value of the product, not applicable to discounts, shipping and tax.

WHY AREN'T MY POINTS IMMEDIATELY SHOWING?

If you have questions about points not appearing, please send us an email at support@biosteel.com.

DO MY COUPON REDEMPTION CODES EXPIRE?

Any coupons generated to redeem items will remain active until redeemed. You can see a list of all your activity on the Activity tab in the My Rewards Dashboard.

WHAT HAPPENS TO MY REWARDS IF I CANCEL MY ORDER?

If you decide to cancel part of your order, or your entire order, you will not receive the points earned from that purchase. The points will be removed from your account once the item(s) is returned successfully.

CAN I RETURN OR EXCHANGE AN ITEM I REDEEM WITH MY POINTS?

No – products redeemed for free with points cannot be returned or exchanged.

CAN I GIVE MY POINTS TO SOMEONE ELSE?

No, unfortunately your points are linked to your account and cannot be transferred.

CAN MY POINTS BE USED TO COVER TAXES OR SHIPPING?

No. Points are applied strictly to the product value, prior to discounts, shipping and tax.

WHAT IF THE PRODUCTS I WANT TO PURCHASE USING MY POINTS ARE OUT OF STOCK?

Points can only be redeemed on items shown in the Redeem section of the My Rewards dashboard.

WHAT ARE THE MEMBERSHIP TIERS?

The membership tiers are Rookie, All-Star, and Champion. These tiers are based on the number of points you've earned in a given year. Once you have reached a tier, you will stay in that tier as long as your points balance stays within the tier's band limits. You will move up or down tiers as you earn and or redeem points. You will receive an additional point bonus for progressing forward to the next tier. You can start enjoying tier benefits immediately after a tier is reached. Each tier has unique benefits, visit this page to view the full list.

HOW DO I ACHIEVE ROOKIE STATUS?

Create an account on our website and opt into #TeamBioSteel Rewards. We will give you 15 points for signing up and get you started as a Rookie.

HOW DO I ACHIEVE ALL-STAR STATUS?

Collect 251 points or more to achieve All-Star status. You will need to maintain a minimum of 251 points in your account to keep this status.

HOW DO I ACHIEVE CHAMPION STATUS?

Collect 650 points or more to achieve Champion status. You will need to maintain a minimum of 650 points in your account to keep this status.

WHAT SHOULD I KNOW ABOUT THE BENEFITS IN EACH TIER?

Free Shipping: Members in Champion status will receive free ground shipping on all orders. Members in Rookie and All-Star status will receive free ground shipping on orders \$45+.

Gift For Reaching The Next Tier: You will receive 15 points for joining the program and becoming a Rookie. Once you reach the All-Star tier you will be gifted 25 points and gifted 35 points for reaching the Champion tier. Gifted points will be available in your account right away, without a pending period. You can see them added in the Activity section of your My Rewards dashboard.

Annual Birthday Offer: Members of the Rookie tier will receive 15% off for their birthday. Members in the All-Star and Champion tier will receive 20% off. We will send you an email around your birthday with a special promo code to redeem your offer online. The code will expire after 7 days and is available for a one-time purchase.

Additional Tier Benefits: There are additional benefits associated with each tier such as surprise samples and access to BioSteel events. Points cannot be redeemed for these benefits. We will share information about these benefits over email so make sure you are signed up to receive BioSteel newsletters. If you are not, you can sign up here.

HOW DO #TEAMBIOSTEEL ATHLETE ACHIEVEMENTS WORK?

What: Get rewarded when #TeamBioSteel Athletes perform set achievements on the ice, court or field!

How: Points are based on an individual athletes' performances in their sport and vary by athlete. As a #TeamBioSteel Rewards member, you can earn up to 10 points per Athlete per week and you'll find out how many points you've been rewarded by checking your emails (look for emails from #TeamBioSteel Rewards) every Monday and Wednesday.

When: Upon receiving the email, you'll have a 24-hour window to claim Athlete Achievement points. Please allow up to 72 hours for claimed points to show up in your account.

SUBSCRIPTION PRODUCTS & #TEAMBIOSTEEL REWARDS

If you are a #TeamBioSteel member and also take part in our Subscribe & Save 15% Off Program, you are eligible for an additional 20 points every time your recurring order is delivered. This means that in addition to receiving one point for every dollar of your recurring order, you also get 20 more points on us! You will see these points awarded in the Activity tab of your My Rewards dashboard.

WHAT IF I LOST MY RECEIPT FROM A PURCHASE I MADE IN STORE?

Unfortunately, if you do not have a copy of the receipt from a purchase you made in store, we cannot honor the points you would have earned. Please remember to keep your receipts from future in-store purchases so you can collect points!

HAVE ADDITIONAL QUESTIONS?

Please email support@biosteel.com.

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

AFFIDAVIT OF SARAH S. ESKANDARI

Cassels Brock & Blackwell LLP

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jbornstein@cassels.com

Lawyers for BioSteel

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 16TH
)
JUSTICE CONWAY) DAY OF NOVEMBER, 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**")

MANUFACTURING APPROVAL AND 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 "**CCA**"), for an order approving the transaction (the "**Manufacturing Transaction**") contemplated by an Asset Purchase Agreement between Gregory Packaging, Inc., as buyer ("**GPI**"), and BioSteel Manufacturing LLC ("**BioSteel Manufacturing**"), as seller, dated November 9, 2023 (as amended from time to time, in accordance with the terms thereof, the "**Manufacturing Purchase Agreement**") and vesting in GPI, BioSteel Manufacturing's right, title, and interest in and to the Purchased Assets (as defined in the Manufacturing Purchase Agreement) was heard this day by judicial videoconference via Zoom.

ON READING the Affidavit of Sarah Eskandari, sworn November ●, 2023, and the Exhibits thereto (the "**Eskandari Affidavit**"), the Second Report of KSV Restructuring, Inc. in its capacity as the court-appointed monitor (the "**Monitor**") dated November ●, 2023 (the "**Second Report**") and such further materials as counsel may advise, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, counsel to GPI, and the other parties listed on the counsel slip, and no one else appearing for any other party on the Service List although duly

served as appears from the affidavit of service of [Stephanie Fernandes] sworn [November ●, 2023].

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein 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 herein that are otherwise not defined shall have the meaning ascribed to them in the Manufacturing Purchase Agreement and/or the Amended and Restated Initial Order made in these proceedings on September 21, 2023 (the “ARIO”), as applicable.

APPROVAL OF MANUFACTURING TRANSACTION

3. **THIS COURT ORDERS** that the Manufacturing Purchase Agreement and the Manufacturing Transaction are hereby approved and the execution of the Manufacturing Purchase Agreement by BioSteel Manufacturing is hereby authorized and approved, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Manufacturing Transaction and for the conveyance of the Purchased Assets to GPI and the assumption of the Liabilities in respect of the Lease.

4. **THIS COURT ORDERS** that BioSteel Manufacturing is authorized and directed to perform its obligations under the Manufacturing Purchase Agreement and any ancillary documents related thereto.

VESTING OF THE PURCHASED ASSETS

5. **THIS COURT ORDERS** that upon the delivery of a Monitor’s certificate to the Applicants (or their counsel) and to GPI (or its counsel) substantially in the form attached as **Schedule “A”** hereto (the “**Monitor’s Certificate**”), all of BioSteel Manufacturing’s right, title and interest in and to the Purchased Assets shall vest absolutely in GPI as at 12:01 a.m. on the date of the Monitor’s Certificate 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), rights of first offer, rights of first refusal, 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, the ARIO, the SISP Approval Order made in these proceedings on September 21, 2023, or any other Orders made in this CCAA proceeding; and (ii) all charges, security interests or claims whether evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada or the Civil Code of Quebec, or the Uniform Commercial Code provisions in the United States (all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **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 GPI relating in any way to the Excluded Assets, Excluded Liabilities, any Claims and Encumbrances, and any other claims, obligations, and other matters that are waived, released, expunged or discharged pursuant to this Order.

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor’s Certificate, forthwith after delivery thereof to the Applicants and GPI, or to their respective counsel.

9. **THIS COURT ORDERS** that the Monitor may rely on written notice from BioSteel Manufacturing and GPI regarding the fulfilment or waiver of conditions to closing under the

Manufacturing Purchase Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

APPROVAL OF ASSIGNMENT OF LEASE

10. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate:

- (a) all of the rights and obligations of BioSteel Manufacturing under the Lease from and after the delivery of the Monitor's Certificate shall be assigned, conveyed, transferred and assumed by GPI pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon all of the counterparties to the Lease notwithstanding any restriction or prohibition, if any, contained in the Lease relating to the assignment thereof, including but not limited to, provisions, if any, relating to a change of control or requiring the consent of or notice for any period in advance of the assignment to any party to the Lease;
- (b) the Lease shall remain in full force and effect and the counterparties under the Lease are prohibited from exercising any rights or remedies (including, without limitation, any right of set-off) under the Lease, and shall be forever barred, enjoined and estopped from taking such action, by reason solely of:
 - (i) any circumstance that existed or event that occurred on or prior to the Closing Date that would have entitled such counterparty to the Lease to enforce those rights or remedies or caused an automatic termination to occur;
 - (ii) any defaults arising from the insolvency of BioSteel Manufacturing or any of its affiliates;
 - (iii) the commencement of this CCAA proceeding;
 - (iv) any defaults that arise upon the assignment of the Lease to GPI;
 - (v) any change of control of BioSteel Manufacturing or its affiliates arising from the implementation of the Manufacturing Purchase Agreement and/or the Manufacturing Transaction and its implementation shall be deemed not to constitute a change in ownership or change in control under the Lease; or

- (vi) BioSteel Manufacturing having breached a non-monetary obligation under the Lease,

and the counterparties under the Lease are hereby deemed to waive any defaults relating thereto. For greater certainty: (A) without limiting the foregoing, no counterparty under the Lease shall rely on a notice of default sent prior to the filing of the Monitor's Certificate to terminate the Lease as against GPI; and (B) nothing herein shall limit or exempt GPI in respect of obligations accruing, arising or continuing after the Closing of the Manufacturing Transaction under the Lease other than in respects of items (i) to (vi) above.

11. **THIS COURT ORDERS** that the assignment of the Lease shall be subject to the provisions of this Order directing that BioSteel Manufacturing's rights, title and interests in the Lease shall vest absolutely in GPI free and clear of all Claims and Encumbrances.

12. **THIS COURT ORDERS** that the Lease may not be assigned hereunder unless all amounts owing in respect of monetary defaults under the Lease, other than those arising by reason only of the BioSteel Manufacturing's insolvency, the commencement of this CCAA proceeding, or the BioSteel Manufacturing's failure to perform a non-monetary obligation, are paid on or by the Closing Date, or such later date as may be agreed to by GPI and the applicable counterparty under the Lease on prior written notice to the Monitor.

13. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate contemplated by this Order, except as expressly set out to the contrary in any agreement among BioSteel Manufacturing, GPI and the counterparty under the Lease, GPI shall be entitled to all of the rights and benefits and subject to all of the obligations pursuant to the terms of the Lease.

14. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of GPI to assume the Lease and to perform GPI's obligations under the Lease, except as expressly set out to the contrary in any agreement among BioSteel Manufacturing, GPI and the applicable counterparty under the Lease.

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

- (a) the pendency of these proceedings or any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), in respect of the Applicants or its 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 or provincial statute,

the assignment of the Lease to GPI in accordance with this Order, the Manufacturing Purchase Agreement and the vesting of the Purchased Assets in GPI pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of BioSteel Manufacturing or its property and shall not be void or voidable by creditors of BioSteel Manufacturing, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or other legislation.

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor and the Applicants are authorized and permitted to disclose and transfer to GPI all human resources and payroll information in the Applicants' records pertaining to the Applicants' past and current employees. GPI shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants.

GENERAL

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

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

19. **THIS COURTS ORDERS** that this Order and all of its provisions are effective as of 12:02 a.m. Eastern Prevailing Time on the date of this Order without any need for filing or entry.

Schedule “A” – Form of Monitor’s Certificate

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

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 A PLAN OF COMPROMISE OR ARRANGEMENT
OF BIOSTEEL SPORTS NUTRITION INC., BIOSTEEL MANUFACTURING
LLC, AND BIOSTEEL SPORTS NUTRITION USA LLC

(the “**Applicants**”)

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 14, 2023 (as amended and restated, and as may be further amended and restated from time to time, the “**Initial Order**”), KSV Restructuring, Inc. was appointed as monitor of BioSteel Sports Nutrition Inc. (in such capacity, the “**Monitor**”) in proceedings commenced by BioSteel Sports Nutrition Inc. under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceeding**”).

B. Pursuant to an Order of the Honourable Justice Conway of the Court dated November 16, 2023, BioSteel Manufacturing LLC (“**BioSteel Manufacturing**”) and BioSteel Sports Nutrition USA LLC were made Applicants in the CCAA Proceeding and the terms of the Initial Order were made applicable to BioSteel Manufacturing and BioSteel Sports Nutrition USA LLC.

C. Pursuant to the Manufacturing Approval and Vesting Order of the Court dated November 16, 2023 (the “**Manufacturing Approval and Vesting Order**”), the Court approved the Asset Purchase Agreement between Gregory Packaging, Inc., as buyer (“**GPI**”), and BioSteel Manufacturing, as seller, dated November 9, 2023 (as amended from time to time in accordance with the terms thereof, the “**Manufacturing Purchase Agreement**”), providing for the vesting in GPI, of all of BioSteel Manufacturing’s right, title and interest in and to all of the Purchased Assets (as defined in the Manufacturing Purchase Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to GPI (or its counsel) and the Applicants (or their counsel) of this Monitor’s Certificate.

D. Unless otherwise indicated or defined herein, capitalized terms used in this Monitor’s Certificate shall have the meanings given to them in the Manufacturing Approval and Vesting Order and/or the Manufacturing

Purchase Agreement.

THE MONITOR CERTIFIES the following:

1. The conditions to Closing set forth in the Manufacturing Purchase Agreement have been satisfied or waived by BioSteel Manufacturing and GPI in accordance with the Manufacturing Purchase Agreement.
2. GPI has paid or satisfied the Purchase Price, subject to applicable adjustments (if any), for the Purchased Assets payable on the Closing Date pursuant to the Manufacturing Purchase Agreement and/or the Manufacturing Approval and Vesting Order.
3. The Manufacturing Transaction has been completed to the satisfaction of the Applicants, the Monitor and GPI.

DATED at Toronto, Ontario this _____ day of _____, 2023.

KSV RESTRUCTURING INC., solely in its capacity as Monitor of the Applicants and not in its personal capacity

Per: _____

Name:

Title:

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MANUFACTURING APPROVAL AND VESTING ORDER

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Lawyers for BioSteel

TAB 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 16TH
)
JUSTICE CONWAY) DAY OF NOVEMBER, 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**")

BIOSTEEL CANADA APPROVAL AND 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 "**CCA**"), for an order approving the transaction (the "**BioSteel Canada Transaction**") contemplated by an Asset Purchase Agreement between DC Holdings LTD., dba Coachwood Group of Companies ("**DC Holdings**"), as buyer, and BioSteel Sports Nutrition Inc. ("**BioSteel Canada**"), as seller, dated November 9, 2023 (as amended from time to time, in accordance with the terms thereof, the "**BioSteel Canada Purchase Agreement**") and vesting in DC Holdings, BioSteel Canada's right, title, and interest in and to the Purchased Assets (as defined in the BioSteel Canada Purchase Agreement) was heard this day by judicial videoconference via Zoom.

ON READING the Affidavit of Sarah Eskandari, sworn November ●, 2023, and the Exhibits thereto (the "**Eskandari Affidavit**"), the Second Report of KSV Restructuring, Inc. in its capacity as the court-appointed monitor (the "**Monitor**") dated November ●, 2023 (the "**Second Report**") and such further materials as counsel may advise, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, counsel to DC Holdings, and the other parties listed on the counsel slip, and no one else appearing for any other party on the Service List

although duly served as appears from the affidavit of service of [Stephanie Fernandes] sworn [November ●, 2023].

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein 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 herein that are otherwise not defined shall have the meaning ascribed to them in the BioSteel Canada Purchase Agreement and/or the Amended and Restated Initial Order made in these proceedings on September 21, 2023 (the “**ARIO**”), as applicable.

APPROVAL OF BIOSTEEL CANADA TRANSACTION

3. **THIS COURT ORDERS** that the BioSteel Canada Purchase Agreement and the BioSteel Canada Transaction are hereby approved and the execution of the BioSteel Canada Purchase Agreement by BioSteel Canada is hereby authorized and approved, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the BioSteel Canada Transaction and for the conveyance of the Purchased Assets to DC Holdings.

4. **THIS COURT ORDERS** that BioSteel Canada is authorized and directed to perform its obligations under the BioSteel Canada Purchase Agreement and any ancillary documents related thereto.

VESTING OF THE PURCHASED ASSETS

5. **THIS COURT ORDERS** that upon the delivery of a Monitor’s certificate to the Applicants (or their counsel) and to DC Holdings (or its counsel) substantially in the form attached as **Schedule “A”** hereto (the “**Monitor’s Certificate**”), all of BioSteel Canada’s right, title and interest in and to the Purchased Assets shall vest absolutely in DC Holdings as at 12:01 a.m. on the date of the Monitor’s Certificate 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 (collectively, the “**Claims**”), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order, the ARIO, the SISF Approval Order made in these proceedings on September 21, 2023, or any other Orders made in this CCAA proceeding; (ii) all charges, security interests or claims whether evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada or the Civil Code of Quebec, or the Uniform Commercial Code provisions in the United States, including without limitation those registrations listed on **Schedule “B”** hereto; and (iii) those Claims listed on **Schedule “C”** hereto (all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **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 DC Holdings relating in any way to the Excluded Assets, Excluded Liabilities, Excluded Inventory, any Claims and Encumbrances, and any other claims, obligations, and other matters that are waived, released, expunged or discharged pursuant to this Order.

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor’s Certificate, forthwith after delivery thereof to the Applicants and DC Holdings, or to their respective counsel.

9. **THIS COURT ORDERS** that the Monitor may rely on written notice from BioSteel Canada and DC Holdings regarding the fulfilment or waiver of conditions to closing under the BioSteel Canada Purchase Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

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

- (a) the pendency of these proceedings or any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), in respect of the Applicants or its 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 or provincial statute,

the BioSteel Canada Purchase Agreement and the vesting of the Purchased Assets in DC Holdings pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of BioSteel Canada or its property and shall not be void or voidable by creditors of BioSteel Canada, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or other legislation.

GENERAL

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

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

13. **THIS COURTS ORDERS** that this Order and all of its provisions are effective as of 12:02 a.m. Eastern Prevailing Time on the date of this Order without any need for filing or entry.

Schedule “A” – Form of Monitor’s Certificate

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

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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.,
BIOSTEEL MANUFACTURING LLC, AND BIOSTEEL SPORTS
NUTRITION USA LLC

(the “**Applicants**”)

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 14, 2023 (as amended and restated, and as may be further amended and restated from time to time, the “**Initial Order**”), KSV Restructuring, Inc. was appointed as monitor of BioSteel Sports Nutrition Inc. (in such capacity, the “**Monitor**”) in proceedings commenced by BioSteel Sports Nutrition Inc. (“**BioSteel Canada**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceeding**”).

B. Pursuant to an Order of the Honourable Justice Conway of the Court dated November 16, 2023, BioSteel Manufacturing LLC and BioSteel Sports Nutrition USA LLC were made Applicants in the CCAA Proceeding and the terms of the Initial Order were made applicable to BioSteel Manufacturing and BioSteel Sports Nutrition USA LLC.

C. Pursuant to the BioSteel Canada Approval and Vesting Order of the Court dated November 16, 2023 (the “**BioSteel Canada Approval and Vesting Order**”), the Court approved the Asset Purchase Agreement between DC Holdings LTD., dba Coachwood Group of Companies (“**DC Holdings**”), as buyer, and BioSteel Canada, as seller, dated November ●, 2023 (as amended from time to time in accordance with the terms thereof, the “**BioSteel Canada Purchase Agreement**”), providing for the vesting in DC Holdings, of all of BioSteel Canada’s right, title and interest in and to all of the Purchased Assets (as defined in the BioSteel Canada

Purchase Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to DC Holdings (or its counsel) and the Applicants (or their counsel) of this Monitor's Certificate.

D. Unless otherwise indicated or defined herein, capitalized terms used in this Monitor's Certificate shall have the meanings given to them in the BioSteel Canada Purchase Agreement.

THE MONITOR CERTIFIES the following:

1. The conditions to Closing set forth in the BioSteel Canada Purchase Agreement have been satisfied or waived by BioSteel Canada and DC Holdings.
2. DC Holdings has paid or satisfied the Purchase Price, subject to applicable adjustments (if any), for the Purchased Assets payable on the Closing Date pursuant to the BioSteel Canada Approval and Vesting Order and/or the BioSteel Canada Purchase Agreement.
3. The BioSteel Canada Transaction has been completed to the satisfaction of the Applicants, the Monitor and DC Holdings.

DATED at Toronto, Ontario this _____ day of _____, 2023.

KSV RESTRUCTURING INC., solely in its capacity as Monitor of the Applicants and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" –Registrations to be Released

Schedule "C" – Encumbrances

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

BIOSTEEL CANADA APPROVAL AND VESTING ORDER

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Lawyers for BioSteel

TAB 5

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

THE HONOURABLE) THURSDAY, THE 16th
)
JUSTICE CONWAY) DAY OF NOVEMBER, 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**")

**ORDER
(ANCILLARY RELIEF)**

THIS MOTION, made by BioSteel Sports Nutrition Inc. (the "**Applicant**") and BioSteel Manufacturing LLC and BioSteel Sports Nutrition USA LLC (collectively, the "**Additional Applicants**" and together with the Applicant, "**BioSteel**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things, adding the Additional Applicants as Applicants in these CCAA proceedings, was heard this day by judicial videoconference via Zoom.

ON READING the Affidavit of Sarah S. Eskandari dated November ●, 2023 (the "**Eskandari Affidavit**") and the Second Report of the Monitor dated November ●, 2023, and such further materials as counsel may advise, and on hearing submissions of counsel for

BioSteel, counsel for the Monitor and counsel for those parties listed on the counsel list for today's hearing and no one else appearing.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated and hereby dispenses with further service thereof.

CAPITALIZED TERMS

2. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this order shall have the meanings given to them in the Eskandari Affidavit.

ADDITION OF APPLICANTS

3. **THIS COURT ORDERS** that effective as of 12:01 a.m. (Toronto time) on the date of this Order (the "**Effective Time**"), with respect to the Additional Applicants, the ARIO shall be deemed to have been amended such that:

a) the Additional Applicants shall for all purposes be deemed to be Applicants (as Applicant is defined in the ARIO) and, for greater certainty:

(i) the Additional Applicants are hereby granted all of the rights and protections afforded to the Applicant by the ARIO;

(ii) to the extent not already granted by the terms of the ARIO, the directors and officers of the Additional Applicants are hereby granted all of the rights and protections afforded to the directors and officers of the Applicant by the ARIO;

- (iii) the Monitor, in addition to its prescribed rights and obligations under the CCAA, subject to the dispensation of certain requirements as provided for by this Order, is hereby directed and empowered to perform such duties with respect to the Additional Applicants as the Monitor is required to perform with respect to the Applicant pursuant to the ARIO or by this Court from time to time;
 - (iv) the Charges created by the ARIO shall constitute a charge on the Property (as defined in the ARIO) of the Additional Applicants with such priorities and protections as are provided to the Charges in the Initial Order in connection with the Applicant's Property; and
 - (v) the Applicant shall be 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 purposes of having the CCAA proceedings of the Additional Applicants recognized, enforced and approved in the United States and any other jurisdiction outside of Canada;
- b) as of the Effective Time the Additional Applicants shall cease to be Non-Applicant Stay Parties;
 - c) with respect to the Additional Applicants, references in the ARIO to the date of the Initial Order shall be deemed to refer to the Effective Time; and
 - d) all references to the Cash Management System shall refer to the Cash Management System as described in the Eskandari Affidavit dated November ●, 2023.
4. **THIS COURT ORDERS** that upon the Effective Time the style of cause of these CCAA proceedings shall be amended as shown on Schedule "A" to this Order.

5. **THIS COURT ORDERS** that the Monitor's obligation to publish the notice prescribed by section 23(1)(a)(i) of the CCAA with respect to the Additional Applicants is hereby dispensed with.

EXTENSION OF STAY

6. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including January 31, 2024.

DISCONTINUATION OF LOYALTY PROGRAM

7. **THIS COURT ORDERS** that upon entry of this Order, the Loyalty Program as described in the Eskandari Affidavit shall be terminated and no further redemptions shall be honoured.

PAYMENT OF TRANSACTION FEE

8. **THIS COURT ORDERS** that all obligations owing to the Financial Advisor as secured by the Transaction Fee Charge (the "**Transaction Fee Payment**") shall be split pro rata (based on the transaction purchase price) by BioSteel Canada and BioSteel Manufacturing. The Transaction Fee Payment, when made, shall be free and clear of all Encumbrances and shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Applicant or any of the Additional Applicants and shall not be void or voidable by creditors of the Applicant or any of the Additional Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, a transfer at undervalue, a fraudulent conveyance or other reviewable transaction under the BIA or any other applicable federal, provincial legislation or other legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or other legislation. Following payment of the Transaction Fee Payment, the Transaction Fee Charge shall be automatically released and terminated without any further action.

SEALING OF CONFIDENTIAL APPENDIX

9. **THIS COURT ORDERS** that the Confidential Appendix to the Second Report shall be and is hereby sealed, kept confidential and shall not form part of the public record until the earlier of delivery of the Monitor's certificates in respect of the BioSteel Canada Transaction and the Manufacturing Transaction or further order of the Court.

GENERAL

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

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

12. **THIS COURT ORDERS** that 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.

Schedule "A"

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

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.,
BIOSTEEL MANUFACTURING LLC, AND BIOSTEEL SPORTS
NUTRITION USA LLC

(the "**Applicants**")

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

**ORDER
(ANCILLARY RELIEF)**

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Lawyers for BioSteel

TAB 6

time, in accordance with the terms thereof, the “**Manufacturing Purchase Agreement**”) and vesting in GPI, BioSteel Manufacturing’s right, title, and interest in and to the Purchased Assets (as defined in the Manufacturing Purchase Agreement) was heard this day by judicial videoconference via Zoom.

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

ON READING the ~~Report~~Affidavit of Sarah Eskandari, sworn November ●, 2023, and the Exhibits thereto (the “**Eskandari Affidavit**”), the Second Report of KSV Restructuring, Inc. in its capacity as the court-appointed monitor (the “**Monitor**”) dated November ●, 2023 (the “**Second Report**”) and such further materials as counsel may advise, and on hearing the submissions of counsel ~~for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one~~to the Applicants, counsel to the Monitor, counsel to GPI , and the other parties listed on the counsel slip, and no one else appearing for any other ~~person~~party on the ~~service list,~~Service List although ~~properly~~duly served as appears from the affidavit of ~~[NAME]~~service of [Stephanie Fernandes] sworn [~~DATE]~~filed⁺:November ●, 2023].

SERVICE AND DEFINITIONS

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

⁺~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

2. THIS COURT ORDERS that capitalized terms used herein that are otherwise not defined shall have the meaning ascribed to them in the Manufacturing Purchase Agreement and/or the Amended and Restated Initial Order made in these proceedings on September 21, 2023 (the “ARIO”), as applicable.

APPROVAL OF MANUFACTURING TRANSACTION

3. ~~1.~~ THIS COURT ORDERS AND DECLARES that ~~the~~ that the Manufacturing Purchase Agreement and the Manufacturing Transaction ~~is~~are hereby approved;² and the execution of the ~~the~~ Manufacturing Purchase Agreement by ~~the Receiver~~³ is BioSteel Manufacturing is hereby authorized and approved, with such minor amendments as the Receiver Applicants, with the consent of the Monitor, may deem necessary. The Receiver is Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Manufacturing Transaction and for the conveyance of the Purchased Assets to the Purchaser GPI and the assumption of the Liabilities in respect of the Lease.

4. THIS COURT ORDERS that BioSteel Manufacturing is authorized and directed to perform its obligations under the Manufacturing Purchase Agreement and any ancillary documents related thereto.

VESTING OF THE PURCHASED ASSETS

5. ~~2.~~ THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's Monitor's certificate to the Purchaser Applicants (or their counsel) and to GPI (or its counsel) substantially in the form attached as Schedule “A” hereto (the “Receiver's Monitor's Certificate”), all of the Debtor's BioSteel Manufacturing's right, title and interest in and to the

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³ In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~⁴ shall vest absolutely in ~~the Purchaser,~~ GPI as at 12:01 a.m. on the date of the Monitor's Certificate 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), rights of first offer, rights of first refusal, 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"⁵), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order of the ~~Honourable Justice [NAME] dated [DATE];~~ ARIO, the SISP Approval Order made in these proceedings on September 21, 2023, or any other Orders made in this CCAA proceeding; and (ii) all charges, security interests or claims whether evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ in any province or territory in Canada or the Civil Code of Quebec, or the Uniform Commercial Code provisions in the United States (all of which are collectively referred to as the "Encumbrances", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. ~~3. THIS COURT ORDERS~~ that ~~upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION} of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real

⁴To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

⁵The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).

~~Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~ 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 GPI relating in any way to the Excluded Assets, Excluded Liabilities, any Claims and Encumbrances, and any other claims, obligations, and other matters that are waived, released, expunged or discharged pursuant to this Order.

7. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver's~~Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Monitor to file with the Court a copy of the ~~Receiver's~~Monitor's Certificate, forthwith after delivery thereof to the Applicants and GPI, or to their respective counsel.

9. **THIS COURT ORDERS** that the Monitor may rely on written notice from BioSteel Manufacturing and GPI regarding the fulfilment or waiver of conditions to closing under the Manufacturing Purchase Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

⁷~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

APPROVAL OF ASSIGNMENT OF LEASE

10. THIS COURT ORDERS that upon delivery of the Monitor's Certificate:

- (a) all of the rights and obligations of BioSteel Manufacturing under the Lease from and after the delivery of the Monitor's Certificate shall be assigned, conveyed, transferred and assumed by GPI pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon all of the counterparties to the Lease notwithstanding any restriction or prohibition, if any, contained in the Lease relating to the assignment thereof, including but not limited to, provisions, if any, relating to a change of control or requiring the consent of or notice for any period in advance of the assignment to any party to the Lease;

- (b) the Lease shall remain in full force and effect and the counterparties under the Lease are prohibited from exercising any rights or remedies (including, without limitation, any right of set-off) under the Lease, and shall be forever barred, enjoined and estopped from taking such action, by reason solely of:
 - (i) any circumstance that existed or event that occurred on or prior to the Closing Date that would have entitled such counterparty to the Lease to enforce those rights or remedies or caused an automatic termination to occur;

 - (ii) any defaults arising from the insolvency of BioSteel Manufacturing or any of its affiliates;

 - (iii) the commencement of this CCAA proceeding;

 - (iv) any defaults that arise upon the assignment of the Lease to GPI;

 - (v) any change of control of BioSteel Manufacturing or its affiliates arising from the implementation of the Manufacturing Purchase Agreement and/or the Manufacturing Transaction and its implementation shall be deemed not to constitute a change in ownership or change in control under the Lease; or

(vi) BioSteel Manufacturing having breached a non-monetary obligation under the Lease,

and the counterparties under the Lease are hereby deemed to waive any defaults relating thereto. For greater certainty: (A) without limiting the foregoing, no counterparty under the Lease shall rely on a notice of default sent prior to the filing of the Monitor's Certificate to terminate the Lease as against GPI; and (B) nothing herein shall limit or exempt GPI in respect of obligations accruing, arising or continuing after the Closing of the Manufacturing Transaction under the Lease other than in respects of items (i) to (vi) above.

11. ~~6-~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor. the assignment of the Lease shall be subject to the provisions of this Order directing that BioSteel Manufacturing's rights, title and interests in the Lease shall vest absolutely in GPI free and clear of all Claims and Encumbrances.

12. THIS COURT ORDERS that the Lease may not be assigned hereunder unless all amounts owing in respect of monetary defaults under the Lease, other than those arising by reason only of the BioSteel Manufacturing's insolvency, the commencement of this CCAA proceeding, or the BioSteel Manufacturing's failure to perform a non-monetary obligation, are paid on or by the Closing Date, or such later date as may be agreed to by GPI and the applicable counterparty under the Lease on prior written notice to the Monitor.

13. THIS COURT ORDERS that upon delivery of the Monitor's Certificate contemplated by this Order, except as expressly set out to the contrary in any agreement among BioSteel Manufacturing, GPI and the counterparty under the Lease, GPI shall be entitled to all of the rights and benefits and subject to all of the obligations pursuant to the terms of the Lease.

14. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of GPI to assume the Lease and to perform GPI's

obligations under the Lease, except as expressly set out to the contrary in any agreement among BioSteel Manufacturing, GPI and the applicable counterparty under the Lease.

15. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy ~~order~~ or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ~~(Canada)~~, RSC 1985, c B-3, as amended (the "BIA"), in respect of the ~~Debtor~~ Applicants or its property, and any bankruptcy or receivership order issued pursuant to any such applications; ~~and~~
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~ Applicants; ~~and~~
- (d) the provision of any federal or provincial statute,

the assignment of the Lease to GPI in accordance with this Order, the Manufacturing Purchase Agreement and the vesting of the Purchased Assets in ~~the Purchaser~~ GPI pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of ~~the Debtor~~ BioSteel Manufacturing or its property and shall not be void or voidable by creditors of ~~the Debtor~~ BioSteel Manufacturing, nor shall it constitute nor be deemed to be a ~~fraudulent preference, assignment, fraudulent conveyance,~~ transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the *Bankruptcy and Insolvency Act (Canada)* BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal ~~or,~~ provincial or other legislation.

PIPEDA

16. ~~8.~~ **THIS COURT ORDERS AND DECLARES** ~~that the Transaction is exempt from the application of the Bulk Sales Act (Ontario).~~ that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Monitor and the Applicants are authorized and permitted to disclose and transfer to GPI all human resources and payroll information in the Applicants' records pertaining to the Applicants' past and current employees. GPI shall maintain and protect the privacy of such information and shall be entitled to use the

personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants.

GENERAL

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

18. ~~9.~~ 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 ~~Receiver and its~~ 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 ~~Receiver~~ Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the ~~Receiver and its~~ Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

19. THIS COURTS ORDERS that this Order and all of its provisions are effective as of 12:02 a.m. Eastern Prevailing Time on the date of this Order without any need for filing or entry.

Schedule "A" – Form of ~~Receiver's~~ Monitor's Certificate

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

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 A PLAN OF COMPROMISE OR ARRANGEMENT
OF BIOSTEEL SPORTS NUTRITION INC., BIOSTEEL MANUFACTURING
LLC, AND BIOSTEEL SPORTS NUTRITION USA LLC

(the "Applicants")

~~BETWEEN:~~

PLAINTIFF

Plaintiff

~~—and—~~

DEFENDANT

Defendant

~~RECEIVER'S~~ MONITOR'S CERTIFICATE

RECITALS

A. ~~A.~~ Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER], [NAME OF RECEIVER]~~ September 14, 2023 (as amended and restated, and as may be further amended and restated from time to time, the "Initial Order"), KSV Restructuring, Inc. was appointed as monitor of BioSteel Sports Nutrition Inc. (in such capacity, the "Monitor") in proceedings commenced by BioSteel Sports Nutrition Inc. under the Companies' Creditors Arrangement Act (the "CCAA Proceeding").

B. Pursuant to an Order of the Honourable Justice Conway of the Court dated November 16, 2023, BioSteel Manufacturing LLC ("BioSteel Manufacturing") and BioSteel Sports Nutrition USA LLC were made Applicants in the CCAA Proceeding and the terms of the Initial Order were made applicable to BioSteel

Manufacturing and BioSteel Sports Nutrition USA LLC.

C. ~~B.~~ Pursuant to ~~an~~the Manufacturing Approval and Vesting Order of the Court dated ~~[DATE]~~November 16, 2023 (the "Manufacturing Approval and Vesting Order"), the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Asset Purchase Agreement")~~ between ~~the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ and ~~provided~~Gregory Packaging, Inc., as buyer ("GPI"), and BioSteel Manufacturing, as seller, dated November 16, 2023 (as amended from time to time in accordance with the terms thereof, the "Manufacturing Purchase Agreement"), providing for the vesting in ~~the Purchaser of the Debtor's~~GPI, of all of BioSteel Manufacturing's right, title and interest in and to all of the Purchased Assets (as defined in the Manufacturing Purchase Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 1.1 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.~~Monitor to GPI (or its counsel) and the Applicants (or their counsel) of this Monitor's Certificate.

D. ~~C.~~ Unless otherwise indicated or defined herein, ~~terms with initial capitals~~capitalized terms used in this Monitor's Certificate shall have the meanings ~~set out in the Sale~~given to them in the Manufacturing Approval and Vesting Order and/or the Manufacturing Purchase Agreement.

THE ~~RECEIVER~~MONITOR CERTIFIES the following:

- ~~1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;~~
1. 2. The conditions to Closing ~~as set out in section 1.1 of the Sale~~forth in the Manufacturing Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and BioSteel Manufacturing and GPI in accordance with the Manufacturing Purchase Agreement.
2. GPI has paid or satisfied the Purchase Price, subject to applicable adjustments (if any), for the Purchased Assets payable on the Closing Date pursuant to the Manufacturing Purchase Agreement and/or the Manufacturing Approval and Vesting Order.
3. 3. The Manufacturing Transaction has been completed to the satisfaction of the ~~Receiver~~Applicants, the Monitor and GPI.

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

DATED at Toronto, Ontario this _____ day of _____, 2023.

~~{NAME OF RECEIVER}~~, KSV
RESTRUCTURING INC., solely in its capacity
as ~~Receiver of the undertaking, property and
assets of [DEBTOR]~~, Monitor of the
Applicants and not in its personal capacity

Per: _____

Name:

Title:

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

THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC., BIOSTEEL MANUFACTURING LLC, AND BIOSTEEL SPORTS NUTRITION USA LLC

Court File No. CV-23-007

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

PROCEEDING COMMENCED AT

TORONTO

MANUFACTURING APPROVAL AND VESTI

Cassels Brock & Blackwell LLP

Suite 3200, Bay Adelaide Centre – North Tower

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Lawyers for BioSteel

Schedule B—Purchased Assets

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

**Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

TAB 7

November 9, 2023 (as amended from time to time, in accordance with the terms thereof, the “BioSteel Canada Purchase Agreement”) and vesting in DC Holdings, BioSteel Canada’s right, title, and interest in and to the Purchased Assets (as defined in the BioSteel Canada Purchase Agreement) was heard this day by judicial videoconference via Zoom.

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

ON READING the Report Affidavit of Sarah Eskandari, sworn November 9, 2023, and the Exhibits thereto (the “Eskandari Affidavit”), the Second Report of KSV Restructuring, Inc. in its capacity as the court-appointed monitor (the “Monitor”) dated November 9, 2023 (the “Second Report”) and such further materials as counsel may advise, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one to the Applicants, counsel to the Monitor, counsel to DC Holdings, and the other parties listed on the counsel slip, and no one else appearing for any other person party on the service list, Service List although properly duly served as appears from the affidavit of [NAME service of [Stephanie Fernandes] sworn [DATE] filed⁺ November 9, 2023].

SERVICE AND DEFINITIONS

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

~~⁺ This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

2. THIS COURT ORDERS that capitalized terms used herein that are otherwise not defined shall have the meaning ascribed to them in the BioSteel Canada Purchase Agreement and/or the Amended and Restated Initial Order made in these proceedings on September 21, 2023 (the “ARIO”), as applicable.

APPROVAL OF BIOSTEEL CANADA TRANSACTION

3. 1.—THIS COURT ORDERS AND DECLARES that the BioSteel Canada Purchase Agreement and the BioSteel Canada Transaction ~~is~~are hereby approved,² and the execution of the ~~Sale~~BioSteel Canada Purchase Agreement by ~~the Receiver~~³is BioSteel Canada ~~is~~ hereby authorized and approved, with such minor amendments as the ~~Receiver~~Applicants, with the consent of the Monitor, may deem necessary. The ~~Receiver is~~Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the BioSteel Canada Transaction and for the conveyance of the Purchased Assets to ~~the Purchaser~~DC Holdings.

4. THIS COURT ORDERS that BioSteel Canada is authorized and directed to perform its obligations under the BioSteel Canada Purchase Agreement and any ancillary documents related thereto.

VESTING OF THE PURCHASED ASSETS

5. 2.—THIS COURT ORDERS AND DECLARES that upon the delivery of a ~~Receiver's~~Monitor's certificate to the ~~Purchaser~~Applicants (or their counsel) and to DC Holdings (or its counsel) substantially in the form attached as **Schedule “A”** hereto (the ~~"Receiver's"~~“**Monitor's Certificate**”), all of ~~the Debtor's~~BioSteel Canada's right, title and interest in and to the Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~⁴ shall vest absolutely in ~~the Purchaser~~DC Holdings as at 12:01 a.m. on the date of the

²In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

⁴To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

Monitor's Certificate 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 (collectively, the "Claims"⁵), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order of the Honourable Justice [NAME] dated [DATE] ARIO, the SISP Approval Order made in these proceedings on September 21, 2023, or any other Orders made in this CCAA proceeding; (ii) all charges, security interests or claims whether evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system in any province or territory in Canada or the Civil Code of Quebec, or the Uniform Commercial Code provisions in the United States, including without limitation those registrations listed on Schedule "B" hereto; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. ~~3.~~ **THIS COURT ORDERS** that ~~upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~ from and after the Closing Time, any and

⁵The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).

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 DC Holdings relating in any way to the Excluded Assets, Excluded Liabilities, Excluded Inventory, any Claims and Encumbrances, and any other claims, obligations, and other matters that are waived, released, expunged or discharged pursuant to this Order.

7. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver's~~Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Monitor to file with the Court a copy of the ~~Receiver's~~Monitor's Certificate, forthwith after delivery thereof to the Applicants and DC Holdings, or to their respective counsel.

9. ~~6.~~ **THIS COURT ORDERS** that, ~~pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the~~

⁷ ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸ ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

~~prior use of such information by the Debtor.~~ the Monitor may rely on written notice from BioSteel Canada and DC Holdings regarding the fulfilment or waiver of conditions to closing under the BioSteel Canada Purchase Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

10. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy ~~order~~ or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ~~(Canada)~~, RSC 1985, c B-3, as amended (the "BIA"), in respect of the ~~Debtor~~ Applicants or its property, and any bankruptcy or receivership order issued pursuant to any such applications; ~~and~~
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~ Applicants; and
- (d) the provision of any federal or provincial statute,

the BioSteel Canada Purchase Agreement and the vesting of the Purchased Assets in ~~the Purchaser~~ DC Holdings pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of ~~the Debtor~~ BioSteel Canada or its property and shall not be void or voidable by creditors of ~~the Debtor~~ BioSteel Canada, nor shall it constitute nor be deemed to be a ~~fraudulent preference, assignment, fraudulent conveyance,~~ transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the ~~*Bankruptcy and Insolvency Act (Canada)*~~ BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal ~~or~~ provincial or other legislation.

GENERAL

11. ~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act (Ontario)*.~~ that the Applicants, the Monitor or DC Holdings may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

12. ~~9. 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 ~~Receiver and its~~ 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 ~~Receiver~~ Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, ~~or to assist the Receiver and its~~ Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

13. THIS COURTS ORDERS that this Order and all of its provisions are effective as of 12:02 a.m. Eastern Prevailing Time on the date of this Order without any need for filing or entry.

Schedule "A" – Form of Receiver's Monitor's Certificate

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

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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.,
BIOSTEEL MANUFACTURING LLC, AND BIOSTEEL SPORTS
NUTRITION USA LLC

(the "Applicants")

~~BETWEEN:~~

PLAINTIFF

Plaintiff

~~—and—~~

DEFENDANT

Defendant

RECEIVER'S MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ was appointed as the receiver (the "Receiver") of the ~~undertaking, property and assets of [DEBTOR] (the "Debtor").~~ September 14, 2023 (as amended and restated, and as may be further amended and restated from time to time, the "Initial Order"), KSV Restructuring, Inc. was appointed as monitor of BioSteel Sports Nutrition Inc. (in such capacity, the "Monitor") in proceedings commenced by BioSteel Sports Nutrition Inc. ("BioSteel Canada") under the Companies' Creditors Arrangement Act (the "CCAA")

Proceeding”).

B. Pursuant to an Order of the Honourable Justice Conway of the Court dated November 16, 2023, BioSteel Manufacturing LLC and BioSteel Sports Nutrition USA LLC were made Applicants in the CCAA Proceeding and the terms of the Initial Order were made applicable to BioSteel Manufacturing and BioSteel Sports Nutrition USA LLC.

C. ~~B.~~ Pursuant to ~~an~~ the BioSteel Canada Approval and Vesting Order of the Court dated ~~[DATE]~~ November 16, 2023 (the “BioSteel Canada Approval and Vesting Order”), the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the “Sale Asset Purchase Agreement”)~~ between ~~the Receiver [Debtor] and [NAME OF PURCHASER] (the “Purchaser”)~~ and provided DC Holdings LTD., dba Coachwood Group of Companies (“DC Holdings”), as buyer, and BioSteel Canada, as seller, dated November 16, 2023 (as amended from time to time in accordance with the terms thereof, the “BioSteel Canada Purchase Agreement”), providing for the vesting in ~~the Purchaser of the Debtor’s DC Holdings, of all of BioSteel Canada’s~~ right, title and interest in and to all of the Purchased Assets (as defined in the BioSteel Canada Purchase Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 1 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.~~ Monitor to DC Holdings (or its counsel) and the Applicants (or their counsel) of this Monitor’s Certificate.

D. ~~C.~~ Unless otherwise indicated or defined herein, ~~terms with initial capitals~~ capitalized terms used in this Monitor’s Certificate shall have the meanings ~~set out in the Sale~~ given to them in the BioSteel Canada Purchase Agreement.

THE ~~RECEIVER~~ MONITOR CERTIFIES the following:

~~1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;~~

1. ~~2.~~ The conditions to Closing ~~as set out in section 1 of the Sale~~ forth in the BioSteel Canada Purchase Agreement have been satisfied or waived by ~~the Receiver and the Purchaser;~~ and BioSteel Canada and DC Holdings.
2. DC Holdings has paid or satisfied the Purchase Price, subject to applicable adjustments (if any), for the Purchased Assets payable on the Closing Date pursuant to the BioSteel Canada Approval and Vesting Order and/or the BioSteel Canada Purchase Agreement.
3. ~~3.~~ The BioSteel Canada Transaction has been completed to the satisfaction of the ~~Receiver~~ Applicants, the Monitor and DC Holdings.
4. ~~This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].~~

DATED at Toronto, Ontario this _____ day of _____, 2023.

~~[NAME _____ OF _____ RECEIVER];~~ KSV RESTRUCTURING INC., solely in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR];~~ Monitor of the Applicants and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" – ~~Purchased Assets~~ Registrations to be Released

Schedule "C" – Encumbrances

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

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

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

PROCEEDING COMMENCED AT

TORONTO

BIOSTEEL CANADA APPROVAL AND VESTING ORDER

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~~Schedule C – Claims to be deleted and expunged from title to Real Property~~

**Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

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.

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